

*EVIA & LEBA Compliance reference sheet*

## Regulatory Diary & Forward Outlook Grid plus Last Month Regulatory Activities & Conduct Initiatives

*Wednesday 03<sup>rd</sup> May 2023*

1. **Regulatory Outlook and Diary**
  - a UK Regulatory Plans: 2023
  - b EU Regulatory Plans: 2023
  - c Rulemaking Forward Planning Diary
2. **Highlights from the Regulatory Environment in March**
  - a BMR, RFRs & LiBOR Transition Update
  - b Capital Markets and Market Structure
  - c MAR
  - d Fintech, SupTech & Reg Tech Developments
  - e Sanctions Requirements
  - f Conduct, Fines & Enforcements
  - g Prudential & Risk
  - h Green finance, ESG & Disclosures
  - i Energy & Commodities

*In the UK Government's "Edinburgh Reforms" package, it set out an intention to review the Senior Managers & Certification Regime (SM&CR) in Q1 2023. The UK authorities have now begun the review.*

- *HMT has launched a Call for Evidence and, in parallel, the FCA and the PRA have published a joint Discussion Paper. Both papers are open to feedback until 1 June 2023.*
- *The questions asked are relatively high-level and open-ended but signal a desire to improve the effectiveness of the regime and potentially streamline it in some respects – with an eye on international competitiveness.*

### Context

- The SM&CR was introduced following the global financial crisis to improve culture and increase accountability in the financial services sector. The regime has been rolled out in phases. It applied to banking firms from 2016, then insurers in 2018, and by 2019 almost all solo-regulated firms were captured. Since then, benchmark administrators have been brought into scope and the Government has consulted on extending the regime to certain financial market infrastructure firms. The regime consists of requirements for senior managers (approved by PRA and/or FCA), certified staff

(assessed annually by firms) and conduct rules. Although there have been limited reviews of the regime before, this is the first full review. The Government notes that there is broad support for the regime but has heard from firms that there are areas where it could be improved, for example, reducing the amount of time taken to obtain approvals for Senior Manager appointments. Therefore, following on from the Edinburgh Reforms announcement (see KPMG's summary [here](#)), the UK authorities are gathering evidence to inform future reforms to the regime. In terms of the framework, HMT will consider the legislative aspects, while the FCA and PRA will consider the operational aspects and rules.

### HMT's Call for Evidence

- The purpose of HMT's [Call for Evidence](#) is to understand stakeholders' views on the overall functioning of the regime, how effectively it has delivered its objectives, and whether there are "opportunities to better deliver on the regime's core objectives". The Government is also keen to understand lessons learned from other jurisdictions.

### HMT's questions cover the following topics:

- Whether the regime is delivering against its original aims.
- Whether there are areas of SM&CR that are perceived as a deterrent to firms or individuals locating in the UK.
- The impact of the regime on UK competitiveness and how it compares with regimes in other countries.
- Specific aspects of the SM&CR and how any concerns could be addressed, for example, regarding the process and time taken to authorise Senior Managers.
- The scope of the regime, whether it is correct, and whether "low risk activities or firms" could be removed from the scope.

### The FCA and PRA Discussion Paper

- In parallel, the FCA and PRA launched a [Discussion Paper](#) to review the effectiveness, scope, and proportionality of the regime. The goal is to gather views from all firms subject to SM&CR to identify where improvements can be made, while preserving the regime's underlying aims in a manner consistent with the regulators' objectives.

### The Discussion Paper gathers views on the following topics:

- **Effectiveness of the SM&CR:** whether SM&CR has made it easier to hold individuals to account, improved safety, soundness and conduct within firms, and supported the appointment of appropriately qualified senior individuals. The regulators' questions also cover how individual accountability can complement board accountability, and the role of enforcement in promoting individual accountability and supporting the aims of the regime.
- **Scope of the SM&CR:** whether the scope of the regime is appropriate and applied proportionately, and whether there are ways to enhance competition or international competitiveness.

- **Senior Management Functions (SMFs):** how the process for SMF approval could be improved, and whether obtaining and notifying information on criminal records is effective in supporting the aims of the regime. Additionally regarding the rule that allows temporary SMF holders for up to 12 weeks, it is questioned to what extent this helps to manage SMF changes. There are also questions on whether the existing range of SMFs and Prescribed Responsibilities help achieve the regime's aims, and whether Statements of Responsibilities and Management Responsibilities Maps help to support individual accountability.
- **Certification Regime:** whether the regime is effective in ensuring individuals are fit and proper for their roles. The Directory of Certified and Assessed persons is also a focus, with a question on whether it captures the appropriate types of individual and the requirements on keeping it up to date are appropriate.
- **Regulatory references:** whether they help firms make better-informed decisions about the fitness and propriety of relevant candidates.
- **Individual and Senior Manager Conduct rules:** whether they are effective in promoting good conduct across all levels of the firm.

### Implications

- The two papers are simply gathering information from firms and there is no concrete action that needs to be taken now, other than responding to the papers if firms so wish. It remains to be seen what, if any, changes will follow the review.
- The questions are relatively high-level and cover many areas. However, it is clear that the UK is keen to learn lessons from other jurisdictions and has one eye on international competitiveness as it undertakes the review.

### Substantive Questions

1. Which of the below core objectives do you think the SMCR has delivered against? (circle all that apply)
  - Easier to hold individuals to account
  - Improved safety and soundness within firms
  - Improved firm culture
  - Improved firm governance
  - Improved conduct within our firm
  - The Fitness & Propriety regime ensures that qualified people are in relevant roles
  - The Conduct Rules are effective
  - The Duty of Responsibility supports personal accountability
  - Proportionate to different firms / individuals roles
  - Other
2. If you think there has been scope-creep, in which of the below areas? (circle all that apply)
  - Diversity, Equity and Inclusion
  - Territoriality of the regime

- Group / international Senior Managers
- Governance requirements (e.g. board composition/Non-Executive Directors requirements)
- Non-financial misconduct
- Other

**3. What do you think are the key issues with the SMCR? (circle all that apply)**

- No major challenges – we have generally found it helpful
- All of it is a challenge
- Lack of proportionality
- Extraterritorial elements – e.g. MRTs
- Complexity of operationalising it within groups
- Duty of Responsibility
- No gaps principle
- Overlap with collective decision making
- Fitness & Propriety (e.g. process)
- Assessing Conduct Rule breaches
- Non-financial misconduct
- Drafting regulatory references
- Public register of Senior Management Functions, Non-Executive Directors and certified staff
- Low risk activities are in scope
- Scope -creep
- Bureaucracy/administrative burden/paperwork (and expense)
- Insufficient FCA/PRA guidance on particular matters
- More burdensome than other regimes (e.g. in Hong Kong, Australia, Ireland)
- Other

**4. What parts of the SMCR deter individuals from taking up Senior Manager roles? (select all that apply)**

- Duty of Responsibility
- Fitness & Propriety
- Conduct Rules
- Approval process - e.g. interviews
- Material Risk Taker designation
- SMCR remuneration rules
- Criminal liability (banks only)
- Administrative burden
- Other

**5. What would help with Senior Manager administration? (select all that apply)**

- Speeding up FCA/PRA approval
- Shortcut for time limited approvals

- 
- Shorter forms / less attachments
  - No filing requirement for updated Statements of Responsibilities/Management Responsibilities Maps
  - Extending the 12-week rule
  - No requirement for obtaining criminal record checks
  - Other
6. Do you find the regulatory reference regime helpful? Please provide any views in the 'Other' box.
- Yes
  - No
  - Other
7. On the whole would you prefer to avoid any substantive changes at this time?
8. Do you have any other reflections on the SMCR regime (positive or negative) including on the approach to enforcement?

[smcr-senior-manager-enforcement--17-april-2023.pdf](#)

---

*The FCA has published its [Annual Business Plan](#). Much of the plan reiterates activity that is already in train, published or scheduled with very little that is new or materially altered.*

- *This is understandable as last year the FCA published a three-year strategy. Interestingly however, the metrics to which the FCA announced last year it would hold itself accountable have not been reported. These will now be published later in 2023 as part of the Annual Report.*
- *The most notable announcement in the plan is the creation of a new Interventions team within Enforcement specifically for Consumer Duty. This function will be operational from August 2023 to enable rapid action where immediate consumer harm is detected.*

#### Four FCA commitments

Although its three-year strategy remains unaltered, with delivery across 13 commitments, the FCA has decided to invest further in the four commitments it has identified as critical in the next 12 months.

##### 1. Putting consumers' needs first

The FCA will continue to prioritise protecting people from unfair treatment, with more staff being allocated to ensure firms support consumers who are struggling financially. Further, the FCA has committed to providing additional resource (£5.7m) to ensure that Consumer Duty is

embedded effectively. Here the FCA has (again) dangled the carrot of a 'more simplified approach to regulation.'

## 2. Preparing financial services for the future

The FCA will continue its urgent work relevant to the new Future Regulatory Framework (FRF) and Edinburgh Reforms, which will help support the UK's wider economic growth and international competitiveness. More than £12m will be invested to prepare for the FRF, including the orderly movement of firm-facing requirements in retained EU law into the FCA Handbook. Critically, and likely to be welcomed by the industry, a new cost benefit analysis panel will also be established to support the effectiveness of the FCA's programme of work.

## 3. Strengthening the UK's position in global wholesale markets

Alongside continuing regulatory reform in secondary markets and of the Listing regime, the additional funding for this commitment will be focused primarily on strengthening the FCA's capability and capacity to predict and react to events in global markets, including heightened volatility.

## 4. Reducing and preventing financial crime

The FCA continues to look for innovative ways of reducing and preventing financial crime, which harms confidence and integrity in the UK market and puts consumers' money at risk. Initiatives include a strengthened authorisation process, increased covert capabilities to identify and disrupt fraudsters, improved assessments of firms and more staff to investigate and prosecute offenders.

**Specific Challenges;** *The FCA also identifies specific challenges for the year ahead:*

### Key Uncertainties

The FCA expects the economic and geopolitical environment to remain highly uncertain over the year ahead and has flagged the following specific uncertainties:

- Interest rates and inflation.
- The risk that unemployment increases more than currently projected.
- Potential for further declines in real household disposable incomes.
- Potential for further market volatility.

### Wholesale markets

Although wholesale markets have recovered from gilt market volatility and the impact on pension funds in the autumn, the FCA will remain alert to potential problems and be ready to act (as firms will need to be) if necessary, to manage heightened operational and market risks.

### Cost of living and Consumer Duty

Rising interest rates and inflation have contributed to an increase in the number of people stretched financially and many consumers face significant financial pressure. The FCA will identify and track early indications of problems to enable it to respond proactively.

**Update of FCA's focus areas;** As established in last year's Business Plan (summarised [here](#)), the FCA has three key focus areas:

- Reducing and preventing serious harm.
- Setting and testing higher standards.
- Promoting competition and positive change.

The rest of the plan mainly provides detail on the progress of work that the FCA will be continuing (coupled with supporting data). There is, however, also confirmation of key new activities that will commence in 2023/4. As referenced above, the most impactful of these will be the creation of a new Interventions team in relation to Consumer Duty. Some of the other 'new' areas are surprising, less in relation to the ambition and more that it was not activity already underway – see the entry below on taking more action against problem firms.

### Regulatory Fees and Levies

- The FCA has also published the consultation on its fees and levies for the year ahead. In recognition of the pressure firms are under, it proposes to freeze application fees, and the minimum fees paid by firms.

### Action for firms

- Firms will want to review the actions set out in the FCA's plan and reassure themselves that they are well positioned to respond.
- Alongside continuing strong focus on its primary operational objectives, the FCA is beginning to adapt to its likely new secondary objective to facilitate international competitiveness of the UK economy and this may provide opportunities for firms.
- It is clear that the FCA plans to request more data from firms and seek to respond to market events in a more agile way. To illustrate this point, given that the FCA is setting up a new Intervention team to take action in short order on outliers, firms impacted by the Consumer Duty should focus in the immediate future on gaining comfort that they have appropriately considered its implementation. For more detail about how to approach the Duty, read our recent [article](#) on substantive compliance – and how far is far enough.

Focus	Key Activities for 2023 / 2024
Reducing and preventing serious harm.	<ul style="list-style-type: none"> <li>i. <b>Take more action against problem firms</b> – by prioritising action against riskiest firms, enhancing detection, intervening quicker and increasing the number of firms it takes action against.</li> <li>ii. <b>Improve appropriate and efficient redress</b> – by issuing new guidance for redress calculations, review FOS eligibility rules for SME firms and improve complaints reporting.</li> </ul>

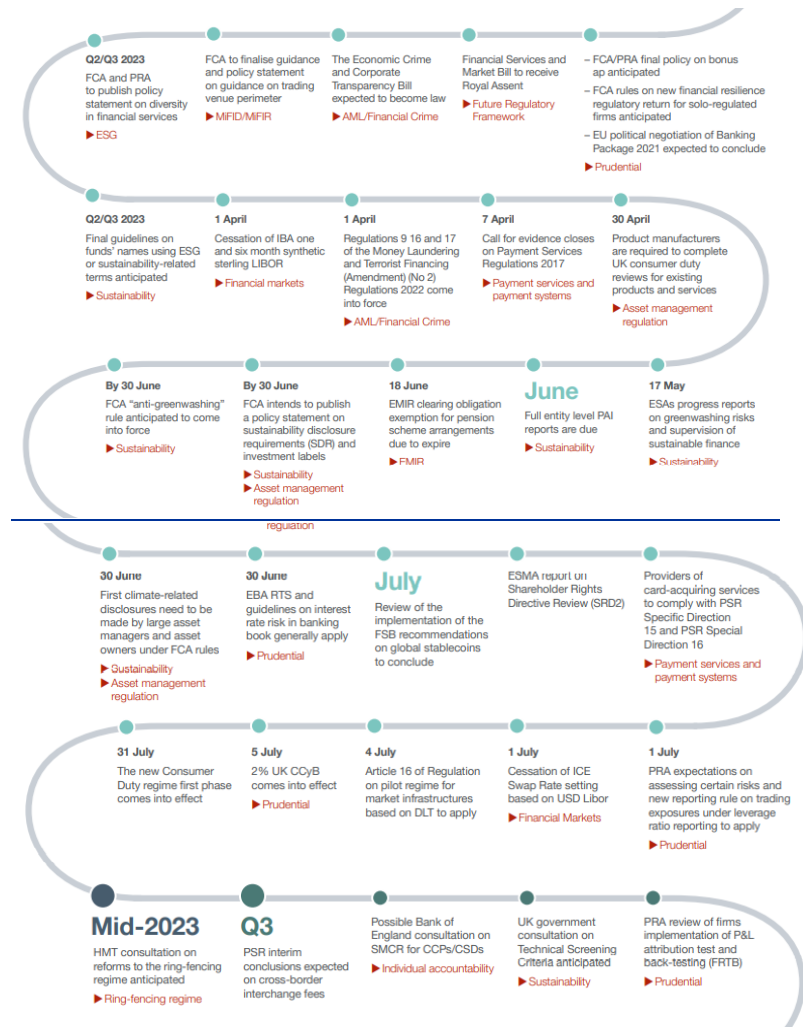


	<ul style="list-style-type: none"> <li>iii. <b>Reduce impact of firm failure</b> – by introducing a new regulatory return requiring 20,000 of its regulated firms to more information about their financial resilience.</li> <li>iv. <b>Validate the enhanced oversight of Appointed Representatives (Aids)</b> – by testing that firms have embedded the new rules as well as improving its engagement with firms.</li> <li>v. <b>Reduce and prevent financial crime</b> – by increasing use of data to better identify which firms are more at risk whilst also developing new tools, undertaking more proactive assessments of firms' controls, and reviewing the oversight of firms communicating and approving financial promotions including qualifying cryptcassets (once regulated).</li> <li>vi. <b>Be more assertive on market abuse</b> – by improving its capability, being more coordinated, focusing more on prevention and increasing transparency and unlavirkil disclosure relating to its Persons Discharging Management Responsibility (PD R) regime.</li> </ul>
<p>Setting and testing higher standards.</p>	<ul style="list-style-type: none"> <li>i. <b>Put customers' needs first</b> – by consulting on changes to treatment of customer in financial difficulty, oversee regulation of BNPL firms and consulting on future of cash access. Additionally, specifically relating to Consumer Duty, FCA will create an additional Interventions team within Enforcement. This function will be ready from August 2023 to enable rapid action where immediate consumer harm is detected.</li> <li>ii. <b>Enable consumers to help themselves</b> – by introducing an application gateway for firms that want to approve financial promotions for unauthorised firms, preparing for the regulation of cryptoassets promotions, and increasing capability to identify illegal financial promotions faster.</li> <li>iii. <b>Deliver a strategy for ESG</b> – by consulting, when appropriate, on changes to Listing Rules to reference the final ISSB standards and providing a Feedback Statement to the Discussion Paper on ESG governance, incentives, and competence, including planned next steps. The FCA will also finalise and publish rules on Sustain-ability Disclosure Requirements and investment labels.</li> <li>iv. <b>Test operational resilience</b> – by assessing whether firms can work appropriately within their impact tolerances, (ahead of the 31 March 2025 deadline) and making it clearer to firms how they should report operational incidents to FCA.</li> </ul>
<p>Promoting competition and positive change.</p>	<ul style="list-style-type: none"> <li>i. <b>Implement the outcomes of the FRF</b> – by preparing for the replacement of retained al law with requirements in the FA's Handbook and by applying the changes to its objectives, regulatory principles and accountability arrangements agreed by Parliament.</li> <li>ii. <b>Strengthen the UK's position in global wholesale markets</b> – by updating the regulatory framework (including MiFIID2/MiFIR,</li> </ul>



	<p>asset management regulation, and Prospectus, Short Selling and Securitisation regulation), encouraging innovations via the FMI Sandbox and supporting evolving markets on digitalisation and T+1 settlement as well as considering where it should enable retail access to capital markets.</p> <p>iii. <b>Shape digital markets to achieve good outcomes</b> – by continuing the range of activities started in 2022/23 including on BigTechs in retail financial markets, artificial intelligence and Open Banking and Finance.</p>
--	--

## Regulatory Outlook and Diary



### Forward Calendar: Updated 02 May 2023

H12023	Australia	Expected finalization of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks
H1 2023	Australia	Expected third consultation paper on over-the-counter (OTC) derivatives reporting and technical guidance by ASIC. Expected publication of final OTC derivatives reporting rules by ASIC
Q2 2023	EU	The European Commission shall review the minimum standards of carbon benchmarks (climatetransition and Paris-aligned benchmarks) in order to ensure that the selection of the underlying assets is coherent with environmentally sustainable investment as defined by the EU taxonomy.

Q2 2023	EU	The European Commission shall present a report to the co-legislators on the impact of an 'ESG benchmark', taking into account the evolving nature of sustainability indicators and the methods used to measure them. The report shall be accompanied, where appropriate by a legislative proposal
Q2 2023	EU	The European Commission (EC) to adopt a Delegated Act (DA) to further extend the suspension of the third-country benchmark regime until end of 2025 under the EU Benchmarks Regulation (BMR).
Q2 2023	Hong Kong	Consultation of Hong Kong's reporting rules on adoption of UPI and CDE.
May 1, 2023	India	Variation margin requirements apply to domestic covered entities exceeding the AANA threshold of INR 250 billion (approximately USD 3.2 billion)
June 2023	UK	Deadline for ending reliance on US dollar LIBOR following the Removal of clearing obligation for swaps referencing LIBOR.
June 1, 2023	US	Three-month calculation period begins under US prudential regulations to determine whether the material swaps exposure, or daily average aggregate notional amount, of swaps, security-based swaps, FX swaps and FX forwards for an entity and its affiliates that trade with a prudentially regulated swap dealer exceeds \$8 billion for the application of initial margin requirements as of January 1, 2024
June 13, 2023	EU	The European Commission (EC) shall adopt 4 Delegated Acts (DAs) to specify the technical screening criteria with respect to the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems. The EC is also expected to adopt a DA amending the taxonomy climate change adaptation and mitigation DA alongside a proposal for a framework for environmental, social, and governance ratings and data providers.
June 15, 2023	EU	The European Commission shall adopt a Delegated Acts (DA) to designate exempted FX spot rates from the scope of the EU BMR.
June 15, 2023	EU	The European Commission (EC) shall submit a report to the European Parliament and to the Council on the scope of the BMR, in particular with respect to the use of third country benchmarks. If appropriate, the EC shall accompany the report with a legislative proposal.
June 18, 2023	UK	End of the temporary <a href="#">exemption for pension scheme arrangements from clearing and margining</a> under UK EMIR. This will change subject to HM Treasury passing a statutory instrument to extend the instrument to 18 June 2025
June 18, 2023	EU	End of the <a href="#">temporary exemption for pension scheme arrangements from clearing</a> and margining under EU EMIR.
June 28, 2023	EU	As part of CRR II, the European Banking Authority is to report on the calibration of the Standardised Approach for Counterparty Credit Risk (SA-CCR) which will potentially inform a future review by the European Commission.

June 28, 2023	EU	As part of CRR II, the European Banking Authority is to report on the treatment of repos and reverse repos as well as securities hedging in the context of the Net Stable Funding Ratio (NSFR).
Q3 2023	EU	<p>The European Commission (EC) has published the 3rd Capital Requirements Regulation (CRR III) proposal on October 27, 2021, which will implement the Basel 3 framework in Europe. 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.</p> <p>Member States reached their General Approach on November 8, 2022, and the European Parliament is expected to adopt its position on January 24, 2023. Trilogues have now started under the Swedish Presidency and it is expected the CRR 3 process will be finalized by the summer depending on the negotiation process. From the EC's original proposal, most of the requirements are set to apply from January 1, 2025. As a result of the trilogue negotiations, the implementation date of January 1, 2025, may still be subject to change.</p>
July 1, 2023	US	CFTC Effective Date for the Clearing Rules to Account for the Transition from LIBOR (See 87 Fed. Reg. 52182 (August 24, 2022)). The portion of the rule effective on this date removes the requirement to clear interest rate swaps referencing US dollar LIBOR and the Singapore Dollar Swap Offer Rate in each of the fixed-to-floating swap, basis swap and FRA classes, as applicable.
July 31, 2023	US	Expiration of a second extension of relief to Shanghai Clearing House permitting it to clear swaps subject to mandatory clearing in the People's Republic of China for the proprietary trades of clearing members that are US persons or affiliates of US persons (CFTC Letter No. 22-07).
Q3/ Q4 2023	EU	Earliest expected start date for the Internal Model Approach (IM) reporting requirements under the CRR II market risk standard.
September 1, 2023	US EU Australia Canada Hong Kong Korea Switzerland Singapore Japan Brazil Saudi Arabia	<p>Under CFTC rules only, initial margin requirements apply to covered swap entities with material swaps exposure (average aggregate daily notional amount exceeding USD 8 billion).</p> <p>Initial margin requirements apply to Phase 6 APRA covered entities with an aggregate notional amount exceeding AUD 12 billion.</p> <p>Canada: Under both OSFI and AMF guidelines, initial margin requirements apply to Phase 6 covered entities with aggregate month-end average notional amount exceeding CAD 12 billion.</p> <p>Hong Kong: Initial margin and risk mitigation requirements apply to HKMA AIs and SFC LCs with an aggregate notional amount exceeding HKD 60 billion.</p> <p>Korea: Initial margin requirements apply to financial institutions with derivatives exceeding more than KRW 10 trillion.</p> <p>Singapore: Initial margin requirements apply to MAS covered entities with an aggregate notional amount exceeding SGD 13 billion.</p>

		<p>Japan: Initial margin requirements apply to JFSA covered entities with an aggregate notional amount exceeding JPY 1.1 trillion.</p> <p>Brazil: Initial margin requirements apply to financial institutions and other entities authorized to operate by the Central Bank of Brazil which have an average aggregate notional amount exceeding BRL 25 billion.</p>
September 1, 2023	South Africa	<p>Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding ZAR 8 trillion.</p> <p>South Africa; Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding either ZAR 15 trillion or ZAR 8 trillion.</p>
December 04, 2023	US	<p>Swap data repositories (SDRs), swap execution facilities (SEFs), designated contract markets (DCMs), and reporting counterparties must comply with the amendments to the CFTC swap data reporting regulations found in Part 43, Part 45 and Part 49 by the compliance date of December 5, 2022; provided, however that SDRs, SEFs, DCMs, and reporting counterparties must comply with the amendments to §§43.4(h) and 43.6 by December 4, 2023.</p>
December 04, 2023	US	<p>Compliance date for CFTC Block and Cap reporting amendments. Expiry of relief in CFTC Staff Letter No. 22-03.</p>
December 31, 2023	EU	<p>The amended Benchmarks Regulation that entered into force on February 13, 2021 extends the BMR transition period for non-EU benchmark administrators until December 31, 2023 and empowers the European Commission (EC) to adopt a delegated act by June 15, 2023 to prolong this extension by maximum two years until December 31, 2025. It also enables the EC to adopt delegated acts by June 15, 2023 in order to create a list of spot foreign exchange benchmarks that will be excluded from the scope of Regulation (EU) 2016/1011.</p>
December 31, 2023	UK	<p>Expiry of the temporary Intragroup Exemption Regime (TIGER) from clearing and margin requirements. <i>(this will change subject to HM Treasury passing a statutory instrument to extend the instrument to December 31, 2026).</i></p>
December 31, 2023	Mexico	<p>Deadline for entities and investment funds to comply with the margin requirements for uncleared derivatives under Banco de México's Circular 2/2023.</p>
2024 / 2025	Singapore	<p>MAS will defer implementation of the final Basel III reforms in Singapore between January 1, 2024 and January 1, 2025 to allow the industry sufficient time for proper implementation of systems needed to adopt the revised framework, including regulatory reporting. This aligns timelines with other major jurisdictions. MAS will monitor banks' implementation progress and finalize the implementation timeline for the final Basel III reforms, including the transitional arrangement for the output floor by July 1, 2023</p>
January 1, 2024	US EU	<p>Under US Prudential Regulations only, initial margin requirements apply to covered swap entities with material swaps exposure (average aggregate daily notional amount exceeding USD 8 billion).</p>

	Switzerland UK	EU: Initial margin requirements apply to counterparties with an aggregate average notional amount exceeding EUR 8 billion. Switzerland: Initial margin requirements apply to counterparties whose aggregate month-end average position exceeds CHF 8 billion. UK: Initial margin requirements apply to counterparties with an aggregate average notional amount exceeding EUR 8 billion.
January 1, 2024	Australia	Basel III: Expected implementation of FRTB framework.
January 1, 2024	EU	Application of the Delegated Acts (DAs) with respect to the four remaining environmental objectives on the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystem.
January 1, 2024	EU	Disclosure of Article 8 Taxonomy reporting KPIs and accompanying information for financial undertakings.
January 1, 2024	Hong Kong	Basel III: Locally incorporated AIs required to report under revised FRTB and CVA frameworks.
January 1, 2024	Hong Kong	Basel III: Expected implementation of revised credit risk, operational risk, output floor, and leverage ratio frameworks
January 2024	Australia	Expected effective date of APRA prudential standard for IRRBB (APS 117).
January 4, 2024	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, was due to expire on January 4, 2021.
January 4, 2024	Hong Kong	Expiry of the SFC exemption from margin requirements for non-centrally cleared single stock options, equity basket options and equity index options.
January 4, 2024	UK	Expiry of the derogation from margin rules in respect of non-centrally cleared over-the counter derivatives, which are single-stock equity options or index options.
January 29, 2024	US	Compliance Date for registered entities and swap counterparties to use the Unique Product Identifier (UPI) for swaps in the credit, equity, foreign exchange and interest rate asset classes for P43 and P45 reporting.
February 12, 2024	EU	CCP R&R (Article 96): ESMA shall assess the staffing and resources needs arising from the assumption of its powers and duties in accordance with this Regulation and submit a report to the European Parliament, the Council and the Commission.
March 01, 2024	Australia US EU Australia Canada Hong Kong Korea	Three-month calculation period begins to determine whether the average aggregate notional amount of derivatives for an entity and its affiliates exceeds the lowest threshold for application or revocation of initial margin requirements as of the next relevant compliance date of either September 1, 2024 or January 1, 2025 (EU/UK/CHF/US Prudential). In the US, this calculation period only applies under CFTC regulations.

	Switzerland Singapore Japan Brazil	
March 01, 2024	South Africa	Three-month calculation period begins to determine whether the average aggregate notional amount of derivatives for an entity and its affiliates exceeds ZAR 8 trillion threshold for initial margin requirements as of September 1, 2024 (per amended rule pending finalization)..
March 15, 2024	Mexico	Deadline for entities and investment funds to amend their master agreements for the exchange of margin for uncleared derivatives under the Banco de México's Circular 2/2023
March 31, 2024	Japan	Basel III: Implementation of revised credit risk, CVA, market risk (FRTB) for international active banks and domestic banks using IMM, and the leverage ratio (based on the amendment published on March 28, 2023, the implementation date for ultimate parent companies of a broker-dealer (limited to those designated by JFSA) has been changed to March 31, 2025).
April 01, 2024	Japan	Go-live of revised JFSA reporting rules based on the CPMI-IOSCO Technical Guidance. JFSA finalized the Guidelines of the revised reporting rules on December 9, 2022.
April 01, 2024	India	The RBI published draft guidelines on minimum capital requirements for market risk as part of convergence with Basel III standards. Applicable to all commercial banks excluding local area banks, payment banks, regional rural banks, and small finance banks. Not applicable to cooperative banks.
April 29, 2024	EU	Go-live of EMIR Refit reporting rules
June 28, 2024	EU	As part of the review clause inserted in CRR II, the European Commission taking into account the reports by the European Banking Authority is expected to review the treatment of repos and reverse repos as well as securities hedging transactions through a legislative proposal.
June 28, 2024	EU	As part of CRR II, the European Banking Authority is to monitor and report to the European Commission on Required Stable Funding (RSF) requirements for derivatives (including margin treatment and the 5% gross-derivative liabilities add-on).
June 30, 2024	EU	The EC to review the application of the Article 8 Taxonomy Regulation including the need for further amendments with regards to the inclusion of derivatives in the numerator of KPIs for financial undertakings.
September 1, 2024	Australia US EU Australia Canada Hong Kong Korea Switzerland Singapore	Under CFTC rules only, initial margin requirements apply to covered swap entities with material swaps exposure (average aggregate daily notional amount exceeding USD 8 billion). Australia: Initial margin requirements apply to Phase 6 APRA covered entities with an aggregate notional amount exceeding AUD 12 billion. Canada: Under both OSFI and AMF guidelines, initial margin requirements apply to Phase 6 covered entities with aggregate month-end average notional amount exceeding CAD 12 billion.



	Japan Brazil South Africa	<p>Hong Kong: Initial margin and risk mitigation requirements apply to HKMA AIs and SFC LCs with an aggregate notional amount exceeding HKD 60 billion.</p> <p>Korea: Initial margin requirements apply to financial institutions with derivatives exceeding more than KRW 10 trillion.</p> <p>Singapore: Initial margin requirements apply to MAS covered entities with an aggregate notional amount exceeding SGD 13 billion.</p> <p>Japan: Initial margin requirements apply to JFSA covered entities with an aggregate notional amount exceeding JPY 1.1 trillion.</p> <p>Brazil: Initial margin requirements apply to financial institutions and other entities authorized to operate by the Central Bank of Brazil which have an average aggregate notional amount exceeding BRL 25 billion.</p> <p>SA: Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding ZAR 8 trillion (per amended rule pending finalization).</p>
September 1, 2024	South Africa	Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding ZAR 8 trillion (per amended rule pending finalization).
Q4 2024	Singapore	Expected go-live of the updated MAS reporting regime.
October 1, 2024	US	Expiration of temporary CFTC relief regarding capital and financial reporting for certain non-US nonbank swap dealers (See CFTC Staff Letter No. 22-10 and CFTC Staff Letter No. 21-20) *relief would also expire upon the Commission's issuance of comparability determinations for the jurisdictions in question.
October 21, 2024	Australia	Expected implementation of ASIC Derivative Transaction Rules (Reporting) 2024.
December 31, 2024	UK	The FCA direction under the temporary transitional powers allowing UK firms to execute certain trades with EU clients on EU venues (even though there is no UK equivalence decision in respect of those venues) expires at the end of 2024
January 1, 2025	EU	Expected implementation of FRTB and CVA risk under the CRR III proposal.
January 1, 2025	Australia	Basel III: Expected implementation of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
March 1, 2025	South Africa	Three-month calculation period begins to determine whether the average aggregate notional amount of derivatives for an entity and its affiliates exceeds ZAR 100 billion threshold for initial margin requirements as of September 1, 2025 (per amended rule pending finalization)
March 31, 2025	Japan	Basel III: Expected implementation of revised credit risk, CVA, market risk (FRTB) for domestic banks not using IMM and ultimate parent companies of a broker-dealer (limited to those designated by JFSA).
June 30, 2025	EU	The temporary recognition of UK CCPs (LME, ICE and LCH) under the EMIR 2.2 framework expires. Unless further addressed, following this date, EU firms could not have access to the UK CCPs and would need to relocate their clearing activities to EU CCPs. Under EMIR 2.2, ESMA has

		also performed its tiering assessment, with LME becoming a Tier 1 CCP whereas ICE and LCH are considered Tier 2 CCPs.
Q4 2024/Q1 2025	EU	Earliest expected start date for the Internal Model Approach (IM) reporting requirements under the CRR II market risk standard.
January 1, 2025	Australia	Basel III: Expected implementation of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
January 1, 2025	UK	Expected implementation of the Basel 3.1 standards
March 31, 2025	Japan	Basel III: Expected implementation of revised credit risk, CVA, market risk (FRTB) for domestic banks not using IMM.
June 30, 2025	EU	The temporary recognition of UK CCPs (LME, ICE and LCH) under the EMIR 2.2 framework expires. Unless further addressed, following this date, EU firms could not have access to the UK CCPs and would need to relocate their clearing activities to EU CCPs. Under EMIR 2.2, ESMA has also performed its tiering assessment, with LME becoming a Tier 1 CCP whereas ICE and LCH are considered Tier 2 CCPs.
June 30, 2025	EU	The temporary exemption from clearing and margin requirements for cross-border intragroup transactions under EMIR expires.
September 1, 2025	South Africa	Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding ZAR 100 billion (per amended rule pending finalization).
November 15, 2025	EU	The CRR 2 IMA reporting requirements for market risk will be applicable from November 15, 2025, in the EU. As things stand currently in the CRR 3 political process, these IMA reporting requirements may become obsolete as we are still looking at a January 1, 2025, start date for the capitalization of market risk in the EU. However, IMA Reporting could still become live if the European Commission decides to enact the two-year delay mentioned under the CRR3 Article 461a FRTB delegated act. As this may still evolve in the CRR 3 negotiations, ISDA will keep monitoring developments in this area.
December 1, 2025	US	Expiry of extension of relief concerning swap reporting requirements of Part 45 and 46 of the CFTC's regulations, applicable to certain non-US swap dealers (SD) and major swap participants (MSP) established in Australia, Canada, the European Union, Japan, Switzerland and the United Kingdom, that are not part of an affiliated group in which the ultimate parent entity is a US SD, US MSP, US bank, US financial holding company or US bank holding company. See CFTC Staff Letters <a href="#">No. 20-37</a> and <a href="#">No. 22-14</a> .
January 1, 2026	Australia	Basel III: Expected implementation of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
February 12, 2026	EU	CCP R&R (Article 96): The European Commission (EC) shall review the implementation of this Regulation and shall assess at least the following:

		<ul style="list-style-type: none"> <li>the appropriateness and sufficiency of financial resources available to the resolution authority to cover losses arising from a non-default event</li> <li>the amount of own resources of the CCP to be used in recovery and in resolution and the means for its use</li> <li>whether the resolution tools available to the resolution authority are adequate.</li> </ul> <p>Where appropriate, that report shall be accompanied by proposals for revision of this Regulation.</p>
June 2026	EU	Commodity dealers as defined under CCR, and which have been licensed as investment firms under MiFID 2/ MIFIR have to comply with real capital/large exposures/liquidity regime under Investment Firms Regulation (IFR) provisions on liquidity and IFR disclosure provisions.
August 12, 2027	EU	CCP R&R (Article 96): The Commission shall review this Regulation and its implementation and shall assess the effectiveness of the governance arrangements for the recovery and resolution of CCPs in the Union and submit a report thereon to the European Parliament and to the Council, accompanied where appropriate by proposals for revision of this Regulation.

## Regulatory Calendar for Wholesale financial markets

Lead	Initiative	Expected key milestones	Indicative impact on firms	Dates
FCA	<a href="#">Accessing and using wholesale data</a> ; Market study assessing potential competition issues about benchmarks, credit rating data and market data vendors.	Launch of market study now planned for later in Q1 2023 to align with findings of trade data review. FCA published this update on timing on our external webpage.	H	Timing Updated Jan/Mar 2023 April / June 2023
FCA	<a href="#">Accessing and using wholesale data</a> <a href="#">Trade data review</a> ; Assessment of potential competition issues and concerns about effectiveness of regulatory provisions in relation to trade data.	Feedback Statement published 11 January 2022 Trade data review launched June 2022 Publication of findings and next steps - planned for later in Q1 2023.	L	Timing Updated Jan/Mar 2023
BoE/ FCA/ HMT/ PRA	<a href="#">LIBOR Transition</a> ; Secure a fair, clear and orderly transition from LIBOR to robust, reliable and clean alternative risk-free rates	The FCA has compelled production of synthetic LIBOR for a limited number of settings and has been clear that these synthetic settings are only a temporary measure. Following FCA announcements in November 2022, end dates have now been announced or proposed for all LIBOR settings. End-March 2023: Synthetic 1-month and 6-month sterling	H	Jan/Mar 2023 April / June 2023

		LIBOR will cease. End June 2023: Overnight and 12-month US dollar LIBOR will cease. UK authorities are and will continue to work closely with international counterparts to monitor any new use of US dollar LIBOR and remove dependency on it in legacy contracts. End-March 2024: Synthetic 3-month sterling LIBOR is intended to cease. End-September 2024: The FCA has consulted on a proposal to require publication of a synthetic US dollar LIBOR for the 1-, 3- and 6-month settings until September 2024. The consultation sought views on this and also on the FCA's proposed synthetic methodology, and which contracts could use these synthetic settings. However, market participants should not rely on the availability of synthetic US dollar LIBOR and should note that any potential synthetic settings would only be a temporary bridge to appropriate alternative risk-free rates. The FCA expects to announce its final decision in late Q1 or early Q2 2023.		
BoE/ FCA/ PRA	<a href="#">Operational Resilience</a> ; Implementation of new requirements and expectations to strengthen operational resilience in the financial services sector following publication of final policy in March 2021	In-scope firms had until 31 March 2022 to operationalise the policy framework. These firms will then have a further period to show they can remain within their impact tolerances for each important business service. They must achieve this by 31 March 2025 at the latest.	H	N/A
BoE/ FCA/ PRA	<a href="#">Oversight of Critical Third Parties (CTPs)</a> ; The Bank, PRA and FCA published a joint Discussion Paper (DP) in July 2022. The aim of the DP was to inform future regulatory proposals relating to Critical Third Parties (particularly on technically complex areas, such as resilience testing) and to provide thought leadership from the Bank, PRA and FCA to UK cross-sectoral and international financial regulatory debates on CTPs. Subject to FSM Bill timetables, the supervisory authorities plan to consult on proposals relating to the oversight of Critical Third Parties in H2 2023	Consultation Paper planned for 2023.	H	Oct – Dec 2023

HMT	<a href="#">Review of the short selling regulation</a> - including a Call for Evidence Repeal and replace the retained EU regulation of short selling to reduce burdens on market participants and ensure it is appropriate for UK markets	5 March 2023: Consultation closes	L	Timing Updated Jan/Mar 2023
HMT	<a href="#">Wholesale Markets Review</a> : The Government introduced the Financial Services and Markets Bill on 20 July 2022. Subject to Parliamentary approval, the Bill will deliver the outcomes of the Wholesale Markets Review. The FCA consulted on improving equity markets (CP 22/12) in July 2022 and on the trading venue perimeter (CP 22/18) in September 2022. The FCA aim to publish the Policy Statements in Q1 and Q2 2023 respectively. The FCA plan to consult on changes to commodity position limits and the consolidated tape regime in Q2/Q3 2023. The FCA intend to consult on the transparency regime for bonds and derivatives in Q4 2023. The Government consulted on a number of amendments to ensure that the UK's wholesale markets regime works for UK markets in July 2021 as part of the Wholesale Markets Review (WMR). The consultation closed in September 2021. In March 2022 the Government published its response to the consultation. The proposals we consulted on as part of the WMR that are a priority have been included in the Financial Services and Markets Bill. Where industry supported changes but indicated that fast implementation is not paramount, the Government will use the FRF powers to deliver them.	Treasury consultation response published in March 2022. In July 2022 the Government introduced the Financial Services and Markets Bill which takes forward the most urgently needed WMR reforms. FCA Consultation Paper 22/12 on Improving Equity Secondary Markets published in July 2022. Publication of the Policy Statement in Q1 2023. FCA consultation on guidance on the trading venue perimeter published in September 2022. Publication of the Policy Statement in Q2 2023. FCA consultation on commodity derivatives and the consolidated tape in Q2/Q3 2023. FCA consultation on transparency for bonds and derivatives in Q4 2023.	L	Timing Updated Jul - Sep 2023 Oct – Dec 2023
HMT (with input from	<b>Future financial services regulatory regime for cryptoassets – consultation;</b> In April 2022 the Economic Secretary to the Treasury set regulatory out ambitious plans for the UK to harness the benefits (authorities) of crypto technologies with several commitments including consulting on a future regulatory regime. The Consultation Paper sets out our initial policy proposals for regulating cryptoassets in the UK. <b>UK regulatory approach to stablecoins;</b> Treasury consultation on the broader regulatory approach to cryptoassets, including new challenges from so-called stablecoins. Further detail on the regime will be communicated in due course.	01 February 2023: publication of Consultation Paper. The consultation will close on 30 April 2023. The Government has now responded to this consultation. The Government has now introduced legislation - the Financial Services and Markets Bill - that will give effect to the measure. Treasury is consulting on a future regulatory regime for cryptoassets (see 'Future regulatory regime for cryptoassets - consultation' under 'Payments and cryptoassets').	H	Timing Updated  April / June 2023

BoE/ FCA/ HMT	<p><a href="#">FMI Sandbox</a>; Legislation to create a Financial Market Infrastructure (FMI) sandbox was introduced in the FSM Bill 2022. The sandbox will support firms which want to use new technology, such as distributed ledger technology, to provide infrastructure services in financial markets. It will enable a more flexible and tailored approach to meeting requirements in current legislation, whilst appropriately balancing any risks to financial stability, market integrity and consumer protection. Treasury have started work with the Bank of England and the FCA on secondary legislation to deliver this.</p>	The Government has published information on this initiative as part of its response the Call for Evidence on the Wholesale and Investment uses of Security Tokens. The FMI Sandbox will be up and running in 2023.	L	Oct -Dec 2023 (Not updated)
BoE/ FCA/ HMT	<p><a href="#">Amendments to derivatives reporting regime under UK EMIR</a>; The FCA and the Bank plan to finalise amendments to the derivatives reporting regime under UK EMIR to align the UK regime with international standards as set by the Committee on Payments and Market Infrastructures and International Organization of Securities Commissions (CPMI-IOSCO) to ensure a more globally consistent data set and improve data quality.</p>	Consultation Paper setting out changes to reporting requirements, procedures for data quality and registration of Trade Repositories under UK EMIR published Q4 2021 (closed February 2022). Policy Statement, validation rules and schemas to be published in Q1 2023.	L	Timing Updated Jan/Mar 2023 and post July 2024
BOE	<p><a href="#">Changes to the EMIR Derivatives Clearing Obligation</a> The Bank has modified the scope of contracts which are subject to the derivatives clearing obligation to reflect the reforms to interest rate benchmarks, including LIBOR. No further changes are planned to be announced, but the implementation of the final change announced in 2022 will come into effect in April 2023</p>	Policy Statement on the changes L to USD interest rate derivatives published in August 2022. SOFR referencing IRS added 31 October 2022; USD LIBOR referencing IRS removed 24 April 2023	L	April / June 2023
FCA	<p><a href="#">Primary Markets Effectiveness</a> - UK Listings Review response The FCA has bought forward consultation and discussion items on reforms to improve the effectiveness of UK primary markets, which follows FCA policy review work and responds to Lord Hill's final UK Listings Review Report and recommendations published on 3 March 2021.</p>	Consultation Paper on special L E I purpose acquisition companies (SPACs) - published 30 April 2021 (CP21/10), closed 28 May 2021. Policy Statement on SPACs - published 27 July 2021 (PS21/10). Consultation Paper on further Listing Rule changes- published 6 July 2021 (CP21/21), closed 14 September 2021. Policy Statement on Listing Rules changes - published on 2 December 2021 (PS21/22). Discussion Paper (DP22/2) published 26 May 2022, closed on 28 July 2022. Potential Consultation Paper in Q2 2023, including feedback to DP22/2.	L	Timing Updated  April / June 2023

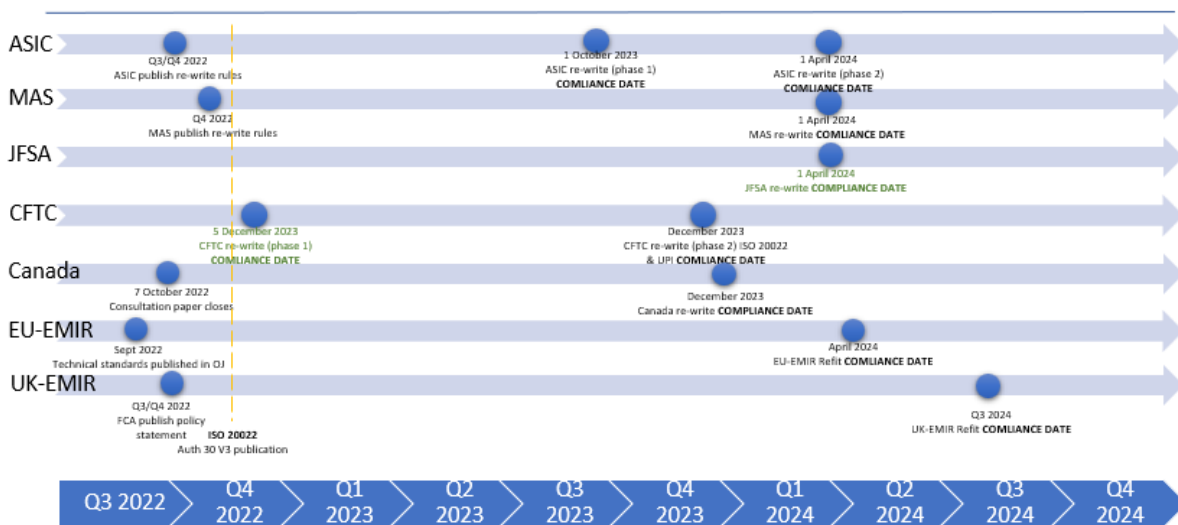


FCA	<b>Implementing ISSB disclosure standards into FCA listing or transparency rules;</b> We expect the International Sustainability Standards Board to finalise international sustainability disclosure standards later in 2023. The FCA has previously indicated it will explore implementing those standards in its rules for listed companies once finalised, which would replace existing TCFD disclosure requirements. The FCA expects to consult towards the end of this year, with final rules in the first half of 2024 subject to feedback. Timing may be subject to the Government's response to the ISSB standards	Consultation Paper in Q4 2023 Policy Statement 2024	L	Oct -Dec 2023
HMT	<b><a href="#">Treasury consultation on power to block listings on national security grounds;</a></b> This initial consultation asked for views on the scope of a proposed new targeted power to allow the Government to block a company's listings, if a listing presents a risk to national security. This power will reinforce that reputation and help us maintain the UK's status as a world-class destination for listings	This consultation closed on 27 August 2021. The Government responded to the consultation on 10 December 2021. This policy will require legislation to be enacted. However, more policy development is needed before that is possible. Treasury will continue to develop this power taking full account of the responses to this consultation	L	N/A
HMT	<b><a href="#">UK prospectus regime review outcome;</a></b> This initial consultation asked for views on the scope of a proposed new targeted power to allow the Government to block a company's listings, if a listing presents a risk to national security. This power will reinforce that reputation and help us maintain the UK's status as a world-class destination for listings.	The Government will legislate to replace the regime currently contained in the UK Prospectus Regulation following the passage of the Financial Services and Markets Bill.	L	All dates applicable
DBT/ HMT	<b><a href="#">Secondary Capital Raising Review (SCRR) led by Mark Austin;</a></b> The SCRR is intended to look into improving further capital raising processes for publicly traded companies in the UK. The review was started in October 2021 and reported in July 2022. The Government has accepted all the recommendations addressed to it and is considering how to take these forward	The Government has accepted all the recommendations addressed to it and is considering how to take these forward	L	N/A
HMT	<b><a href="#">Review of the Securitisation Regulation;</a></b> Treasury has met its legal obligation to review the Securitisation Regulation and lay a report before Parliament. Treasury, FCA and PRA taking forward work in areas identified in the report.	June - September 2021: Call for Evidence took place December 2021: Treasury report on the review published and laid in Parliament July 2022: Based on the review, an equivalence regime for nonUK Simple, Transparent and Standardised (STS) securitisations has been included in the FSM Bill 2022.	L	Timing Updated Jul - Sep 2023 Oct – Dec 2023



		<p>December 2022: A draft SI has been published, intended to demonstrate how Treasury may implement the outcomes of the FRF review for the Securitisation Regulation. This process will enable reforms in areas identified in the report to be taken forward.</p> <p>2023 and 2024: The FCA and the PRA will plan to consult on the FCA and PRA rules to deal with the relevant firm-facing provisions in the Securitisation Regulation (and related technical standards) taking into consideration the reform areas identified in Treasury's Review of the Securitisation Regulation. Treasury plans to lay legislation to enable the introduction of these rules.</p>		
--	--	---	--	--

**Regulatory Reporting Re-writes: reporting start dates**



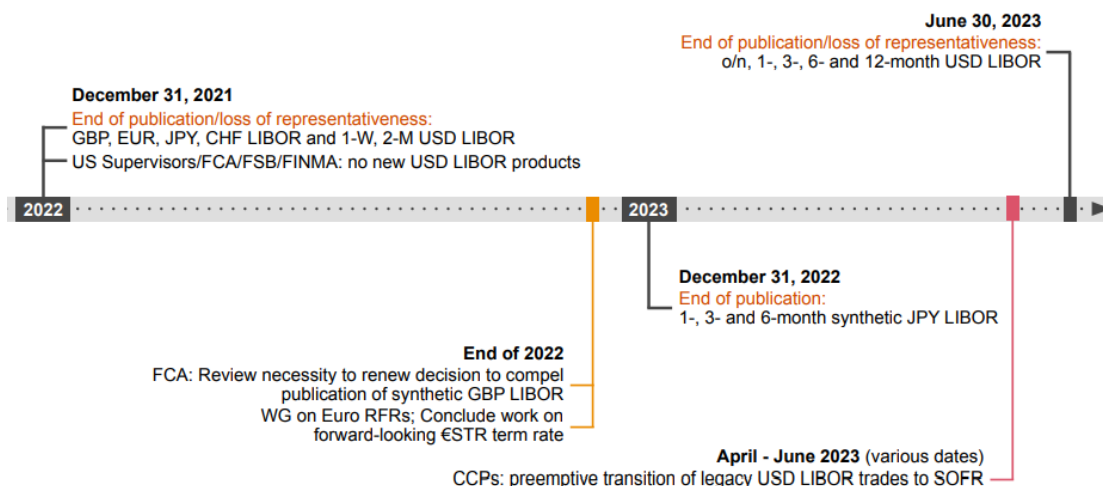
**Benchmarks, RFRs & LiBOR Transition**

**Table 1: timeline of events relating to derivative products referencing USD benchmarks**

01 May 2022	<ul style="list-style-type: none"> <li>• CFTC introduces US swap clearing requirement on OIS referencing SOFR</li> </ul>
31 October 2022	<ul style="list-style-type: none"> <li>• Bank introduces DCO on OIS referencing SOFR</li> </ul>
24 April 2023	<ul style="list-style-type: none"> <li>• CCPs to commence removal of contracts referencing USD LIBOR as eligible for clearing</li> <li>• Bank removes contracts referencing USD LIBOR from DCO</li> <li>• Proposal: FCA removes contracts referencing USD LIBOR from DTO</li> </ul>
01 July 2023	<ul style="list-style-type: none"> <li>• Most widely used USD LIBOR benchmarks to cease publishing</li> <li>• CFTC removes contracts referencing USD LIBOR from US swap clearing requirement</li> </ul>

Specification	Variables
Trade start type	Spot (T+2), IMM (next two IMM dates)
Tenor	2, 3, 4, 5, 6, 7, 10, 12, 15, 20, 30Y
Floating leg reference index	USD LIBOR 3M, USD LIBOR 6M



## Capital Markets and Market Structure

**Liability Driven Investment (LDI) strategies:** As part of the FPC's publications on 29 March, the BoE published a [paper](#) on the resilience of LDI strategies. Written by the Bank's staff and approved by the FPC, it set out recommendations and more detail on the BoE's assessment of resilience. The FPC judged that the size of the yield shock to which LDI funds should be resilient should be, at a minimum, around 250 basis points. The FPC does not have specific regulatory responsibility for pension schemes or LDI funds. However, it expects the paper and its judgements to input into the process to be taken forward by other regulatory authorities, including TPR, when implementing the appropriate steady-state minimum levels of resilience for LDI strategies. A separate BoE [speech](#) reflected on lessons learned from the LDI episode.

**Review of investment research:** As signposted in the UK Government's '[Edinburgh Reforms](#)', the independent Investment Research review launched a [Call for Evidence](#) to gather information and evaluate options to improve the UK market for investment research. This is the first stage of the review. The questions consider the impact of existing UK requirements on dealing commissions, the MiFID II unbundling rules, and recent revisions to those rules to introduce exemptions for smaller companies.

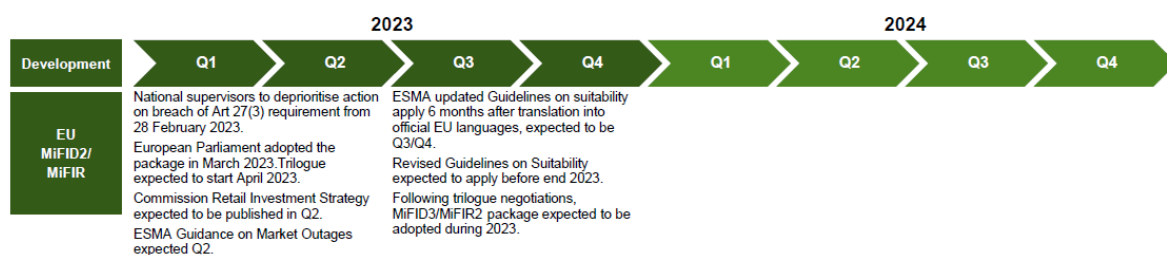
**Shareholder vote reporting:** The FCA has published more [information](#) regarding the recently formed "Vote Reporting Group" (VRG) as part of its focus on firms' progress relating to ESG reporting and stewardship. The FCA has convened the industry working group and acts as the secretariat, with members being drawn from across the investment management community.

The purpose of the group is to propose a comprehensive vote reporting framework and template for public consultation in order to better meet the needs of asset owners and the wider market. The consultation on the group's recommendations for a vote disclosure framework will be published by May 2023, and a final report that considers industry views by the end of 2023.

**Dealing in commodities derivatives:** As part of its response to the Wholesale Markets Review consultation, HM Treasury (HMT) published a proposed [statutory instrument](#) to remove the requirement on firms dealing on own account in commodities derivatives to report annually to the FCA their reliance on the “ancillary activities exemption”.

**UK EMIR:** HMT is [amending](#) UK EMIR to extend the pension funds exemption from the clearing obligation by a period of two years, from 18 June 2023 to 18 June 2025. HMT will conduct a review of the pension funds exemption ahead of its expiry in 2025. This will consider a longer-term approach with input from industry stakeholders and will incorporate relevant findings from work being undertaken by regulators internationally on financial market fragilities and resilience in the non-banking financial sector. HMT is also amending UK EMIR to extend the temporary intragroup transaction clearing exemption regime by three years to 31 December 2026.

**LIBOR:** USD LIBOR is due to cease on 30 June 2023. The overnight and 12-month USD LIBOR settings will cease permanently. However, the FCA has announced it will require LIBOR's administrator, IBA, to continue the publication of the 1-, 3- and 6-month USD LIBOR settings until 30 September 2024, using an unrepresentative `synthetic' methodology. The FCA will permit the use of the synthetic USD LIBOR setting on all legacy contracts except cleared derivatives. No new use of the synthetic USD LIBOR settings will be permitted.



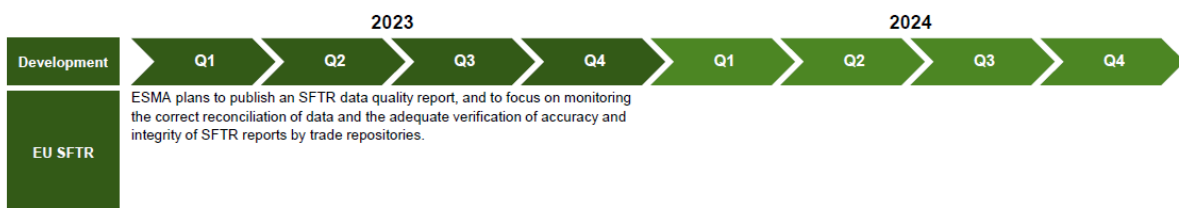
**EU MiFID2/MiFIR package;** *The extensive legislative package known as MiFID 2 (comprising the MiFID 2 Directive and the MiFIR Regulation) has since 2018 been the cornerstone of EU legislation governing the authorisation and operation of investment firms and the buying, selling and organised trading of financial instruments.*

- The MiFID 2 ‘Quick Fix’ measures in response to Covid-19 have applied since February 2022 and measures to integrate sustainability into the package were introduced in August and November 2022.
- In addition, the Commission has reviewed the functioning of the MiFID 2 framework and put forward legislative proposals (sometimes referred to as ‘MiFID3/MiFIR2’) which are passing through the EU legislative process during 2023. MiFID2 will also see further

changes due to initiatives being introduced under the Capital Markets Union (CMU) Action Plan.

- The MiFID2 ‘Quick Fix’ measures suspended best execution periodic reporting under Article 27(3) of the MiFID2 Directive until 28 February 2023. However, the incoming MiFID3/MiFIR2 package will remove the Article 27(3) requirement and so ESMA has advised national supervisors to deprioritise supervisory actions relating to breaches of Article 27(3) after 28 February 2023.
- The incoming Fintech Amending Directive (see **slide 18**) will strengthen operational resilience of MiFID firms by amending the MiFID2 Directive to apply the provisions of the DORA Regulation (see **slide 35**).
- The Council agreed its negotiating mandates on the MiFID3/MiFIR2 package on 16 December 2022 and is ready to begin negotiations with the European Parliament. The European Parliament’s voted on the Reports of its ECON Committee in its March 2023 plenary session. Trilogue negotiations are expected to begin in April 2023.
- The incoming CMU initiative, the Listing Act package to support access to public markets (see **slide 19**), will among other things amend MiFID 2’s provisions on research unbundling and SME growth markets, to stimulate investment in SMEs.
- The Commission’s Retail Investment Strategy (see **slide 22**), expected in Q2 2023, will include proposed amendments to MiFID2 to introduce simplified/improved disclosures on products, new provisions relating to sophisticated retail investors and harmonisation of professional standards for advisers.
- ESMA published updated Level 2 Guidelines on aspects of the MiFID2 suitability requirements in September 2022. These are expected to apply before the end of 2023.
- ESMA is expected to publish guidance in Q2 2023 on market outages and its requirements on trading venue systems resilience.

## EU SFTR

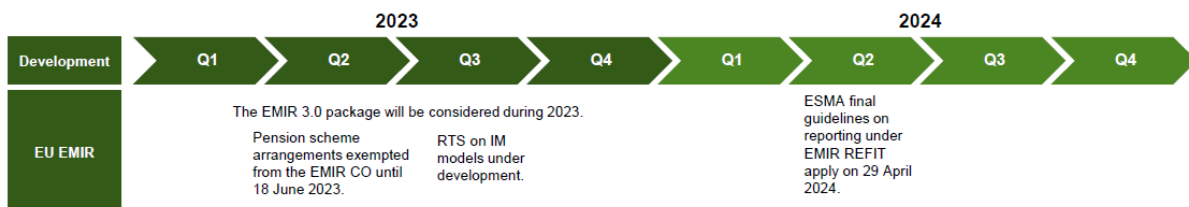


- During 2023, ESMA plans to publish an SFTR data quality report, and to focus on **monitoring** the correct reconciliation of data and the adequate verification of accuracy and integrity of SFTR reports by trade repositories.
- ESMA Guidelines for the transfer of data between trade repositories under EMIR and the SFTR were published in March 2022 and have applied since October 2022.
- ESMA informed the European Commission in June 2022 that it has deprioritised the following EU SFTR deliverables: (a) a report on the efficiency of SFTR reporting; and (b) a report on SFTR fees

## LISTING ACT PACKAGE



- The EU is moving forward with its ambitious plans for a new wide-ranging “Listing Act” package, following a wide-ranging consultation at the start of 2022. The package comprises three legislative proposals:
  - a proposed Directive to introduce targeted adjustments to MiFID2 to enhance visibility of listed companies, especially SMEs, and to introduce regulation for issuer-sponsored research (see slide 10 for other MiFID2 amendments), and to repeal the Listing Directive to enhance legal clarity;
  - a proposed Directive on multiple-vote share structures, to address regulatory barriers at the pre-IPO phase and, in particular, the unequal opportunities of companies across the EU to choose the appropriate governance structures when listing; and
  - a proposed Regulation amending the Prospectus Regulation and the Market Abuse Regulation, to streamline and clarify listing requirements applying on primary and secondary markets, while maintaining an appropriate level of investor protection and market integrity.
- The proposed measures will be considered by the European Parliament and the Council during 2023.
- The three legislative proposals will each enter into force on the 20th day following their publication in the Official Journal.
- Member States will need to create and publish national implementing measures by the expiry of 12 months following the entry of the Directives into force.
- The two Directives and the Regulation will each take effect 18 months after their entry into force.

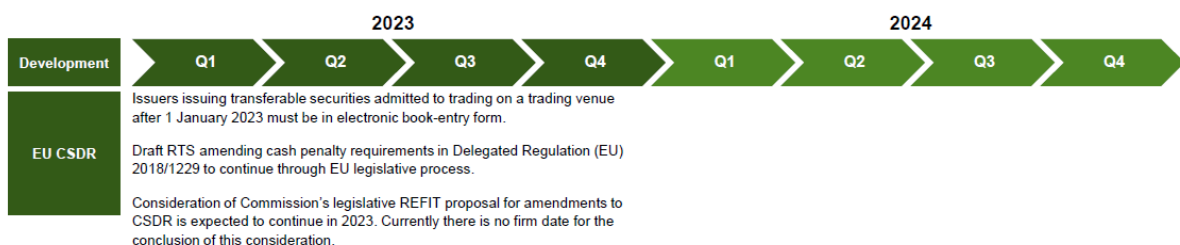


In December 2022, the European Commission adopted proposals for the EMIR 3.0 package, comprising a proposed Regulation and Directive. EMIR 3.0 will amend EU EMIR and other sectoral legislation to mitigate excessive exposures to third country CCPs and improve the efficiency of EU clearing markets, as well as to enhance the monitoring and treatment of

concentration risk towards CCPs and the counterparty risk on centrally cleared derivatives transactions.

- Recently adopted Level 2 measures have deferred the application of some of EMIR's requirements.
- Commission Delegated Regulation (EU) 2022/1671 exempts pension scheme arrangements from the EMIR Clearing Obligation (CO) until 18 June 2023.
- On 1 February 2023, in view of IBOR transition ESMA published a Final Report submitting to the European Commission draft RTSs: (i) under Article 5(2) of EMIR on the CO; and (ii) under Article 32 of MiFIR on the Derivatives Trading Obligation (DTO). Subject to endorsement by the Commission the RTS on the CO would enter into force on publication, and the RTS on the DTO would enter into force on application of the MiFID3/MiFIR2 package.
- Draft RTS under Art 11(5) EMIR are under development, setting out supervisory procedures for initial and ongoing validation of initial margin (IM) models used to determine the level of margin requirements for uncleared over the counter (OTC) derivatives.
- ESMA published final Guidelines on reporting under EMIR REFIT on 20 December 2022, providing clarification on compliance with the EMIR technical standards. The Guidelines apply from 29 April 2024.
- Intragroup transactions:
  - Commission Delegated Regulation (EU) 2023/314 has extended the deferred date of the application of margin requirements for intragroup transactions to 30 June 2025.
  - Delegated Regulation (EU) 2023/315 has extended the deferred date of application of the CO for intragroup transactions set in the three Commission Delegated Regulations to 30 June 2025.
- The European Parliament and the Council of the European Union are considering the EMIR 3.0 package during 2023. Once adopted, EU Member States are expected to implement the amendments set out in the proposed Directive 12 months after the date of the entry into force of the proposed Regulation.

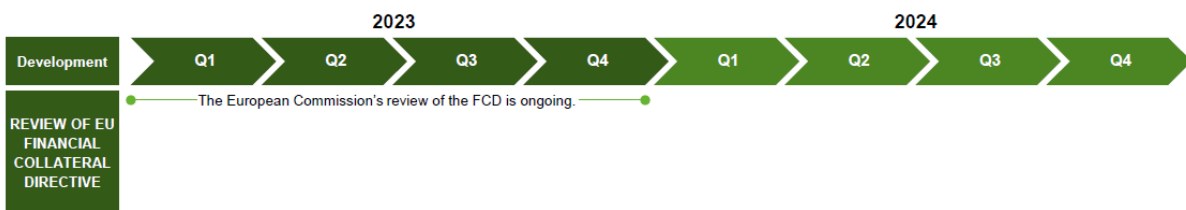
## EU CSDR



- The next major phase of implementation, the introduction of a mandatory buy-in regime, was intended to come into effect on 1 February 2022. This, however, has been postponed. In the meantime, in March 2022 the Commission published a legislative REFIT proposal with proposed amendments to the CSDR.

- From 1 January 2023, any EU issuer that issues transferable securities that are admitted to trading or traded on trading venues must arrange for the securities to be represented in electronic book-entry form. From 1 January 2025, this requirement will apply to all remaining transferable securities that are admitted to trading or traded on trading venues.
- In November 2022, ESMA published a final report and draft RTS amending Article 19 of Commission Delegated Regulation (EU) 2018/1229. The amendments would remove the special distribution and collection process for cash penalties that applies to central counterparties (CCPs) and instead allocate responsibility for the collection and distribution of all cash penalties to central securities depositories (CSDs). The draft RTS will now proceed through the EU legislative process.
- In March 2022, the Commission adopted a legislative REFIT proposal to amend the CSDR. The proposal is now continuing through the EU legislative process. As yet, there is no firm date on which this process will conclude. Most recently, in December 2022, the Council of the EU announced that it had agreed its general approach on the proposed draft regulation, and the European Parliament's ECON Committee voted to adopt its report on 1 March 2023.
- The ECON report was adopted by the European Parliament at its March 2023 plenary session. Trilogue negotiations are expected to begin during H1 2023.
- The CSDR's mandatory buy-in regime was intended to apply from 1 February 2022. The application of the relevant rules has been delayed until 2 November 2025.

## FINANCIAL COLLATERAL DIRECTIVE



- **Review of EU financial collateral directive;** The Financial Collateral Directive (FCD) facilitates the cross-border use of financial collateral primarily by removing national law formalities and offering harmonised protections against insolvency challenges in certain cases. It also ensures that certain close out netting provisions are enforceable in accordance with their terms.
- The Commission launched a consultation on the functioning of the FCD in February 2021, in parallel with a consultation on the functioning of the Settlement Finality Directive given that the two Directives are closely connected in the post-trade context.
- The consultation closed on 7 May 2021 and the Commission is reviewing responses. As yet there are no firm indications as to when the Commission will conclude its review of the FCD. Matters under consideration for potential legislative amendment include:
  - revising the types of entity and collateral types that are in scope of the FCD;
  - clarifying the requirements of “possession” and “control” and the concept of “awareness of pre-insolvency proceedings”; and



- achieving further harmonisation around the requirement that close out netting arrangements should take effect in accordance with their terms notwithstanding the onset of insolvency proceedings of a counterparty.

**SETTLEMENT FINALITY DIRECTIVE**



- The Commission was mandated under Article 12a of the SFD to conduct a review of its functioning and was to have produced a report by 28 June 2021, including proposed legislative amendments where appropriate. Due to the close post-trade interconnection of the SFD with the Financial Collateral Directive (FCD), the Commission launched parallel consultations on the two Directives in February 2021.
- The last consultation closed on 7 May 2021 and the Commission is reviewing responses. As yet there are no firm indications as to when the Commission will conclude its review of the SFD. Matters under consideration for potential legislative amendment include: extending the scope of the SFD to cover EU institutions participating in third country systems as well as new types of entity;
  - enabling the SFD to apply in the context of permissionless DLT;
  - amending the protections relating to collateral security so that these can apply in the context of client clearing; and
  - clarifying and/or revising the concepts of irrevocability and the point in time at which an order enters the system.

Topic	Our rating of the potential impact	Our initial insights and views on the potential impacts
Implementing a consolidated framework	Significant	Simplifying the regime would be welcome, but the FCA acknowledges it would come with initial compliance costs for firms. Changes would also lead to divergence from the EU framework, creating complexity for UK firms operating in both jurisdictions. This is partially offset by the proposed lengthy implementation timeline, but the costs may outweigh the benefits.
Authorised Fund Managers	Significant	Proposals relating to clarifying liquidity stress testing requirements, the introduction of more rules around liquidity management tools and liquidity reporting could represent significant, additional regulatory requirements.
Depositaries	Significant	Existing oversight duties could be significantly extended to include liquidity management and stress testing, pricing and dealing, and enhancing depositaries' resources, knowledge, skills and expertise. This could require depositaries to revisit their business model.
Portfolio Managers	Significant	Proposed rules for portfolio managers regarding investment due diligence and liquidity management would represent new requirements. Contracts with Host AFMs and more retail rules for wealth managers could be onerous.
Detailed fund disclosure and reporting	Moderate	There could be significant changes to the format of the prospectus and fund reports and accounts. These documents could become more useful for investors but there may be significant costs for the industry and the need to adopt different approaches for EU and UK funds. More frequent disclosure of holdings is unlikely to be welcomed by industry.
Unitholder engagement	Minor / Moderate	Allowing virtual participation in unitholder meetings would be relatively straightforward but requiring platforms to allow investors to vote on proposals could be more challenging. The FCA appears undecided on whether industry best practice or regulatory intervention is needed.
Retail fund regime	Minor to Significant (depending on option chosen)	Relabelling NURS as "UCITS plus" could improve investor understanding but FCA-designed "basic funds" will be challenging. However, in the short term there would be implementation costs for fund managers. Given UCITS is a globally recognised brand, divergence from the EU framework could impact the ability to export UK funds.
Technology in fund operations	Minor	The FCA is open to facilitating tokenisation of both fund units and assets and to support the industry as it explores new opportunities. This may help accelerate efforts to modernise the industry.
AIFMs	Minor	No significant changes proposed. Potential amendments could allow more firms to make use of the small AIFM exemption but expectations of them may be clarified and some types of small registered AIFMs may need to be authorised.
Fund rules – eligible assets / prudent spread of risk	Minor	Proposals include guidance on the 10% unlisted rule, and possible removal or modification of certain detailed and prescriptive requirements. A move towards more outcomes-based regulation would be welcome but again would require different approaches in the UK and the EU.

Wholesale market data; Regulatory focus on competition and access; After some delay, the FCA has published the findings of its [trade data review](#) and launched an all-encompassing [wholesale data market study](#).

- The FCA has been investigating the cost and access to market data since early 2020, when it launched a [Call for Input](#) on the subject.
- Feedback and views on whether competition was working for the supply of wholesale data were mixed, largely reflecting respondents' positions in the market.
- In its [Feedback Statement](#), the FCA highlighted its concern that competition issues in these markets may be leading to high pricing and therefore increase costs to end investors.
- The FCA signalled then it would continue to review the market in trading data and would launch market studies into benchmarks and credit rating agencies where it also had concerns around competition.

**Findings of trade data review;** The review found that the market in trade data does not work as effectively as it could in allowing competition and innovation. In particular:

- Some trading markets are concentrated among a few firms so there is little choice for users when buying this data and switching supplier is not an easy option.

- MiFIR-based requirements on pricing trade data on a reasonable commercial basis don't appear to be a significant constraint on pricing.
- The way data is sold can be complex, making it harder for data users to compare costs and to make informed choices.
- Complexity and limited choice result in additional costs to data users such as asset managers. These are likely to be passed on to UK retail investors and savers.
- Despite rules in place requiring delayed data to be distributed for free, many users end up with little choice but to pay for data.
- Evidence suggests that trade data is a highly profitable business line and contributes considerably to the high margins earned by some firms.

**Wholesale data market study;** The FCA wholesale data market study will now consolidate the market studies for benchmarks, credit ratings data and market data vendor services. FCA market studies are in-depth, evidence-driven investigations.

- If the FCA finds problems in a market, it could introduce regulations or other policy interventions in the future, and in the extreme, could introduce more restrictive forms of price regulation. For this particular study, the FCA will decide whether to make a market investigation reference to the Competition and Markets Authority after six months and the final report is due in a year.
- The market study is particularly broad in scope covering regulated and unregulated markets which contributes to the complexity of the study. The FCA is looking to review six themes:
  - i. Barriers to entry and expansion
  - ii. Network effects
  - iii. Vertical integration
  - iv. Suppliers' commercial practices
  - v. Behaviour of data users
  - vi. Incentives for innovation
- Providers in the market will likely be asked to provide detailed submissions to the FCA on the functioning of the markets in question and respond to information and data requests containing confidential information about their activities.

### Other regulatory initiatives on data

#### 1. Consolidated tape

- The FCA is also working with the Government on developing the regulatory framework (introduced by MiFIR / MiFID II) to facilitate a consolidated tape for the UK. Similar developments are happening in the EU as part of the MiFIR review.
- A consolidated tape collects market data, such as prices and volumes, from on-venue and OTC trading across the market and disseminates them in a standardised, single feed. It can include reports of pre-trade and/or post-trade data.
- Reviews have found that a consolidated tape has not emerged in Europe as, amongst other reasons, the current structure of the market and legislative framework does not offer strong commercial incentives for a consolidated tape provider (CTP). Both

jurisdictions are now looking to put place frameworks that would enable, for each asset class, a single private sector operated tape, that would be authorised and regulated.

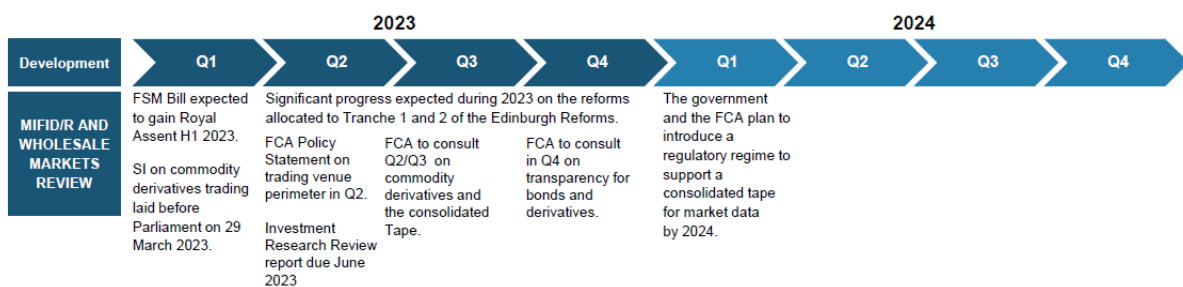
- The ongoing debate on the correct amendments to the framework includes discussion around:
  - Fee schedules, licensing and revenue sharing between data providers and the CTP.
  - How the rules and tender process can be designed to ensure a chosen CTP behaves, from a competition point of view, in a manner consistent with having multiple CTPs per asset class.
- The FCA will use the findings of the trade data review to inform the design of the consolidated tapes and is planning to consult on the design in summer 2023. ESMA will consult on the model for the EU once the MiFIR review is agreed.
- Consolidated tapes should improve the overall cost, quality and accessibility of wholesale data. Therefore, they are likely to have an impact on pricing and business models for wholesale market data.

**2. ESG data, ratings and benchmarks**

- Many of the firms likely to be reviewed by the FCA wholesale market data study will also be selling ESG data and ratings. This market is currently unregulated but is rapidly growing. Regulators are concerned about the lack of alignment of definitions, lack of transparency on methodologies used, uneven coverage and management of conflicts of interest and are likely to bring within the regulatory perimeter.
- A recent FCA [review](#) of ESG benchmarks found the overall quality to be poor. Please see [article](#) for more details.

## UK Divergences

### MIFID/R AND WHOLESALE MARKETS REVIEW



- Delivering on a WMR recommendation, the government and the FCA plan to introduce a regulatory regime to support a consolidated tape for market data by 2024.
- As envisaged by the WMR, on 29 March 2023, the government laid before Parliament the draft Financial Services and Markets Act 2000 (Commodity Derivatives and Emission Allowances) Order 2023, to remove burdens from firms trading commodities derivatives as an ancillary activity. The Order will come into force on 1 January 2025.
- The independent Investment Research Review was launched on 9 March 2023 and is due to report by 13 June 2023.

- Timing not yet announced
  - the government will work with the regulators and market participants to trial a new class of wholesale market venue which would operate on an intermittent trading basis
  - the government has committed to work with the FCA to examine the boundary between regulated financial advice and financial guidance
  - regulation of the wholesale markets is also likely to be impacted by the outcomes of the Overseas Framework Review which was launched by HM Treasury in December 2020. The government is considering the impact of potential reforms before bringing forward concrete proposals on potential changes to the UK's regime for overseas firms and activities.

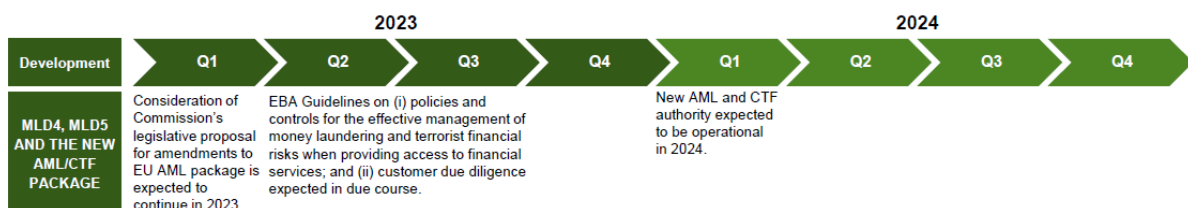
## AML & MAR

### EU MAR AND CSMAD



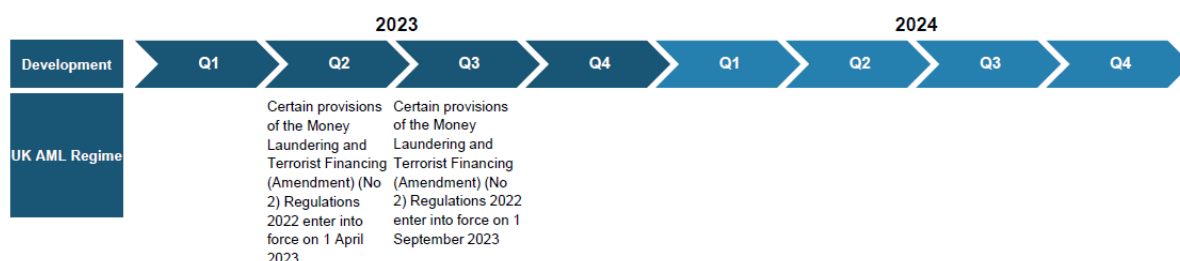
- MAR required the Commission to submit a report on MAR and, if the Commission considered this to be appropriate, a proposal for amendments to MAR, by 3 July 2019. In September 2020, ESMA published a report on MAR. The Commission's report has yet to be published.
- In December 2022, the Commission published a package of proposals to simplify EU listing rules, referred to as the Listing Act package. This will, amongst other things, amend MAR to: narrow the scope of the obligation to disclose inside information and enhance legal clarity as to what information needs to be disclosed and when; clarify the conditions under which issuers may delay disclosure of inside information; clarify the market sounding procedure; simplify the insider lists regime; and simplify the reporting mechanism for buy-back and stabilisation programmes. The proposals will now continue through the EU legislative process.

### EU MLD4, MLD5 AND THE NEW AML AND CTF PACKAGE



- MLD4 contains the EU's anti-money laundering framework. MLD5 made targeted amendments to MLD4 to increase transparency around owners of companies and trusts through the establishment of public beneficial ownership registers, prevent risks associated with the use of virtual currencies for terrorist financing, restrict the anonymous use of pre-paid cards, improve the safeguards for financial transactions to and from high-risk third countries and enhance Financial Intelligence Units' access to information. In 2021, the Commission adopted an ambitious new package of legislative proposals, intended to further strengthen the AML and CT framework.
- In July 2021, the Commission adopted a package of legislative proposals including a regulation establishing a new EU AML and CTF authority, a new regulation on AML and CTF, a regulation on information accompanying transfers of funds and certain cryptoassets and a sixth directive on AML and CTF. The package continued its progress through the EU legislative process in 2022, with different elements of the package progressing at different speeds. In October 2022, the Council of the EU confirmed that a compromise agreement had been reached on the regulation on information accompanying transfers of funds and certain cryptoassets. In December 2022, the Council of the EU adopted its position on the new regulation on AML and CTF and the sixth directive on AML and CTF. It is currently expected that the package of proposals will be finalised in 2023.
- In December 2022, the EBA published a consultation paper on producing draft guidelines on policies and controls for the effective management of money laundering and terrorist financing risks when providing access to financial services. The consultation paper also consulted on revising existing guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions. The consultation closed in February 2023 and the EBA's report and finalised guidance are expected in due course.
- It was originally expected that the new AML and CTF authority, created under the new AML package, would be operational in early 2024 but this timeline may be extended.

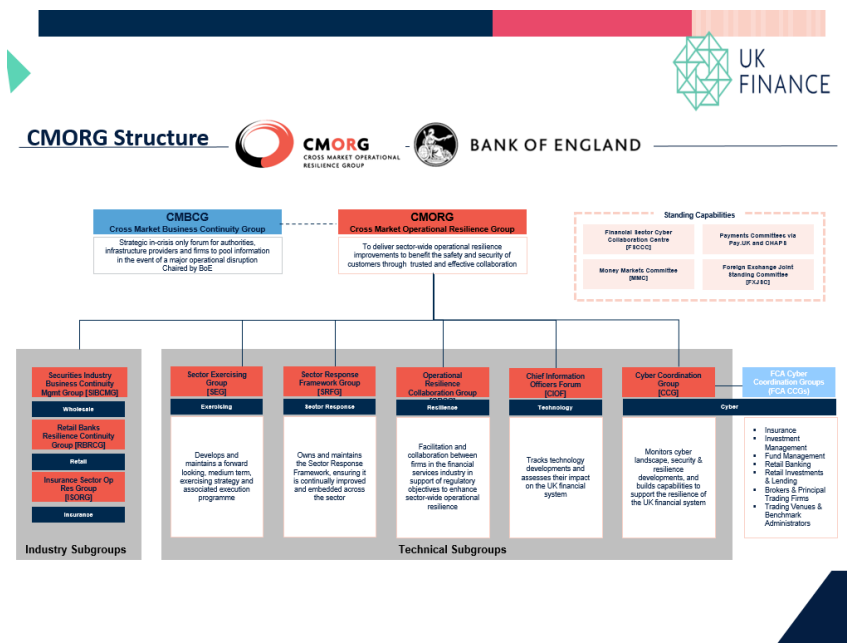
## UK AML REGIME



- On 21 July 2022, the UK's Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 were passed. These set out specific amendments to the UK's AML regime, which are being phased in, culminating on 1 September 2023.
- Alongside the consideration of these specific amendments, the UK has been conducting a wider review of its AML regime. A report on this review was published on 24 June

2022. This indicated that further reform to the UK's AML regime is needed and, therefore, further consultations and amendments to the regime are expected.

- The Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 were made on 21 July 2022. They make various targeted amendments to the UK's Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, including in relation to the reporting of discrepancies and requirements relating to cryptoasset businesses and cryptoasset transfers. Most of the requirements entered into force on 11 August 2022 and 1 September 2022. Remaining provisions will enter into force on 1 April 2023 and 1 September 2023.
- The UK's list of high risk third countries is updated periodically to reflect the Financial Action Task Force's standards. Future updates may be made following the next Financial Action Task Force plenaries, in March and July 2023.



## Digital finance, SupTech, RegTech & FinTech

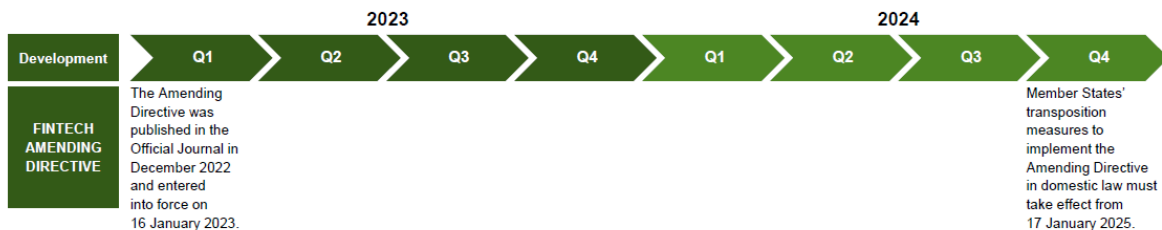


## EU MICA REGULATION



- The European Parliament and the Council reached political agreement on the text of MiCA in October 2022. The European Parliament is expected to vote on the Regulation at its plenary session in April 2023.
- Once adopted, MiCA will enter into force 20 days following its publication in the Official Journal of the European Union.
- MiCA’s provisions related to stablecoins (‘Asset Referenced Tokens’ and ‘E-Money Tokens’) will apply 12 months after MiCA enters into force, with the remainder of its provision (covering other cryptoassets) will apply 18 months after MiCA enters into force.

## FINTECH AMENDING DIRECTIVE



- The Amending Directive (EU) 2022/2556 of 14 December 2022 supports the DORA Regulation (see slide 35) as part of the EU’s Digital Finance Strategy.
- The Amending Directive makes amendments to various sectoral Directives to ensure that their requirements on operational risk and risk management are cross-referenced to the DORA Regulation. The objective is to ensure legal certainty and clarity for financial services entities as to the relevant requirements for the operational resilience of their digital operations against information and communication technology (ICT) risk.
- Member States must amend their national law implementing the following Directives to transpose the provisions of the Amending Directive: UCITS Directive; Solvency II Directive; AIFMD; Capital Requirements Directive; Bank Recovery & Resolution Directive; MiFID II; PSD2; and IORP Directive.
- Provisions in the original proposal for the Amending Directive that proposed amendments to MiFID II to allow derogations from MiFID II requirements for DLT market infrastructures that have permission under the DLT Pilot Regulation (a related initiative under the EU’s Digital Finance Strategy) were not carried through into the final version of the Amending Directive.

- Member States' transposition measures to implement the Amending Directive in domestic law must take effect from 17 January 2025.

## EU AI ACT



- The Commission published a proposal for a Regulation on artificial intelligence (AI) in April 2021. The proposed 'AI Act' sets out rules relating to the placing on the market, putting into service and use of AI systems in the EU, as well as transparency requirements and rules on market monitoring and surveillance.
  - The rules will apply proportionately on the basis of four different risk levels: unacceptable risk, high risk, limited risk, and minimal risk.
  - AI uses that are deemed to present unacceptable risk will be prohibited. High risk systems and their operators will be subject to the detailed requirements in Chapter 2 of Title III of the proposed Regulation. Limited risk systems will be subject to transparency requirements. Minimal risk systems will be dealt with by development of and adherence to voluntary codes of conduct.
- It is intended that the AI Act will not apply to private, non-professional use of AI. Otherwise, it will apply to all sectors including financial services. The measures in the proposed Regulation will extend to providers and users of AI systems located in the EU as well as those based outside the EU to the extent the output produced by the system is used in the EU.
- Financial institutions looking to launch or use AI will need to analyse the extent to which they qualify under the AI Act as providers or users of AI systems and comply with the associated requirements according to the risk classification of the system.
- The Council agreed its general approach on the proposal on 6 December 2022 and is ready to begin negotiations with the European Parliament.
- The proposal is being considered by two committees of the European Parliament. A draft Report was published in April 2022 and has gone through a number of amendments in Committee. This legislative proposal has attracted feedback from a wide variety of stakeholders. A vote on the Report is yet to be scheduled.

**The end of fin-fluencing; Regulators are cracking down on crypto promotions** *Around the world, regulators are pushing forward in their attempts to temper – and in some cases, explicitly ban – the promotion of cryptoassets to retail consumers. In particular, regulators are wary of the rise in 'fin-fluencing', whereby celebrities and social media personalities are paid to promote investment in certain crypto products.*

- **UK developments;** In the UK, cryptoasset promotions are currently outside the FCA's remit – but not for long.
- In January 2022, HM Treasury (HMT) confirmed its intention to legislate to bring certain cryptoassets within scope of the Financial Promotions Order. Shortly afterwards, the FCA published [CP22/2](#) laying out strengthened rules for financial promotions of high-risk investments including cryptoassets. These rules were refined in [PS 22/10](#), with the FCA noting that final rules for cryptoassets would be confirmed once the legislative process was complete (likely later in 2023).
- In CP22/2, the FCA reiterated its aim of maintaining a technology-neutral approach and treating cryptoassets like any other high-risk investment. It proposed to define cryptoassets as a Restricted Mass Market Investment (RMMI). Under this definition, the promotion of cryptoassets would need to comply with various additional stipulations, including:
  - Improved risk warnings including the standardised phrase – ‘Don't invest unless you're prepared to lose the money you invest. This is a high-risk investment, and you are unlikely to be protected if something goes wrong’
  - Banning of incentives to invest (e.g. refer a friend, new joiner bonus)
  - A 24-hr cooling off period
  - Personalised risk pop ups
  - Support for clients to accurately categorise themselves – e.g., stating their income if they declare themselves to be a 'high-net-worth' investor. In CP22/2, the FCA indicated that the self-certified 'sophisticated investor' category – one of four client categories – would not be permitted for the promotion of cryptoassets
  - Processes to record metrics relating to the effectiveness of client categorisation and appropriateness assessments
- These stipulations would apply to all firms marketing cryptoassets to UK consumers regardless of whether the firm was based overseas or what technology was being used to make the promotion and will be a step change from the currently very minimal requirements.
- In February 2023, the FCA published a [reminder](#) to all cryptoasset firms that they must be preparing for the changes. It also emphasised that robust action would be taken against any firm in breach of the new requirements.
- The requirements of the Financial Promotions Order mean that any entity intending to promote cryptoassets need to have their promotions approved by an FCA-authorized firm. Industry feedback highlighted that most crypto firms would be unable to approve their own promotions as they are not authorised by the FCA, and that there is a lack of suitably authorised firms in the market willing and able to step in. This would result in an effective ban on cryptoasset financial promotions which HMT has stated was not the intended outcome of the legislation.
- As HMT is committed to supporting the growth of the UK cryptoasset sector in a safe and competitive manner, it has now introduced secondary [legislation](#) that enacts a temporary bespoke exemption allowing cryptoasset firms that are registered with the FCA under AML/CFT regulations to communicate their own cryptoasset promotions. However, the exemption will not allow them to promote other controlled investment products. Firms using the exemption will still have to comply with the rules described above on the content of the promotions.

- More recently, in April, the FCA and ASA also published a [joint-press release](#) warning influencers of the risks of promoting illegal 'get rich quick' schemes and noting that they will be engaging with influencers and their agents, providing them with clear information about what could be an illegal financial promotion.
- **Further afield;** As things stand, while Europe's Markets in Cryptoasset (MiCA) regulation works its way through the legislative process, there is no EU-wide regulatory approach for the promotion of crypto products. As a result, individual countries have begun taking action to address risks within their own borders. Spain was one of the first. [New rules](#) – set out by the National Securities Market Commission (CNMV) – came into force in February, and include:
  - A requirement that influencers disclose if they are being remunerated for promoting crypto
  - A requirement for posts to include prominent clear, balanced and impartial risk statements
  - A requirement that influencers with more than 100,000 Spanish followers notify the watchdog of the content of any crypto promotions at least 10 days in advance
- And in Belgium, the Financial Services and Markets Authority (FSMA) has finalised [rules](#) regarding the retail promotion of crypto assets (including by influencers), which will come into force in May. These rules include requirements such as emphasising the potential risks, presenting information in 'non-technical' language and avoiding 'irrelevant comparisons'. The FMSA has even coined a bespoke tagline – “virtual currencies, real risks – the only guarantee in crypto is risk” – which must be included in all relevant advertisements. Representatives of the European Commission have noted that some of these rules may need to be adjusted once MiCA enters into force in 2024.
- A recent [report](#) by the International Organisation of Securities Commissions (IOSCO) on retail market conduct noted that the current use of social media by registered entities is characterised by overly promotional and unbalanced information. However, if used responsibly, this new medium has the potential to provide important information to a new demographic of investors that access these channels.
- **What does this mean?** As requirements continue to proliferate, firms must ensure that their marketing practices remain compliant with jurisdictional expectations in order to avoid fines, regulatory backlash and reputational damage.

---

## Sanctions

---

## Conduct / Enforcement / Reporting

**UK authorities review the Senior Managers & Certification Regime - Evolution, not revolution;** *In the UK Government's "Edinburgh Reforms" package, it set out an intention to review the Senior Managers & Certification Regime (SM&CR) in Q1 2023. The UK authorities have now begun the review. HM Treasury (HMT) has launched a Call for Evidence and, in parallel, the FCA and the PRA have published a joint Discussion Paper. Both papers are open to feedback until 1 June 2023. The questions asked are relatively high-level and open-ended, but signal a desire to improve the effectiveness of the regime and potentially streamline it in some respects – with an eye on international competitiveness.*

## Context

- The SM&CR was introduced following the global financial crisis to improve culture and increase accountability in the financial services sector. The regime has been rolled out in phases. It applied to banking firms from 2016, then insurers in 2018, and by 2019 almost all solo-regulated firms were captured. Since then, benchmark administrators have been brought into scope and the Government has consulted on extending the regime to certain financial market infrastructure firms. The regime consists of requirements for senior managers (approved by PRA and/or FCA), certified staff (assessed annually by firms) and conduct rules. Although there have been limited reviews of the regime before, this is the first full review. The Government notes that there is broad support for the regime but has heard from firms that there are areas where it could be improved, for example, reducing the amount of time taken to obtain approvals for Senior Manager appointments. Therefore, following on from the Edinburgh Reforms announcement (see KPMG's summary [here](#)), the UK authorities are gathering evidence to inform future reforms to the regime. In terms of the framework, HMT will consider the legislative aspects, while the FCA and PRA will consider the operational aspects and rules.

## HMT's Call for Evidence

- The purpose of HMT's [Call for Evidence](#) is to understand stakeholders' views on the overall functioning of the regime, how effectively it has delivered its objectives, and whether there are "opportunities to better deliver on the regime's core objectives". The Government is also keen to understand lessons learned from other jurisdictions.

## HMT's questions cover the following topics:

- Whether the regime is delivering against its original aims.
- Whether there are areas of SM&CR that are perceived as a deterrent to firms or individuals locating in the UK.
- The impact of the regime on UK competitiveness and how it compares with regimes in other countries.
- Specific aspects of the SM&CR and how any concerns could be addressed, for example, regarding the process and time taken to authorise Senior Managers.
- The scope of the regime, whether it is correct, and whether "low risk activities or firms" could be removed from the scope.

---

## The FCA and PRA Discussion Paper

- In parallel, the FCA and PRA launched a [Discussion Paper](#) to review the effectiveness, scope, and proportionality of the regime. The goal is to gather views from all firms subject to SM&CR to identify where improvements can be made, while preserving the regime's underlying aims in a manner consistent with the regulators' objectives.

### The Discussion Paper gathers views on the following topics:

- Effectiveness of the SM&CR: whether SM&CR has made it easier to hold individuals to account, improved safety, soundness and conduct within firms, and supported the appointment of appropriately qualified senior individuals. The regulators' questions also cover how individual accountability can complement board accountability, and the role of enforcement in promoting individual accountability and supporting the aims of the regime.
- Scope of the SM&CR: whether the scope of the regime is appropriate and applied proportionately, and whether there are ways to enhance competition or international competitiveness.
- Senior Management Functions (SMFs): how the process for SMF approval could be improved, and whether obtaining and notifying information on criminal records is effective in supporting the aims of the regime. Additionally regarding the rule that allows temporary SMF holders for up to 12 weeks, it is questioned to what extent this helps to manage SMF changes. There are also questions on whether the existing range of SMFs and Prescribed Responsibilities help achieve the regime's aims, and whether Statements of Responsibilities and Management Responsibilities Maps help to support individual accountability.
- Certification Regime: whether the regime is effective in ensuring individuals are fit and proper for their roles. The Directory of Certified and Assessed persons is also a focus, with a question on whether it captures the appropriate types of individual and the requirements on keeping it up to date are appropriate.
- Regulatory references: whether they help firms make better-informed decisions about the fitness and propriety of relevant candidates.
- Individual and Senior Manager Conduct rules: whether they are effective in promoting good conduct across all levels of the firm.

### Implications

- The two papers are simply gathering information from firms and there is no concrete action that needs to be taken now, other than responding to the papers if firms so wish. It remains to be seen what, if any, changes will follow the review.
- The questions are relatively high-level and cover many areas. However, it is clear that the UK is keen to learn lessons from other jurisdictions and has one eye on international competitiveness as it undertakes the review.

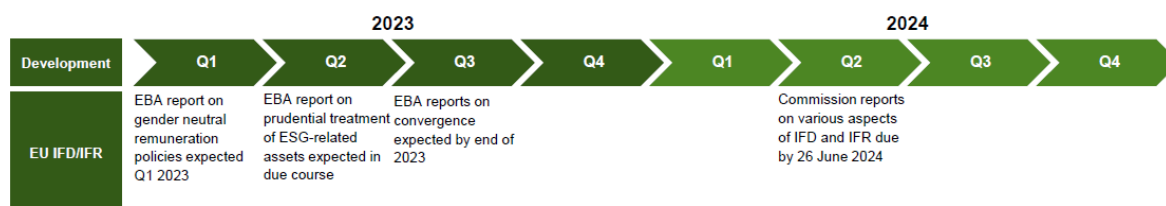
**Financial Ombudsman Service (FOS) plan and budget:** The FOS has [published](#) its plans and budget for 2023/24. Its compulsory jurisdiction levy and individual case fee will be frozen at £106 million overall and £750 for each case respectively, representing a reduction in real terms. The voluntary jurisdiction levy will be reduced from £700,000 to £600,000 and group-account fee arrangement businesses will not receive any free cases.

**FOS Outcome reporting changes:** Following a short consultation, the FOS has confirmed the introduction of [temporary changes to outcome reporting](#) (PDF 0.54 MB), in its business-specific complaints data for the 2023/24 financial year, which will see it report cases as “proactively settled” where certain criteria is met. This will be a trial for the 2023/24 financial year. The initiative proceeds as consulted on with only one minor change to how it is implemented such that it will only apply to new cases with the service and is designed to help manage FOS's case load.

**Fast growing firms:** The FCA has published the [results](#) of a multi-firm review of 25 fast growing firms. The review was triggered by findings in ongoing supervision and included payment services firms, contract for difference (CFD) providers and wealth managers. The FCA found that most firms had not updated their risk management frameworks, resulting in an inadequate assessment of risks and the potential for harm. Additionally, some firms did not have capital and/or liquid assets commensurate with their size, complexity and growth in business. All firms, especially those that have grown rapidly, or have plans to do so, should read the findings and compare their own arrangements to determine whether they need to make changes.

## Financial Stability, Operational Resilience

### EU IFD/IFR



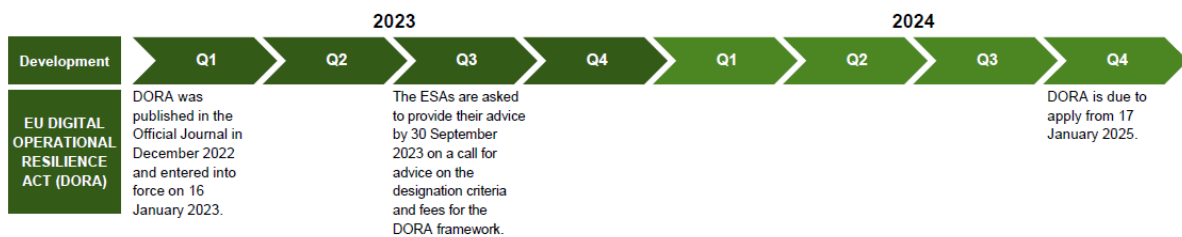
- The IFD and IFR will be accompanied by a number of RTS, ITS and guidelines, not all of which have been finalised.
- An EBA report on the application of gender-neutral remuneration policies is expected in Q1 2023.
- The EBA was required to report by 26 December 2021 on whether dedicated prudential treatment of assets exposed to activities associated substantially with environmental or social objectives, in the form of adjusted K-factors or adjusted K-factor coefficients, would be justified from a prudential perspective. The report has not been published. The



EBA published a discussion paper on the topic in May 2022 and a report is expected in due course.

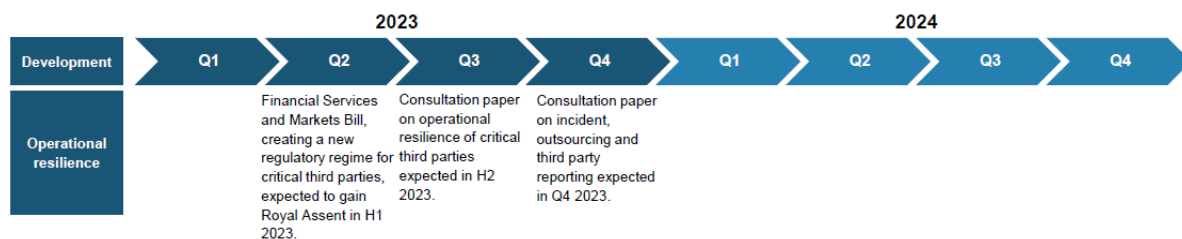
- An EBA report on the degree of convergence of the application of the Chapter 2 of the IFD (Review process) among member states is expected by the end of 2023.
- The Commission is required to report on the IFD and IFR, with legislative proposals to amend the package if it considers this to be necessary, by 26 June 2024.

## DORA



- **DORA will apply from 17 January 2025.** The DORA package includes the Fintech Amending Directive (see **slide 18**), which amends operational resilience requirements in a number of existing EU directives, including the UCITS Directive, the AIFMD and MiFID II.
- The European Commission has issued a provisional call for advice to the ESAs on the designation criteria (under which a third-party ICT service provider is designated as 'critical') and fees for the DORA oversight framework. The ESAs are asked to provide their advice by 30 September 2023.

## OPERATIONAL RESILIENCE



- The Financial Services and Markets Bill (FSM Bill) which includes proposals to regulate cloud service providers and other designated critical third parties providing services to UK regulated firms, is expected to gain Royal Assent in H1 2023.
- In July 2022, the FCA, PRA and Bank of England published a joint discussion paper (DP22/3) on the operational resilience of critical third parties and how the regulators could use their new powers under the Financial Services and Markets Bill. The consultation closed in December 2022 and feedback and a consultation paper are expected in H2 2023.
- Firms have until 31 March 2025 to implement strategies, processes, and systems that enable them to address risks to their ability to remain within their impact tolerance for each important business service in the event of a severe but plausible disruption.

- In Q4 2023, the Bank of England, PRA and FCA expect to publish a joint consultation paper on incident, outsourcing and third party reporting. The purpose of this initiative would be to: (i) introduce clarity regarding the information that firms should submit when operational incidents occur; and (ii) collect certain information on firms' outsourcing and third party arrangements in order to manage the risks that they may present to the FCA's and PRA's objectives, including resilience, concentration and competition risks.

**Trading or Solvent Wind-down - UK regulatory requirements and considerations for firms;** *In recent years, regulators in both the UK and US have required certain banks to conduct solvent wind-down (SWD) exercises. The [Single Resolution Board \(SRB\)](#) defines SWD as "an approach for existing (or dissolving) trading activities in an orderly manner and avoiding posing risks to financial stability". The SRB also notes that the lack of a credible SWD plan could jeopardise the credibility and feasibility of the wider resolution strategy of any bank with material trading books.*

- The exercises carried out by regulators – between 2014 and 2021 – covered trading and banking book exposures, legal entity wind-downs and 'combination exercises' as part of the development of wider recovery and resolution capabilities. Unfortunately, the outputs demonstrated that, for the most part, firms lack the ability to wind-down their activities in an orderly manner.
- As a result, in May 2022, the PRA published a [policy statement](#) (PDF 1.12 MB) requiring banks to identify a full or partial wind-down strategy of their trading activities as a recovery and post-resolution restructuring option. The deadline for compliance is March 2025 and banks should now be well on their way towards interpreting and implementing the PRA's requirements.
- PRA's trading wind-down requirements
- The policy statement applies to:
  - O-SII banks that have the full or partial wind-down of trading activities as a recovery and post-resolution restructuring option; and
  - Banks that have identified their preferred resolution strategy as Bank-led bail-in, or have been notified that they are a 'material subsidiary' of a third-country group for the purposes of setting internal minimum requirements for own funds and eligible liabilities (MREL) in the UK.
- Institutions meeting the criteria above are expected to evidence the following capabilities:
  - **1. Information provision and decision-making capabilities**
    - Specifically, they must be able to produce:
      - Granular information and data to support segmentation of trading portfolios in in the form of formal templates and quantitative & qualitative analysis.
      - Projection of Exit Costs, Operational Costs, Capital Resource Impacts and Requirements, Liquidity and Funding and Risk-based Losses from the assumed reference date throughout the wind-down period.
      - Sensitivity analysis which includes quantification of the impact of alternative key assumptions to those assumed under the trading wind-down (TWD) scenario.
  - **2. Refresh capabilities**
- Banks must be able to demonstrate:

- 
- Data refresh capabilities – of (i) balance sheet and risk data (including data on trading book positions at the individual contract, collateral, and asset levels), (ii) quantification of wind-cost cost, and (iii) capital and liquidity projections.
  - A full plan refresh within weeks of the material components of the wind-down option (including changes to assumptions and modelling methodology).
  - **Implementing TWD solutions;** Banks that are in the process of developing and implementing TWD solutions face the following challenges:
    - The need to take a legacy capital and liquidity stress testing and reporting infrastructure and make it faster and more agile.
    - The need to segment and to be confident that they can deliver the portfolio segmentation wind-down on a legal and contractual basis.
    - The need to enhance their ability to analyse portfolios on a trade level.
    - The need to align with other wide reaching and emerging regulation such as the Fundamental Review of the Trading Book (FRTB, which has an implementation date of 1 January 2025).
    - The need to develop TWD tooling with clear links to business strategy (e.g. RWA and capital optimisation).
  - **Wider recovery and resolution integration**
    - The PRA also expects banks to integrate TWD planning activities into their wider recovery and post-resolution restructuring processes. TWD strategies could be used as a recovery option to stabilise capital or liquidity positions, minimise liabilities or limit impacts on financial stability. Key considerations for the integration of TWD into recovery planning include:
      - Demonstrating that the execution of the TWD option is credible – this may include analysing timelines for executing the option.
      - Mitigating potential barriers that might impede that execution.
      - Demonstrating flexibility of TWD capabilities such that the TWD option can adapt to prevailing market conditions and be utilised in real-life circumstances.
      - Ensuring that post-TWD recovery options may fundamentally change the firm's structure and business model and understanding the corresponding impact.
      - TWD banks may also need to produce a concise implementation guide for their full Recovery Plan – including the TWD option – with detailed analysis, evidence, and testing, to support the credibility of the other information.

---

## Prudential & Risk

**Financial Policy Summary and Record:** The BoE has published the March [edition](#) of its regular updates from the Financial Policy Committee (FPC), outlining risks to financial stability and subsequent policy actions. Most significantly, recent overseas bank failures have increased investor caution and the FPC is monitoring these developments closely. In the face of this, UK banks are remaining resilient and strong enough to continue supporting households and businesses. The BoE also notes that consumer and business finances remain under pressure from higher borrowing costs and prices, and that non-bank financial institutions need to improve their resilience. The FPC reiterated the urgent need for reforms in this sector, including on liability-driven investment (LDI) funds (see 'Capital Markets and Asset Management' below).

**Prudential liquidity framework:** The BoE has published [FS1/23](#), summarising feedback to its Discussion Paper on a prudential liquidity framework that supports liquid asset usability. Most respondents agreed that banks are currently reluctant to draw on their stock of high-quality liquid assets (HQLA) in periods of stress out of fear of market overreaction and / or increased supervisory oversight. In order to improve this, respondents suggested (i) regulatory communications clarifying the extent to which Liquidity Coverage Ratios (LCRs) can fall and the time banks have to rebuild HQLA stocks, (ii) adjustments to how the LCR is calculated in stress, (iii) simplifications to liquidity-related disclosures, and (iv) recalibrating the LCR to account for pro-cyclicality. Most respondents also advocated for greater international coordination in regard to this regulatory guidance.

**Depositor protection:** The PRA has published a [Policy Statement](#) making minor amendments to the Depositor Protection rules in the PRA Handbook. The amendments clarify that the FSCS depositor protection regime covers eligible customers of e-money institutions, authorised payment institutions, small payment institutions, and credit unions (in respect of e-money) should a credit institution holding such firms' safeguarded funds fail (the Safeguarding Rules proposal).

**Thematic findings from the 2022 cyber stress test:** The BoE and PRA have published a [letter](#) (PDF 0.17 MB) to firms and FMIs outlining the thematic findings of this voluntary test based on a data integrity scenario in retail payments. Firms are expected to draw on these as part of their complementary operational resilience compliance. The findings – which aim to lessen the impact of a cyber incident – focus on the importance of:

- Timely and co-ordinated decision-making and action across the industry.
- Consistent, effective and timely communications throughout the incident, including the use of pre-scripted messages.
- Re-routing payments via alternative payment systems, where possible.
- Suitable mitigating actions to maintain public confidence – e.g., providing emergency cash or extending overdrafts.
- The availability of clean data that can be used to reroute accurate payments via contingency systems and to restore a service.
- The undertaking of appropriate planning, preparation, and testing to further strengthen individual capabilities and underpinning assets (including technologies and processes).

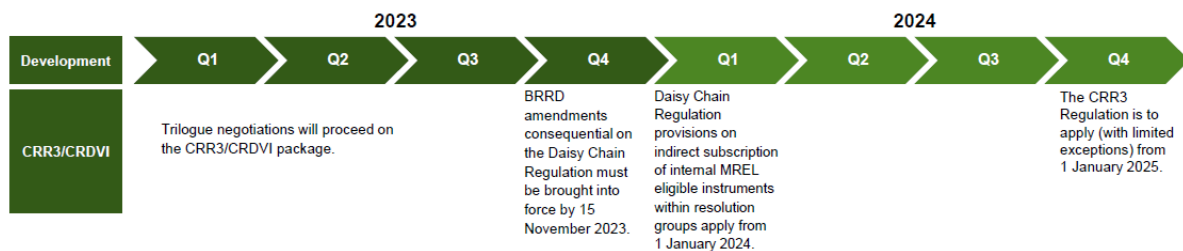
**PRA: It's not the plane, it's the pilot:** A [speech](#) by Shoib Khan, Director Insurance Supervision, PRA addressed the unique combination of risks currently facing the UK's insurance sector and noted that insurers share an important responsibility in looking beyond the mechanics of their models and should:

- Know when models are not correctly reflecting prevailing conditions.
- Be confident that management actions will be available if needed during times of stress.
- Ensure that firms can achieve a safe and orderly exit.

**Non-performing exposures capital deduction:** The PRA is [consulting](#) on proposals to remove the Common Equity Tier 1 (CET1) deduction requirement regarding non-performing exposures (NPE) that are treated as insufficiently covered by banks' accounting provisions. The proposals

also include removing the associated reporting requirements for the NPE deduction. Read more about this [here](#).

## CRR3/CRDVI



- **Revisions to the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRDIV) known as the CRR3/CRDVI package** are being made to implement in the EU the final reforms agreed by the Basel Committee on Banking Supervision in December 2017 (known as Basel 3.1). Other revisions introduce some EU-specific measures, including on the proportionate application of the prudential regime, the fitness and propriety of senior staff, the incorporation of ESG risks within the regime, and measures on supervisory powers (including prudential supervision of third-country branches).
- The so-called Daisy Chain Regulation has also made further revisions to the CRR to improve banks' resolvability, including clarifying the treatment of indirect subscription of internal MREL eligible instruments within a resolution group with a multiple point of entry resolution strategy.
- Most provisions of the Daisy Chain Regulation have applied from 14 November 2022, apart from: (i) provisions relating to the indirect subscription of internal MREL eligible instruments within resolution groups, which will apply from 1 January 2024; (ii) Consequential amendments to the Bank Recovery and Resolution Directive (BRRD), which must be brought into force by member states by 15 November 2023.
- The Commission published its proposals for the CRR3/CRDVI package in October 2021.
- The Council agreed its general approach on the package in November 2022, proposing some changes to the proposed fit and proper framework and adjustments to ensure proportionate application of the rules for small and non-complex institutions. The Council also seeks to defer (until 2026 at the earliest) the introduction of legislative proposals on third country branch supervision, in favour of mandating the EBA to produce a report by 31 December 2025 on the merits and modalities of introducing a harmonised third country branch requirement for banking services.
- In the European Parliament, the ECON committee adopted its Reports on the proposals on 24 January 2023, and the European Parliament has entered into trilogue negotiations (under rule 71 of its Rules of Procedure).
- Under the current proposals, Member states must adopt and publish measures implementing the CRD VI Directive 18 months from the date of its entry into force and to apply those measures from the following day. The CRR3 Regulation is to apply (with limited exceptions) from 1 January 2025.

---

## Green finance, ESG & Disclosures

### [ESG Regulatory developments in April 2023.pdf](#)

**UK Sustainability Disclosure Requirements (SDR):** The FCA has [announced](#) a delay to its planned Policy Statement on the proposed SDR and investment labels. The statement was due to be published on 30 June 2023 but will now be published in Q3 2023. The effective dates of the new requirements will be adjusted accordingly.

**Improvements to ESG benchmarks:** The FCA has [written](#) (0.15 MB) to benchmark administrators highlighting significant issues identified in its review of ESG-related benchmarks – the review found the overall standard of disclosures to be 'poor'. All benchmark administrators are expected to have strategies to address the issues identified in the review. The FCA will be conduct further work in this area and benchmark administrators may be required to explain their response strategies on request.

**Consultation on a future regulatory regime for ESG ratings providers:** The UK Government has published a [consultation](#) (0.24 MB) on bringing ESG ratings providers within the FCA's regulatory remit. The proposals would see a wide range of ESG-linked data and ratings products brought into scope, including all products which make an 'assessment' of ESG factors, even if not labelled as an ESG-linked product. The new regime could affect all firms providing ESG assessments to users in the UK, even if the providing firm is based overseas. The new regime could affect all firms providing ESG assessments to users in the UK, even if the providing firm is based overseas.

**The Bank of England (BoE) report on Climate-related risks and regulatory capital frameworks:** The BoE's [report](#) summarises its latest thinking, bringing together key findings, including the research submitted to an earlier call for papers and discussions at the Climate and Capital conference held in October 2022. The update does not set out any policy changes but clarifies the BoE's thinking and identifies areas for future work.

**Climate Financial Risk Forum (CFRF) Session 3 guides:** The Session 3 [guides](#) focus on the transition to net zero, scenario analysis, and climate disclosure, data and metrics. The guides do not constitute regulation, but the CFRF is working to drive best practice in the effective management and disclosure of climate-related financial risks and opportunities.

**Diversity disclosures:** FCA Primary [Market Bulletin 44](#) reiterates the amendments to the Listing Rules introduced in [FCA PS22/3](#). UK and overseas standard and premium listed firms must make disclosures reflecting their progress towards FCA-determined gender and ethnicity diversity targets at board and executive management level, as well as implementing comprehensive diversity policies for key board committees. The first disclosures will be made in annual reports beginning in April 2023.

**The Pensions Regulator (TPR) focus on ESG reporting duties:** TPR has [notified](#) defined benefit, defined contribution and hybrid schemes that it will review ESG disclosures in the spring and summer of 2023, checking statements of investment principles (SIP), implementation statements (IS) and, where relevant, TCFD-aligned disclosures. Review findings will be shared with industry and TPR will take enforcement action where trustees have not produced the correct disclosures.



**TPR Guidance on Equality, Diversity and Inclusion (EDI):** TPR's [EDI guidance](#), developed with an industry working group, is to be used by pension scheme governing bodies and sponsoring employers to improve the EDI of their scheme's board. It covers (i) the role of the chair, (ii) need for an EDI policy and assessment criteria, (iii) enhancing board diversity, (iv) developing inclusive comms. and (v) making reasonable adjustments. It also sets out the outcomes TPR is seeking coupled with specific case and practical steps that pension scheme governing bodies and employers can adopt.

**2023 UK Green Finance Strategy; Regulatory implications for Financial Services ;** *Under the headline of 'Mobilising Green Investment', the UK Government has published a revised [Green Finance Strategy](#) (PDF 26.9 MB), aimed at supporting the delivery of the transition to net zero. The strategy has been developed by HMT, the new Department for Energy Security and Net Zero and the Department for Environment, Food and Rural Affairs. It refreshes the [original](#) (PDF 12.2 MB) strategy, set out in 2019, and moves forward some of the initiatives announced in the 2021 [Roadmap to Sustainable Investing](#) (PDF 2.03 MB) (see our article [here](#)).*

**The updated strategy is underpinned by five key objectives which aim to 'reinforce and expand the UK's position as a world leader on green finance and investment':**

- UK financial services growth and competitiveness.
- Investment in the green economy.
- Financial stability.
- Incorporation of nature and adaptation.
- Alignment of global financial flows with climate and nature objectives.

*The document is in three sections. Chapter 1, 'Foundations', looks at the UK's approach to green finance. Chapter 2, 'Align', focuses on enabling the market to align with UK climate and environmental goals. And Chapter 3, 'Invest', considers how to mobilise and create opportunities for green investment.*

*From a regulatory perspective, the key areas of interest are in Chapter 2 – these include the development of the UK Green Taxonomy, next steps for the Government's Sustainability Disclosure Requirements (SDR) framework, transition plans, product labels and alignment with international disclosure standards. Alongside the main strategy document (and among many other publications), the Government has also issued a consultation on ESG Ratings providers (for more see [here](#)), a [Nature Markets Framework](#) and its response to the January 2023 [Independent Review of Net Zero](#) (PDF 6.58 MB).*

- **Implications for FS regulation**
- Overall, there is more regulatory content in the strategy than perhaps we expected. There is still much work to be done to define detailed policy and requirements, but the Government reiterates its previous commitments and goes some of the way to clarifying timelines and direction of travel.
- **Key regulatory takeaways:**
  - Decision on whether to endorse International Sustainability Standards Board (ISSB) standards will be made within 12 months of publication of final versions (publication expected end-June 2023).
  - Consultation on UK Green Taxonomy in autumn 2023 – disclosures will be voluntary for at least two years.
  - Further detail on a wider SDR framework for business and financial services expected in summer 2023. The FCA has already delayed publication of its Policy Statement on SDR and investment labels, which is targeted mainly at asset managers, from Q2 to Q3 2023.
  - Transition Plan Taskforce guidance to be published in summer. Phase two work will focus on nature recovery, climate adaptation and social impact.



- HMT consulting until 30 June on bringing ESG ratings providers within the regulatory perimeter.
- **Adoption of international standards**
- Interoperable and harmonised disclosure standards across jurisdictions are a key priority, to maximise the efficient flow of capital across borders and reduce burdens for firms. The Government has committed to launching a 'formal assessment mechanism' as soon as the ISSB's first two standards are published. If this mechanism finds that the standards are appropriate for use by UK companies, they will be used to form the basis of future disclosure obligations within company law and FCA requirements for listed companies.
- Two new advisory committees will be set up to consider how the ISSB standards sit alongside existing reporting requirements – one Government-led and the other supported by the Financial Reporting Council (FRC). A decision on whether to endorse the standards will be made within 12 months (or possibly sooner) of the final versions being published – expected at the end of June 2023.
- **The UK Green Taxonomy**
- After a period of some uncertainty, the Government has reaffirmed its commitment to delivering a UK Green Taxonomy. As in the EU, this will provide investors with definitions of economic activities that should be labelled as green and will support the quality of standards, labels and disclosures used in green finance activity.
- **Consultation on the Taxonomy will take place in Autumn 2023. The Government will:**
  - Continue to work through the Green Taxonomy Advisory Group (GTAG) in advance of the consultation.
  - Seek to include nuclear – subject to consultation – in its capacity as a key technology within the pathways to net zero.
  - Consider lessons learned from taxonomy development in other jurisdictions – this includes consideration of whether to pursue a 'Transition Taxonomy' as recommended in the [Independent Review of Net Zero](#) or to include certain transitional activities in a single Taxonomy.
  - Work with international partners to maximise interoperability and harmonisation.
  - Develop proposals 'with proportionality in mind' to avoid placing undue burden on companies whose size or scale makes the disclosure of taxonomy-related information unreasonable.
  - The strategy notes the Government's continuing ambition to mandate Taxonomy-related disclosures but recognises the potential usability challenges. Therefore, there will be a test period of voluntary disclosures for at least two years before the introduction of any mandatory obligations.
- **Sustainability Disclosure Requirements (SDR)**
- The FCA's October 2022 [consultation](#) on SDR proposed various disclosure requirements for asset managers (including at product and entity level), investment labels, and marketing rules, as well as an anti-greenwashing rule across all sectors. The updated strategy reaffirms the Government's commitment to working with the FCA on its SDR proposals and also commits to the implementation of a broader SDR framework for business and the financial sector. Further detail on this framework will be set out in summer 2023 and will reflect international progress in the development of disclosure standards.
- The Government will also conduct a review of the UK's non-financial reporting framework, examining the wider legal landscape in which sustainability disclosures will be made. The aim of the review is to ensure that SDR complements the UK's wider framework and minimises duplication. There is no detail yet on when the review will begin, but stakeholders are encouraged to respond when the first stage, a call for evidence, is published.
- **Transition planning**
- The Transition Plan Taskforce (TPT) is expected to issue its [guidance](#) for transition plans in the summer. The updated strategy notes that phase two of the TPT's work will focus on nature

recovery, climate adaptation and social impacts, with the taskforce considering how these can be incorporated into firms' transition plans.

- The Government has also committed to launching a consultation in autumn/winter 2023 on introducing transition plan disclosure requirements for the UK's largest companies. This would ensure parity between those firms already captured by the FCA's existing rules (i.e. asset managers, asset owners and listed firms), and private companies that do not currently need to disclose their transition plans. To maintain consistency, the Government is keen to align its consultation closely with existing FCA requirements.
- **Carbon and nature-related markets**
- The Government is considering whether to make enhancements to the UK regulatory regime to support the effective functioning of voluntary carbon markets (VCM). As transition planning disclosure requirements grow and firms reduce their financed greenhouse gas (GHG) emissions, action may be needed to ensure the integrity of VCMs and ensure that they do not incentivise carbon credit trading over actual reduction of GHG emissions. The Government is awaiting reports from stakeholder groups convened during COP26 before taking action.
- The UK Emissions Trading Scheme (ETS) is also to be reviewed, to determine how the removal of GHGs from the atmosphere could be integrated into the existing system. A feedback statement following consultation on extending the scope of the UK ETS is expected shortly.
- The Government has also published its first [Nature Markets Framework](#), setting out principles for the development of mechanisms to channel investment into nature-positive projects. Future initiatives could include markets for trading standardised credits representing units of nature-positive outcomes – for example a defined amount of biodiversity on a mandatory or voluntary basis – much in the same way as carbon credits are currently traded.
- **ESG ratings and benchmarks**
- ESG-related benchmarks are already subject to supervision under the existing UK Benchmarks Regulation. Future development of the UK Taxonomy and the SDR may require further reform of the regime for ESG-related benchmarks, but the exact nature of this potential reform is not yet clear.
- Alongside the Green Finance Strategy, HMT is [consulting](#) on bringing ESG ratings providers within the FCA's regulatory perimeter. The potential scope of ratings products that could be captured is broad, including all products which assess an environmental, social or governance factor, even if the product is not labelled as an ESG product. The proposals would target firms providing these products to institutional and retail clients in the UK, regardless of the location of the providing firm. The consultation will close on 30 June 2023.
- **Other initiatives**
- In addition to the above, the Government will explore possible actions through which financial markets can support businesses to grow as part of a 'net zero, resilient and nature positive economy', including:
  - Supporting the implementation of Solvency UK, which creates the potential for over £100 billion of productive investments from insurers in the next ten years, while maintaining high standards of policyholder protection.
  - Reviewing the regulatory framework for effective stewardship, including the operation of the UK Stewardship Code, working with the FCA, FRC and TPR.
  - Working closely with financial regulators to ensure that the UK's regulatory framework supports the growth of green finance.
  - Collaborating with international partners to accelerate the alignment of global financial flows with a net zero, resilient and nature positive global economy.
  - Building partnerships with emerging markets and developing economies to support the growth and alignment of their finance sectors, including actions to enhance sharing of lessons from green finance implementation in the UK.

## GREEN BOND REGULATION



- In order to get the green bond label, the issuer needs to commit to use the proceeds from the bond issuance to finance, refinance
- or acquire assets aligned with the EU taxonomy set out in the EU Taxonomy Regulation.
- The Green Bond Regulation is designed to address the fact that, whilst green bonds play an increasingly important role in financing assets needed for the low-carbon transition, there has not, to date, been any uniform green bond standard within the EU, with Member States potentially adopting diverging measures.
- The Council and the European Parliament reached political agreement 2023.
- Once adopted by the co-legislators, the Regulation will start to apply 12 months after its entry into force.
- Key elements of the new Regulation are:
  - For designation, all proceeds of EuGBs must be invested in economic activities aligned with the Taxonomy Regulation (subject to a flexibility pocket of 15% for those sectors not yet covered by the Taxonomy and certain specific activities).
  - Compliant bonds will have the **'European Green Bond'** or **'EuGB'** designation. Issuers' home state National Competent Authorities will supervise issuers' compliance with the standard.
  - A registration and supervisory framework for reviewers of European Green Bonds will be established.
  - The Regulation also provides for some voluntary disclosure requirements for other environmentally sustainable and sustainability-linked bonds issued in the EU, such as those issued under the ICMA principles.

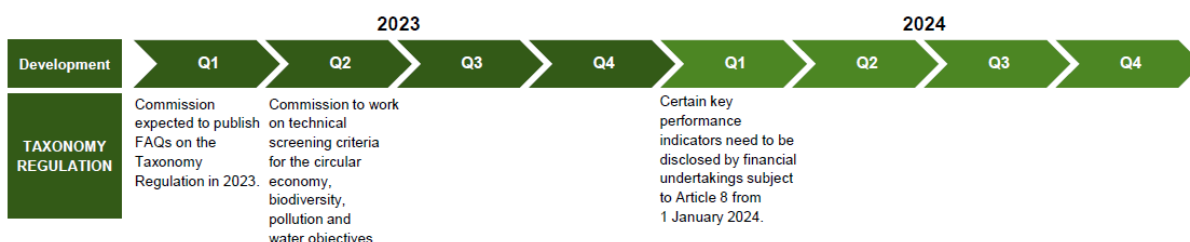
## EU SFDR



- A delegated regulation incorporating nuclear and gas disclosures into SFDR disclosures was published in the Official Journal on 17 February 2023 and entered into force on 20 February 2023.
- The Commission was due to evaluate the SFDR by 30 December 2022. In December 2022, the European Commissioner for financial services, financial stability and Capital Markets Union stated that a public consultation on the SFDR should begin in early 2023.
- Commission Q&As on SFDR expected early 2023.

- In November 2022, the ESAs launched a Call for Evidence on greenwashing. A progress report is expected in May 2023 and a final report in May 2024.
- Financial market participants that are required to publish 'principal adverse impact' (PAI) statements under Articles 4(1)(a), 4(3) or 4(4) of the SFDR must comply with the disclosure requirements set out in the RTS by 30 June 2023 for the reference period 1 January 2022 to 31 December 2022.
- The ESAs are due to report to the Commission on best practices relating to voluntary disclosures annually, by 10 September of each year. The next report is due by 10 September 2023.
- The ESAs have been asked to review the indicators for principal adverse impact and the financial product disclosures under the SFDR. In November 2022 the ESAs wrote to the Commission to confirm that they would need a six-month extension to this deadline, with the result that the ESAs' review should complete by 28 November 2023.

## EU TAXONOMY REGULATION



- In December 2022, the European Commissioner for financial services, financial stability and Capital Markets Union stated that the Commission intends to publish over 200 FAQs on the Taxonomy Regulation, presumably in 2023.
- The Commission has also announced its intention to work on technical screening criteria for activities that can make a substantial contribution to the remaining four environmental objectives (circular economy; biodiversity; pollution; and water). The Commission did not state a firm date by which this work would be completed.
- Under Article 8 of the Taxonomy Regulation, undertakings that are required to publish non-financial information under Articles 19a or 29a of the Non-Financial Reporting Directive must include sustainability information in their non-financial disclosures. Under Commission Delegated Regulation 2021/2178, which supplements Article 8 of the Taxonomy Regulation, financial undertakings will need to disclose certain key performance indicators from 1 January 2024.
- A number of reports under the Taxonomy Regulation remain outstanding with no confirmed dates for publication.

**Taxonomy Regulation: EU Commission consults on additional criteria in delegated acts;** *The EU Commission has [published](#) for consultation two delegated acts relating to the Taxonomy Regulation ((EU) 2020/852).*

- The draft taxonomy environmental delegated act specifies the technical screening criteria for the purposes of determining whether an economic activity qualifies as environmentally sustainable or causes significant harm in the following sectors:
  - manufacturing;
  - water supply;
  - sewerage;
  - waste management and remediation;
  - construction;

- civil engineering;
  - disaster risk management;
  - information and communication;
  - environmental protection and restoration; and
  - accommodation.
- The second draft delegated act amends the Taxonomy Climate Delegated Act ((EU) 2021/2139) to include technical screening criteria for manufacturing activities relating to low carbon transport and electrical equipment.
  - Comments on both delegated acts are due by 3 May 2023.

### ANTI-GREENWASHING DIRECTIVE: AMENDMENTS TO UCPD



- A priority measure in the Commission’s 2023 Work Programme, the proposed **Directive on Empowering Consumers for Green Transition** (referred to as the Anti-Greenwashing Directive) is proceeding through the EU legislative process. The new Directive aims to strengthen consumer rights and protections with respect to commercial practices, including greenwashing, that prevent sustainable purchases.
- The Directive will amend the **Unfair Commercial Practices Directive (UCPD)** to:
  - extend the list of product characteristics about which a trader cannot mislead consumers to cover the environmental or social impact;
  - extend the list of actions which are to be considered misleading if they cause or are likely to cause the average consumers to take a transactional decision that they would not have otherwise taken; and
  - add new practices, including forms of greenwashing, to the existing ‘blacklist’ of prohibited unfair commercial practice.
- In March 2022, the Commission published a package of proposed measures as part of its New Consumer Agenda and Circular Economy Action Plan, aimed at making sustainable products the norm in the EU, boosting circular business models, and empowering consumers for the green transition. The proposed *Directive on Empowering Consumers for Green Transition* (Anti-Greenwashing Directive) is designed to ensure consumers take informed and environment-friendly decisions when buying products, and the rules strive to strengthen consumer protection against untrustworthy or false environmental claims by banning greenwashing and other practices that mislead consumers.
- The European Parliament’s Internal Market and Consumer Protection (IMCO) lead committee voted to adopt its Report on the proposal on 28 March 2023. The Report is tabled for a vote at a future plenary session of the European Parliament.
- The Council will continue to review the proposal under the Swedish Presidency.
- Once adopted the Directive will enter into force on the 20th day following its publication in the Official Journal. The Commission proposal envisages a 24-month transposition period, but this may be subject to change as the measure passes through trilogue negotiations.

**FCA announces launch of first ever GFIN Greenwashing TechSprint;** *On 11 April 2023, the FCA [announced](#) that it would be leading the Global Financial Innovation Network (GFIN)'s first ever virtual [Greenwashing TechSprint](#). The TechSprint will be hosted on the FCA's Digital Sandbox and aims to bring together international regulators, firms and innovators to address sustainable finance as a collective priority. UK-based firms are invited to apply from 17 April 2023.*

- The GFIN is a group of over 80 international organisations committed to supporting financial innovation in the interest of consumers. The GFIN's Co-ordination Group, which sets the overall direction, strategy and annual work programme, is currently chaired by the FCA.
- In light of the growing number of investment products marketed as 'green' or making wider sustainability claims, the FCA wishes to ensure consumers and firms can trust that products have the sustainability characteristics they claim to have. The objective of the TechSprint is to develop a tool or solution that can help regulators and the market effectively tackle the risks of greenwashing in financial services.
- There are currently 13 international regulators that have signed up to participate in the TechSprint.
- The application window for interested UK-based firms will remain open for 4 weeks, closing on 21 May 2023. On-boarding for successful firms will take place on 1-2 June 2023 and will provide training on the Digital Sandbox and an in-depth overview of the TechSprint process. The TechSprint will launch on 5 June 2023 and will run for 3 months, ending with a showcase day in September 2023.

---

## Energy & Commodities

---

Ends. 02 May 2023