EVIA European Venues & Intermediaries Association

LEBA London Energy Brokers' Association

EVIA & LEBA Compliance reference sheet

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

0830 Wednesday 06th December 2023

1. Regulatory Outlook and Diary
   a FCA/ PRA/ HMT UK New November Regulatory Initiatives Calendar
2. Regulatory and Compliance Forward Diary
3. Highlights from the Regulatory Environment in March
   a Sanctions Requirements
   b Conduct, Fines & Enforcements

Regulatory Calendar for UK Wholesale financial markets

Latest edition of the Regulatory Initiatives Grid published; *On 30 November 2023, the FCA published the latest edition of the Regulatory Initiatives Grid from the Financial Services Regulatory Initiatives Forum. The Forum is made up of representatives of the Bank of England, the Competition and Markets Authority, the FCA, the Financial Reporting Council, HM Treasury, the Information Commissioner's Office, the Payment Systems Regulator, the Prudential Regulation Authority and the Pensions Regulator.*

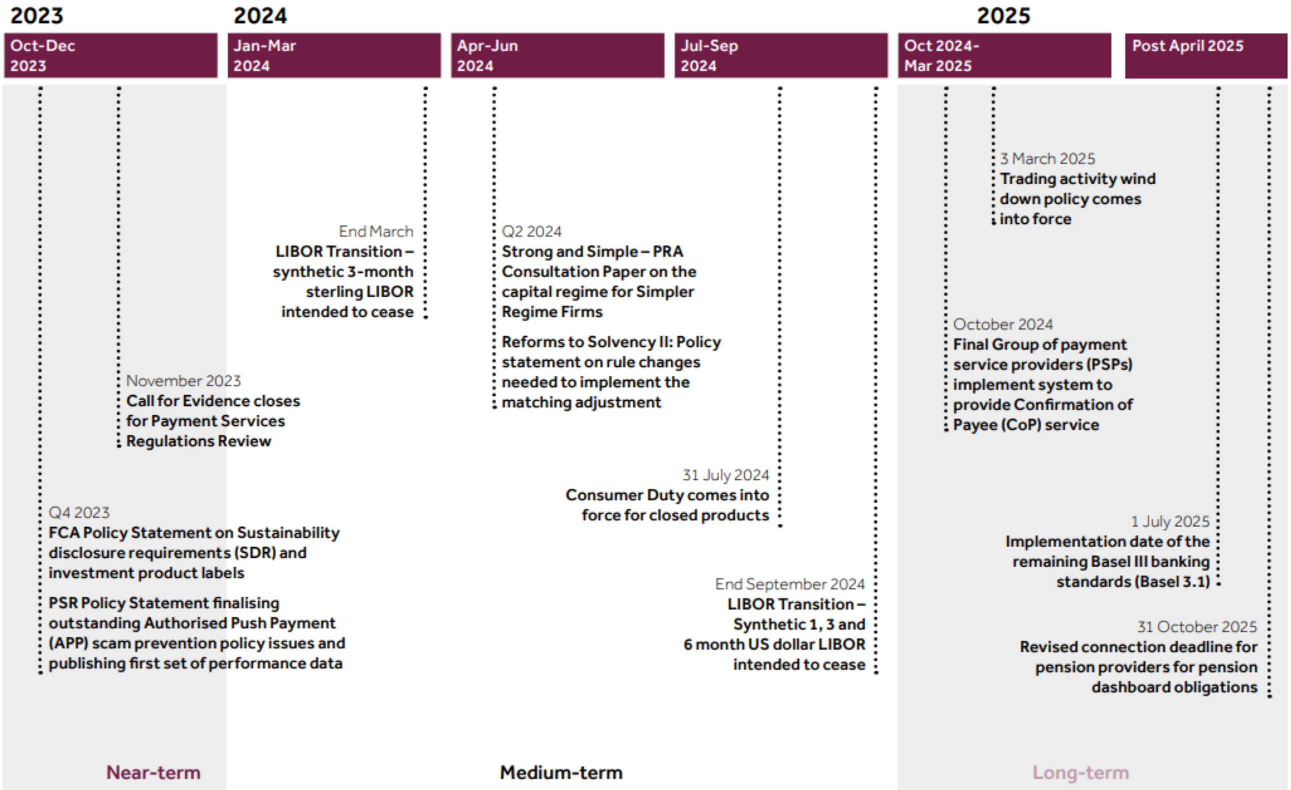
- The Grid sets out the regulatory pipeline, so that the financial services industry and other stakeholders can understand, and plan for, the timing of the initiatives that may have a significant operational impact on them. It is generally published twice a year and is intended to help manage the operational impact on firms of implementing initiatives from the Forum's members, as well as helping firms and other stakeholders plan for forthcoming initiatives.

- The Grid provides detail on the timing of initiatives over a 24-month horizon and highlights key examples of closely interconnected initiatives to help stakeholders easily identify them.
- The foreword to the Grid notes that it and subsequent editions will provide further detail on timelines arising from initiatives being taken forward as a result of the Financial Services and Markets Act 2023.

This now includes governmental (HMT) ['FRF/SRF'] agenda and comes as both pdf & an excel version

[This Grid from the Financial Services Regulatory Initiatives Forum sets out the regulatory pipeline.]()

1. Latest [November 2023 Financial Services Regulatory Initiatives Grid]()
2. [Interactive Dashboard]()
3. [Excel Version]()



Contents

This is so the financial services industry and other stakeholders can understand – and plan for – the timing of the initiatives that may have a significant operational impact on them. We have also published the Grid in the form of an interactive dashboard and an Excel spreadsheet to help users interact with the underlying data.

Foreword by Financial Services Regulatory Initiatives Forum co-chairs - Significant developments

- FSMA 2023 is a landmark piece of legislation and represents an opportunity for regulators in the financial services sector to deliver better outcomes through regulation that better reflects UK markets and wider international standards.
- This Grid and subsequent editions will provide further detail on timelines arising from initiatives being taken forward as a result of FSMA 2023. Many of these initiatives have already been captured here. For example, work continues on the regulatory regime to ensure consumers can continue to access cash. The FCA will consult shortly on proposed rules to ensure that cash access services are provided on a fair basis.
- For some initiatives, we are now putting changes into action. The FCA consulted on the regulatory framework for approving financial promotions and has now launched the gateway for authorised firms to apply for approval for financial promotions activities. The PRA continues to deliver an ambitious programme of reforms, including finalising the first phase of Strong and Simple, with plans for the next Strong and Simple consultation to be published in Q2 2024. As we deliver the reforms, we remain conscious of firms' planning processes and have therefore amended the implementation timetable for Basel 3.1 standards accordingly, delaying it by 6 months. These initiatives enable the regulatory framework to be changed when intervention is needed, ensuring there are the means to protect consumers where harm arises and ensure financial services function well. These changes also further our statutory objectives, including the FCA's and PRA's new secondary international competitiveness and growth objective.

Recognising change

- FSMA 2023 also provides a framework to repeal retained EU law (REUL) relating to financial services. Through the 'Smarter Regulatory Framework' (SRF), REUL will be generally replaced by regulators' rules or new legislation tailored to the UK.
- We know that there has been significant interest in these initiatives. We have created a new SRF section in the Grid (see page 54-60) in response to feedback. Relevant members of the Regulatory Initiatives Forum are continuing to work on these files as shown in this new section.
- Some of these regulatory initiatives have previously been reflected in the February Grid and this work has been ongoing with industry and other stakeholders for some time. For example, work is ongoing on the Review of Securitisation Regulation, with the PRA publishing a consultation on general requirements in July and a further discussion paper on capital

requirements in October. Insurance reform remains a priority with the review of Solvency II, including the recent publication of the matching adjustment consultation paper.

- These were in individual section chapters but have now been moved into the new section, bringing together all the SRF initiatives in one place. If you are interested in a particular sector, you should also review this SRF section. We welcome your thoughts on whether this format is useful, or whether you would prefer to view SRF initiatives in each sector chapter.
- The Government and regulators have worked together to make sure that we take a proportionate approach to the repeal and replacement of REUL. Therefore, HMT has prioritised REUL into different 'tranches'. There is more work to come, but the Government and regulators are staggering this to ensure the pace of change and the potential impact on industry is manageable. We will reflect developments in upcoming grids and provide updates, where appropriate, between editions.
- We recognise that the increase in SRF initiatives may represent a short-term increase in implementing new rules. However, these initiatives also provide opportunities to reduce regulatory burden and tailor rules to the circumstances of the UK, which will benefit consumers and industry. For example, the changes being made to the Securitisation Regulation will simplify due diligence and transparency obligations along with risk retention requirements to provide a clearer, proportionate framework within which the market can operate.
- The Forum helps us to ensure we do not create any disproportionately high burden in particular sectors when considered alongside wider regulatory initiatives. We will continue to review the impact of SRF initiatives alongside wider work to ensure the pipeline of work remains proportionate.
- We do this regularly and find the Grid is a useful tool for business planning. For example, at the FCA, it is one of the inputs we use to plan of our prioritisation. At the PRA, the Grid plays an important role in identifying policymaking priorities and potential burden placed on firms.
- There are several other areas we are keen to monitor closely looking ahead. The cost of living remains high and themes in the grid reflect this. We have made progress improving consumer protections. Treasury is banning cold calling for consumer financial services and products, the FCA is reviewing rules on debt advice, and the FCA is conducting a post-implementation review of the guidance for firms on the fair treatment of vulnerable customers.
- Increasing value for money and enhancing competition is also a priority. The Consumer Duty has now been This seventh edition of the Regulatory Initiatives Grid (the Grid) follows our summer update marking the passing of the Financial Services and Markets Act (FSMA) 2023. Since our previous publication in February, we have made significant progress. Regulatory Initiatives Grid | November 2023 3 introduced, and work continues on improving depositor outcomes and the regulation of Buy Now, Pay Later products. The Joint Regulatory Oversight Committee are working towards taking forward their recommendations for Open Banking, including PSR's work on Account to Account payments.
- It is worth noting that some initiatives involve the removal of existing requirements, including the recent work on removing the maximum ratio between fixed and variable remuneration, more commonly referred to as the 'bonus cap'.

Stakeholder engagement and feedback

- Over the summer, we carried out a small survey of trade associations to better understand how they and their members use the Grid. We also explored what they find helpful and what could be improved.

- Feedback was positive overall. We have made some improvements to the Grid's formatting to increase accessibility, made links to relevant documents more prominent and improved the guidance for the Tableau interactive dashboard so users can navigate the tool more easily.
- We also received some wider feedback asking about the aims and purpose of the Forum. Given the Forum has now been meeting since early 2020, we agree it would be a helpful time to review progress over the last three and a half years as well as whether any wider changes would be beneficial. We will discuss this in the Spring 2024 Forum meeting.
- Some stakeholders also asked whether we could publish the Grid more frequently (eg quarterly). We have considered this, but providing a comprehensive overview of the regulatory pipeline requires significant resources which would need to be increased if we were to publish more often. This would take resources away from other priorities and could overstretch the Forum's members, resulting in less detailed publications. We feel that publishing biannually remains the most appropriate approach, but Forum members recognise the need to keep stakeholders updated on key developments between editions.
- We want to continue the dialogue how we can improve the Grid. We have launched a dedicated feedback tool on the webpage. Forum members will review this feedback every six months and incorporate any appropriate changes to future Grid publications.

Wholesale financial markets

- This section includes initiatives aimed at improving the effectiveness of regulation and reducing the burden on firms whilst maintaining the highest standards of regulation and market efficiency, both with the ultimate aim of promoting competition and innovation.
- There are three new initiatives in this section of the Grid on the Intermittent Trading Venue Sandbox, PRA/FCA consultation on margin requirements for non-centrally cleared derivatives and next steps following the recommendations of the Investment Research Review.
- There are four wholesale financial markets initiatives in the completed/stopped annex.
- There are five Wholesale Financial Markets initiatives in the new separate Smarter Regulatory Framework section.
    - Four of these initiatives were included in the previous Grid: Prospectus Regime Reform, Wholesale Markets Review, the Review of the Securitisation Regulation and the Review of the Short Selling Regulation.
    - One is a new initiative to the Grid: Data Reporting Services Regulations

Accessing and using wholesale data

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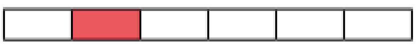

- Market study assessing potential competition issues about benchmarks, credit rating data and market data vendors.
- Related initiatives: Amendments to derivatives reporting regime under UK EMIR ➤
- Market study update published on 31 August 2023. Market study report will be published on, or before, 1 March 2024 at the latest.

Intermittent Trading Venue Sandbox *[New]*

Indicative impact on firms	Oct - Dec 2023	Jan - Mar 2024	Apr - Jun 2024	Jul - Sep 2024	Oct - Mar 2025	Post April 2025
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- The Intermittent Trading Venue (ITV) is being developed as a new market which will allow private companies to access global investors. The ITV will be delivered through the FMI Sandbox powers introduced in FSMA 2023. The Government has committed to have the ITV Sandbox up and running before the end of 2024.

PRA/FCA consultation on margin requirements for non-centrally cleared derivatives *[New]*

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- PRA and FCA are consulting on proposals which aim to extend the temporary exemption for singlestock equity options and index options from the UK bilateral margin requirements from 4 January 2024 until 4 January 2026 and set out the PRA and FCA's proposed approach to pre-approving bilateral initial margin models.
- Consultation paper was published on 18 July 2023 and the consultation closed on 18 October 2023. The PRA and FCA will confirm the finalised amendments in a Policy Statement in Q4 2023

Amendments to derivatives reporting regime under UK EMIR

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- The FCA and BoE have made 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.
- Related initiatives: Accessing and using wholesale data ➤
- Policy Statement, schemas and validation rules were published in Q1 2023.
- The changes will be effective from 30 September 2024.

Digital Securities Sandbox

Indicative impact on firms	Oct - Dec 2023	Jan - Mar 2024	Apr - Jun 2024	Jul - Sep 2024	Oct - Mar 2025	Post April 2025
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- Legislation to create Financial Market Infrastructure Sandboxes was introduced in FSMA 2023. Treasury has now consulted on the creation of the first of these – a Digital Securities Sandbox aimed at facilitating the use of DLT and tokenisation in the trading and settlement of traditional securities.
- Firms in the DSS, which will be run by the Bank and FCA, will be able to make use of temporarily amended legislation, particularly in the CSDR to combine functions currently performed separately by trading venues and CSDs.
- This will be done within limits set by the regulators. If successful, the Treasury will then make these changes permanently allowing participating firms to transition to unrestricted operation.
- The Government published a Consultation Paper outlining its approach to the DSS in July 2023

Smarter Regulatory Framework

- The Treasury (HMT) has concluded its Future Regulatory Framework (FRF) Review. In their December 2022 and July 2023 publications, HMT set out the Government's plans for repealing and replacing retained EU law (REUL). This put an end to the current transitional period, allowing the UK's financial services regulators (here the Bank of England, FCA, PRA and PSR) to tailor the rules to best suit UK markets.
- In response to stakeholder feedback, we have added this SRF section to provide an overview of the next steps for the repeal and replacement of REUL. This new SRF section sits alongside the wider regulatory initiatives set out in the other sections above. A number of initiatives included in previous Grids have now been moved into this new section (as indicated by the lack of dots under the 'new entry' column). These are highlighted in the introductions to each sector earlier on in the Grid.
- For each initiative within this section, we have set out the sector it would fit into to, a brief description, its expected key milestones, its indicative impact on firms and whether it is of interest for consumers. Like other initiatives in the Grid, the key milestones are set out as expected at the date of publication and may change.
- The Government and regulators want to ensure an orderly and phased transition from legislation to their rulebooks that also manages the impact of these changes on industry.
- As such, work has been broken down into 'tranches'. Work is already underway on Tranche 1 (eg work on Solvency II, the Prospectus Regulation and the Securitisation Regulation). and Tranche 2. There is also information provided below about next steps for other initiatives included in the Grid for the first time where work is underway. We will provide updates on additional work and further tranches in future Grids.
- Forum members will also keep stakeholders updated on substantive changes through their respective websites as appropriate in advance of the next Grid publication, planned for H1 2024. You can find additional information about the new framework – including updates on wider framework reforms such as the new statutory panels to scrutinise cost benefit analyses, approach to the new secondary competitiveness duty, and rule review framework – here:
- HMT's SRF publications webpage
- FCA's Regulatory framework reforms webpage
- PRA's future approach to policy discussion paper

Tranche 1

Data Reporting Services Regulations (DRSRs) *[New]*

Indicative impact on firms	Oct - Dec 2023	Jan - Mar 2024	Apr - Jun 2024	Jul - Sep 2024	Oct - Mar 2025	Post April 2025
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- Repeal and replacement of the REUL related to Data Reporting Service Providers. This includes the DRSRs as well as other related EU law. One aim of this exercise is to encourage the emergence of a consolidated tape in the UK, as consulted on in the Wholesale Markets Review.
- Draft SI of the reformed Data Reporting Service Regulation SI was published at Mansion House (July 2023).
- The SI is being laid in November 2023.

Wholesale Markets Review

Indicative impact on firms	Oct - Dec 2023	Jan - Mar 2024	Apr - Jun 2024	Jul - Sep 2024	Oct - Mar 2025	Post April 2025
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- The Financial Services and Markets Act 2023 (FSMA 2023) received Royal Assent on 29 June 2023. FSMA 2023 is a key milestone in delivering the commitments set out in March 2022 in the consultation response to the Wholesale Markets Review (WMR), the review of wholesale markets Treasury and the FCA conducted in 2021.
- The FCA published the policy statement on improving equity markets (PS 23/4) in May 2023, and the guidance on the trading venue perimeter (PS23/11) in July 2023. The FCA consulted on the framework for a UK consolidated tape (CP 23/15) in July 2023, and aim to publish the policy statement in Q4 2023. The FCA plan to consult on changes to the commodity derivatives regime and the transparency regime for bonds and derivatives in Q4 2023.
- FCA consultation on the framework for a UK consolidated tape (CP23/15) published in July 2023. The FCA aim to publish the policy statement in Q4 2023. FCA consultation on commodity derivatives and on transparency regime for bonds and derivatives in Q4 2023.

Tranche 2

Leverage ratio – contingent leverage

Indicative impact on firms	Oct - Dec 2023	Jan - Mar 2024	Apr - Jun 2024	Jul - Sep 2024	Oct - Mar 2025	Post April 2025
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- In October 2022, the PRA proposed changes to leverage ratio reporting, and new ICAAP guidance for firms. The changes aimed to monitor and mitigate risks from 'contingent' leverage (where firms cannot replicate capital-efficient trades in a stress).
- The FPC welcomed the consultation at the same time. The PRA finalised the policy through PS5/23 in May 2023, with ICAAP changes taking immediate effect, and reporting changes coming into effect on 1 January 2024.
- Consultation published October 2022.
- Finalised policy published May 2023, with ICAAP changes coming into immediate effect. Reporting changes coming into effect on 1 January 2024

Improving Money Market Resilience as part of UK commitment to FSB 2021 review of March 2020 Dash for Cash

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- Improve Money Market Fund Resilience as part of UK commitment to FSB 2021 review of March 2020 Dash for Cash and transfer the majority of Money Market Fund Regulation requirements from retained EU law into the FCA Handbook and other policy materials.
- Related initiatives: Overseas funds regime ➤
- Consultation Paper Q4 2023.

Review of the short selling regulation - including a call for evidence

Indicative impact on firms	Oct - Dec 2023	Jan - Mar 2024	Apr - Jun 2024	Jul - Sep 2024	Oct - Mar 2025	Post April 2025
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- Repeal and replace the retained EU regulation of short selling with a new short selling regime, which is proportionate and appropriate for UK markets.

- Call for Evidence was December 2022 - March 2023.

Review of the Senior Managers and Certification Regime (SM&CR)

- The Government and regulators commenced a review of the SM&CR in March 2023. The Government launched a Call for Evidence and the FCA and PRA issued a joint Discussion Paper. Feedback is currently being assessed. The regulators will work together with the Treasury to bring forward proposals for consultation on potential improvements and reforms. Treasury's Call for Evidence published in March 2023. Joint FCA/PRA Discussion Paper published in March 2023. Consultation Paper to be published in 2024.

Transforming data collection building on Digital Regulatory Reporting

- A joint Bank and FCA response was published in July 2023, outlining what we delivered during phase 1, and plans for phase 2.
- The publication shows delivery of the following:
  - Completion of phase one discovery and design work, with recommendations for the Quarterly Derivatives statistical return (Form DQ) and Financial Resilience Survey (FRS)
  - An update on the phase two uses cases – Retail Banking Business Model Data, Strategic Review of Prudential Data Collection and Incident, Outsourcing and Third Party Reporting
  - Completion of the Data Standards Review
  - A Digital Regulatory Reporting 2023 update
  - Announcement that the programme will publish a refreshed strategy in Q1 2024
  - A joint Town Hall event held on Thursday 13 July 2023
- The joint FCA, Bank and PRA transformation programme began in June 2021, The programme will have regular external engagement sessions as solutions are designed and developed.
- The Bank and FCA met their commitment in delivering on the phase one recommendations by July 2023. Phase two of the programme began in September 2022 focusing on a new set of use cases. The next update to industry will be in November 2023 and include information about the recommendations and regulator response for the phase two use cases. A website dedicated to the Transforming Data Collection programme will be launched in November 2023. The programme will publish a refreshed strategy in Q1 2024.

Senior Managers and Certification Regime (SM&CR) for Financial Market Infrastructures (FMIs)

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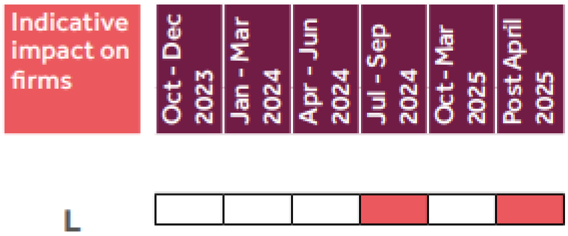
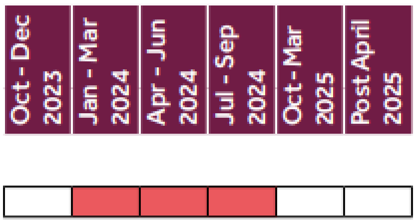
- The SM&CR for FMIs is intended to enhance the accountability of senior managers and improve governance arrangements at certain systemically important firms. Treasury introduced a new SM&CR in FSMA 2023. The new regime can be applied to CCPs and CSDs, as well as to RIEs and CRAs if deemed to be appropriate, following consultation. The new SM&CR for FMIs was introduced in FSMA 2023.
- The implementation on the regime will require secondary legislation. Treasury is considering the outcomes of the call for evidence on the wider SM&CR, before taking any further action to implement.

Diversity and Inclusion in Financial Services *[Timing updated]*



- Following the joint Discussion Paper (DP21/1) published in July 2021, the regulators (PRA, FCA) published their separate Consultation Papers on the 25 September 2023, which contain policy proposals that aim to support progress on improving diversity and inclusion across the financial sector
- Consultation Paper published in September 2023.
- Policy Statement in H2 2024.

LIBOR Transition *[Timing updated]*



- 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, April and May 2023, end dates have now been announced for all LIBOR settings.
- End-March 2024: Synthetic 3-month sterling LIBOR setting is intended to cease. End-September 2024: Synthetic 1-, 3- and 6-month US dollar LIBOR settings are intended to cease.
- Market participants must ensure they are prepared for these final synthetic LIBOR settings to cease at the end of March and end of September 2024. Parties to contracts still referencing LIBOR should be taking steps to transition to robust, appropriate reference rates, re-negotiating with counterparties where necessary. UK authorities will continue to work closely with international counterparts to monitor transition from synthetic settings in legacy contracts.

Reforming the ring-fencing regime for banks *[Timing updated]*

Indicative impact on firms	Oct - Dec 2023	Jan - Mar 2024	Apr - Jun 2024	Jul - Sep 2024	Oct - Mar 2025	Post April 2025
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- The Government published a draft Statutory Instrument for consultation on 28 September 2023 on a package of reforms to improve the ringfencing regime. At the same time, the PRA published a consultation on third country branches and subsidiaries of ringfenced banks, in connection with HMT's legislative proposals. Alongside that, the Government has undertaken a Call for Evidence on aligning the ring-fencing and resolution regimes in the longer term, which concluded on 7 May 2023.
- The Government published a summary of responses to the Call for Evidence on 28 September 2023.
- Q1 2024: Lay Statutory Instrument implementing the ring-fencing reforms in parliament (subject to parliamentary time).
- H2 2024: Policy statement on the alignment between ring-fencing and resolution.

Remuneration: Enhancing proportionality for small firms [Q4 2023]

- In early 2023, the PRA consulted on the first batch of measures that will apply to Simpler-regime firms. At that time, the PRA also consulted separately on simplifying remuneration requirements for Material Risk Takers at small firms that were introduced as part of the Capital Requirements Directive V and which apply additional remuneration rules to Material Risk Takers at these firms than under the previous UK regime.
- Consultation in Q1 2023 Policy Statement and supervisory statement to be published in Q4 2023.

Reviewing the maximum ratio between fixed and variable remuneration

Indicative impact on firms	Oct - Dec 2023	Jan - Mar 2024	Apr - Jun 2024	Jul - Sep 2024	Oct - Mar 2025	Post April 2025
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- The PRA and FCA have published a Consultation Paper and Policy Statement removing the maximum ratio between fixed and variable remuneration, commonly referred to as the 'bonus cap'. These changes are now in effect.
- Policy Statement Q4 2023.

Consultation response on future financial services regulatory regime for cryptoassets *[Timing updated]*

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- In April 2022, the Economic Secretary to the Treasury set an ambition to make Britain a global hub for cryptoassets with several commitments including consulting on a future regulatory regime.
- The consultation paper (published in Feb 2023) set out our initial policy proposals for regulating a broad suite of cryptoasset activities in the UK. The consultation closed on 30 April 2023.
- The consultation response was published in Q4 2023. Treasury intend to lay secondary legislation in 2024 which will be accompanied by FCA publications

Consultations on rules for stablecoin regime

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- The regulators will be required to consult on rules relating to the stablecoin legislation in the Financial Services and Markets Act 2023 and forthcoming secondary legislation.
- November 2023: publication of Discussion Papers from the Bank and FCA. Follow on FCA consultation papers (CP) from both the Bank and FCA will be published circa H2 2024. The timing of the FCA CP is subject to Treasury secondary legislation being laid.

Digital pound

Indicative impact on firms	Oct - Dec 2023	Jan - Mar 2024	Apr - Jun 2024	Jul - Sep 2024	Oct - Mar 2025	Post April 2025
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- Treasury and the Bank published a joint Consultation Paper on a potential digital pound, assessing the case for a UK retail central bank digital currency (CBDC) and its proposed design on 7 February 2023. Treasury and the Bank judge that it is likely that a digital pound will be needed in the future. Whilst it is too early to commit to build the infrastructure for a digital pound, further preparatory work is justified so the Bank and Treasury have since moved to a "design phase". The Consultation closed on 30 June and Treasury and the Bank will release a summary of responses in due course.
- Consultation Paper published in Q1 2023 and summary of responses published

Annex: initiatives completed/stopped

- HMT Review of the Overseas Persons Exclusion ; *Treasury is reviewing the UK's overseas framework in relation to the Overseas Persons Exclusion regime. This work has ended*

The Financial Services Regulatory Initiatives Forum; This Forum was launched to further strengthen coordination between members. The FCA and BoE/PRA co-chair the Forum. See the Forum's Terms of Reference.

It is made up of representatives of:

- Bank of England (BoE)
- Competition and Markets Authority (CMA)
- Financial Conduct Authority (FCA)
- Financial Reporting Council (FRC)
- HM Treasury (HMT) (Observer member)
- Information Commissioner's Office (ICO)
- Payment Systems Regulator (PSR)
- Prudential Regulation Authority (PRA)
- The Pensions Regulator (TPR)

Updating the Grid; We publish the Grid twice a year to help manage the operational impact on firms of implementing initiatives from the Forum members. It also helps firms and other stakeholders plan for forthcoming initiatives. The Grid provides detail on the timing of initiatives over a 24-month horizon and highlights key examples of closely interconnected initiatives to help stakeholders easily identify these.

Regulatory Outlook and Diary

Forward Regulatory Calendar: Updated 05th December 2023		
Q4 2023	Hong Kong	Consultation of Hong Kong's reporting rules on adoption of UPI and CDE.
Q4 2023	EU	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. EU policymakers have agreed on a final trilogue deal on 27 June 2023. There will be technical work to finalize the agreed compromise wording over the summer. The European Parliament and Member States will have to endorse formally the trilogue deal which will pave the way for the publication in the Official Journal, now expected in Q3/Q4 2023. The date of implementation of the EU banking package is expected on 1 January 2025.

Q4 2023	Japan	Pursuant to the amended Comprehensive Guidelines for the Supervision of Agricultural Cooperative Financial Institutions (which became effective as of July 1, 2023), the Norinchukin Bank and its group entities are required to incorporate contractual recognition of temporary stay under the Agricultural and Fishery Co-operatives Savings Insurance Act into existing and new non-Japanese law governed master agreements.
December 31, 2023	Mexico	Deadline for entities and investment funds to comply with the margin requirements for uncleared derivatives under Banco de México's Circular 2/2023.
2024 / 2025	Singapore	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
Q1 2024	Australia	Expected issuance of 3rd consultation paper on OTC derivatives trade reporting.
January 1, 2024	US EU Switzerland UK	Under US Prudential Regulations only, initial margin requirements apply to covered swap entities with material swaps exposure (average (daily) aggregate notional amount from June, July, and August 2023 exceeding USD 8 billion) EU: Initial margin requirements apply to counterparties with an average (monthly) aggregate notional amount from March, April, and May 2023 exceeding EUR 8 billion. Switzerland: Initial margin requirements apply to counterparties whose average (monthly) aggregate notional amount from March, April, and May 2023 exceeds CHF 8 billion. UK: Initial margin requirements apply to counterparties with an average (monthly) aggregate notional amount from March, April, and May 2023 exceeding EUR 8 billion
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	China	Implementation date of the Basel III reform package.
January 4, 2024	Switzerland	Expiry of 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 options.

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 16, 2024	US	Comment Deadline on U.S. Basel III proposal (See 88 Fed. Reg. 73770-73772 (October 27, 2023)).
January 19, 2024	US	Comment deadline on CFTC proposed rule: Investment of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations.
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.
March 01, 2024	Australia US EU Australia Canada Hong Kong Korea Switzerland Singapore Japan Brazil Mexico	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. In Mexico, the corresponding compliance date is December 31, 2025 Brazil is daily and all others are month-end for March, April, and May average aggregate notional amount.
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). After March 31, 2023, optionality for financial institutions wishing to implement earlier than the above period must submit a notification to the Financial Services Agency (limited to those designated by JFSA).
April 01, 2024	Japan	Go-live of revised JFSA reporting rules based on the CPMI-IOSCO Technical Guidance excluding Unique Product Identifier (UPI) and Delta. 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.
July 1, 2024	US	Compliance date for CFTC Block and Cap reporting amendments. Expiry of relief in CFTC Staff Letter No. 22-03.
July 1, 2024	US	Expected implementation of revised credit risk, operational risk, output floor, and leverage ratio frameworks and reporting-only requirement for market risk and CVA-risk
July 1, 2024	Hong Kong	Implementation date for reporting-only requirement for market risk and CVA-risk

July 1, 2024	Singapore	With regards to the final Basel III reforms in Singapore, all standards, other than the revised market risk and credit valuation adjustment (CVA) standards, as required under the revised MAS Notice 637 on Risk Based Capital Adequacy Requirements for Banks Incorporated in Singapore will come into effect from 1 July 2024. For revised market risk and CVA standards, only compliance with supervisory reporting requirements will come into effect from 1 July 2024. The output floor transitional arrangement of 50% will commence from 1 July 2024 and reach full phase-in (72.5%) on 1 Jan 2029.
July 12, 2024	US	Compliance date: CFTC Governance Requirements for Derivatives Clearing Organizations (See 88 FR 44675- 44694 (July 13, 2023)).
August 31, 2024	Korea	Expiry of the FSS exemption from margin requirements for non-centrally cleared equity options.
September 1, 2024	US Australia Canada Hong Kong Korea Singapore Japan	Under CFTC rules only, initial margin requirements apply to covered swap entities with material swaps exposure (average (month-end) aggregate notional amount from March, April, and May 2024 exceeding USD 8 billion). Australia: Initial margin requirements apply to Phase 6 APRA covered entities with an average (month-end) aggregate notional from March, April, and May 2024 amount exceeding AUD 12 billion. Canada: Under both OSFI and AMF guidelines, initial margin requirements apply to Phase 6 covered entities with average (month-end) aggregate average notional amount from March, April, and May 2024 exceeding CAD 12 billion. Hong Kong: Initial margin and risk mitigation requirements apply to HKMA AIs and SFC LCs with an average (month-end) aggregate notional amount from March, April, and May 2024 exceeding HKD 60 billion. Korea: Initial margin requirements apply to financial institutions with derivatives exceeding more than average (month-end) aggregate KRW 10 trillion based on calculation from March, April, and May 2024. Singapore: Initial margin requirements apply to MAS covered entities with an average (month-end) aggregate notional amount from March, April, May 2024 exceeding SGD 13 billion.

	Brazil Saudi Arabia	Japan: Initial margin requirements apply to JFSA covered entities with an average (month-end) aggregate notional amount from March, April, and May 2024 exceeding JPY 1.1 trillion. Brazil: Initial margin requirements apply to financial institutions and other entities authorized to operate by the Central Bank of Brazil which have an average (daily) aggregate notional amount from March, April, and May 2024 exceeding BRL 25 billion. SA: Initial margin requirements apply to covered entities belong to a group whose average (month-end) aggregate notional amount of non-centrally cleared derivatives from March, April, and May 2024 exceeds EUR 8 billion.
September 1, 2024	South Africa	Initial margin requirements apply to a provider with average (month-end) aggregate notional amount from March, April, and May 2024 exceeding ZAR 8 trillion. (per amended rule pending finalization).
September 28, 2024	Canada	Multilateral Instrument 93-101, Business Conduct Rules become effective.
September 30, 2024	EU	Go-live of UK EMIR Refit reporting.
Q4 2024	Singapore	Expected go-live of the updated MAS reporting regime.
Q4 2024	Singapore	Expected go-live of the updated MAS OTC derivatives trade 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
December 31, 2024	Mexico	Annual compliance date for entities and investment funds to comply with the margin requirements for uncleared derivatives under Banco de México's Circular 2/2023 if average aggregate notional amount exceeds UDI 20 billion based on month-end calculation period from March to May 2023
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.

January 1, 2025	US EU Switzerland UK	Under US Prudential Regulations only, initial margin requirements apply to covered swap entities with material swaps exposure (average (daily) aggregate notional amount from June, July, and August 2024 exceeding USD 8 billion). Initial margin requirements apply to counterparties with an average (month-end) aggregate notional amount from March, April, and May 2024 exceeding EUR 8 billion. Initial margin requirements apply to counterparties whose average (month-end) aggregate notional amount from March, April, and May 2024 exceeds CHF 8 billion. Initial margin requirements apply to counterparties with an average (month-end) aggregate notional amount from March, April, and May 2024 exceeding EUR 8 billion.
January 1, 2025	Singapore	With regards to the final Basel III reforms in Singapore, compliance with capital adequacy and disclosure requirements for revised market risk and CVA standards will come into effect from 1 January 2025. The output floor transitional arrangement of 55% will commence from 1 January 2025.
January 1, 2025	Hong Kong	Implementation date for all standards under the Basel III final reform package.
January 1, 2025	Taiwan	Implementation date for all Basel III standards.
March 1, 2025	Australia US EU Canada Hong Kong Korea Switzerland Singapore Japan Brazil	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, 2025, or January 1, 2026 (EU/UK/CHF). In the US, this calculation period only applies under CFTC regulations. In Mexico, the corresponding compliance date is December 31, 2026. Brazil is daily and all others are month-end for March, April, and May average aggregate notional amount.

	South Africa UK Mexico Saudi Arabia	
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.
April 07, 2025	Japan	Proposed implementation date for UPI and Delta under the revised Guideline on the JFSA reporting rules.
March 31, 2025	Japan	Basel III: Expected implementation of revised credit risk, CVA, market risk (FRTB) for domestic banks not using IMM.
April 07, 2025	Japan	Implementation date for UPI and Delta under the revised Guideline on the JFSA reporting rules, which was finalized on November 21, 2023.
June 18, 2025	UK	End of the temporary exemption for pension scheme arrangements from clearing and margining under UK EMIR.
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.
Q3 2025	Hong Kong	Expected go-live of the updated HKMA and SFC OTC derivatives trade reporting regime.
July 1, 2025	US	The Basel III endgame proposal has an effective date of July 1st, 2025, accompanied by a 3-year phase-in period for the new ERBA RWAs that starts at 80% of total RWA and phases in incrementally each year until July 1st, 2028.
July 1, 2025	UK	Expected implementation of the Basel 3.1 standards
September 01, 2025	US	Under CFTC rules only, initial margin requirements apply to covered swap entities with material swaps exposure (average (month-end) aggregate notional amount from March, April, and May 2025 exceeding USD 8 billion).

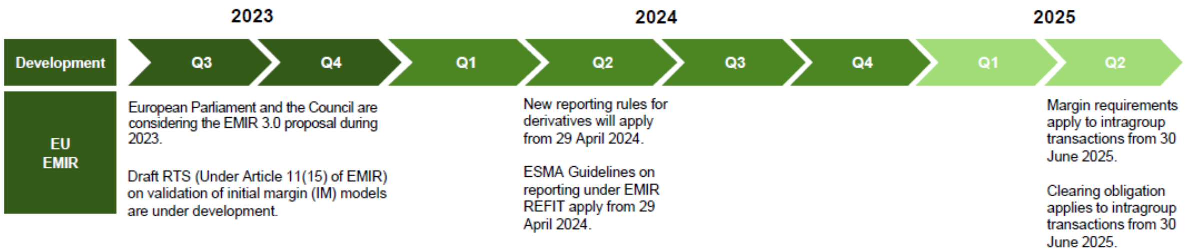
	Australia	Australia: Initial margin requirements apply to Phase 6 APRA covered entities with an average (month-end) aggregate notional amount from March, April, and May 2025 exceeding AUD 12 billion.
	Canada	Canada: Under both OSFI and AMF guidelines, initial margin requirements apply to Phase 6 covered entities with average (month-end) aggregate average notional amount from March, April, and May 2025 exceeding CAD 12 billion.
	Hong Kong	Hong Kong: Initial margin and risk mitigation requirements apply to HKMA AIs and SFC LCs with an average (month-end) aggregate notional amount from March, April, and May 2025 exceeding HKD 60 billion.
	Korea	Korea: Initial margin requirements apply to financial institutions with derivatives exceeding more than average (month-end) aggregate notional amount of KRW 10 trillion based on calculation from March, April, and May 2025.
	Singapore	Singapore: Initial margin requirements apply to MAS covered entities with an average (month-end) aggregate notional amount from March, April, and May 2025 exceeding SGD 13 billion.
	Japan	Japan: Initial margin requirements apply to JFSA covered entities with an average (month-end) aggregate notional amount from March, April, and May 2025 exceeding JPY 1.1 trillion.
	Brazil	Brazil Initial margin requirements apply to financial institutions and other entities authorized to operate by the Central Bank of Brazil which have an average (daily) aggregate notional amount from March, April, and May 2025 exceeding BRL 25 billion.
	Saudi Arabia	Saudi Arabia: Initial margin requirements apply to covered entities belong to a group whose average (month-end) aggregate notional amount of non-centrally cleared derivatives from March, April, and May 2025 exceeds EUR 8 billion.
September 01, 2025	South Africa	Initial margin requirements apply to a provider with average (month-end) aggregate notional amount from March, April, and May 2025 exceeding ZAR 8 trillion. (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 01, 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 No. 20-37 and No. 22-14.
January 01, 2026	Australia	Basel III: Expected implementation of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
January 01, 2026	Singapore	With regards to the final Basel III reforms in Singapore, the output floor transitional arrangement of 60% will commence from 1 January 2026.
January 01, 2026	EU	Expiry of the suspension of the BMR rules allowing EU supervised entities to continue to use non-EU benchmarks.
January 04, 2026	UK	Expiry of the derogation from margin rules in respect of non-centrally cleared over-thecounter derivatives, which are single-stock equity options or index options
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: • the appropriateness and sufficiency of financial resources available to the resolution authority to cover losses arising from a non-default event • the amount of own resources of the CCP to be used in recovery and in resolution and the means for its use • whether the resolution tools available to the resolution authority are adequate. Where appropriate, that report shall be accompanied by proposals for revision of this Regulation.
June 01, 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.
December 31, 2026	UK	Expiry of the temporary Intragroup Exemption Regime (TIGER) from clearing and margin requirements
January 1, 2027	Singapore	With regards to the final Basel III reforms in Singapore, the output floor transitional arrangement of 65% will commence from 1 January 2027.
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

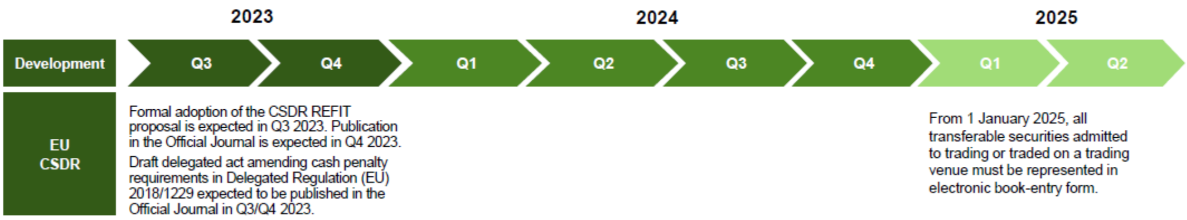
		the Union and submit a report thereon to the European Parliament and to the Council, accompanied where appropriate by proposals for revision of this Regulation.
January 1, 2028	Singapore	With regards to the final Basel III reforms in Singapore, the output floor transitional arrangement of 70% will commence from 1 January 2028.
January 1, 2029	Singapore	With regards to the final Basel III reforms in Singapore, the output floor transitional arrangement of 72.5% will commence from 1 January 2029.

Capital Markets and Market Structure

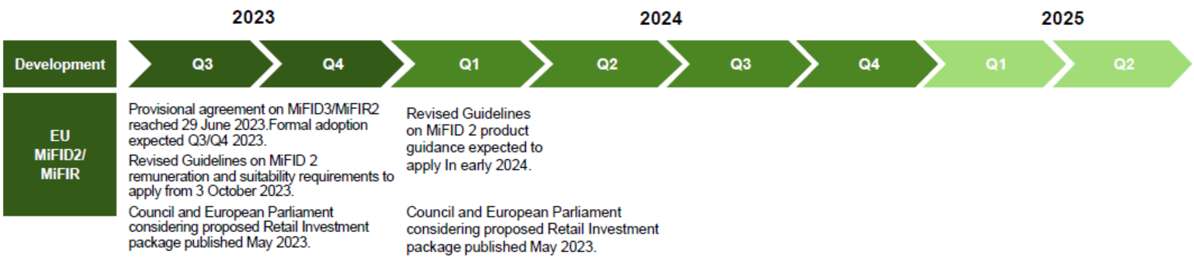
EU EMIR



EU CSDR



EU MIFID2/MIFIR



EVIA European Venues & Intermediaries Association

LEBA London Energy Brokers' Association

	2023		2024				2025	
Development	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
MIFID/R AND WHOLESALE MARKETS REVIEW	Progress on Tranches 1 and 2 of the Edinburgh Reforms.prioritised. Response deadlines: 21 August 2023 for HM Treasury's proposed amendments to DRSRs and 15 September 2023 for FCA consolidated tape consultation.	DRSRs 2023 to be laid before Parliament in Q4 2023. FCA to consult in Q4 2023 on transparency for bonds and derivatives.			The government and the FCA plan to introduce a regulatory regime to support a consolidated tape for market data by 2024.		Financial Services and Markets Act 2000 (Commodity Derivatives and Emission Allowances) Order 2023 enters into force 1 January 2025.	

SHORT SELLING

	2023		2024				2025	
Development	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
SHORT SELLING	HM Treasury's further consultation on sovereign debt and CDS closes for comments on 7 August 2023.	HM Treasury expected to publish a draft Statutory Instrument before end-2023	Statutory instrument on short selling expected to be laid before Parliament in 2024. FCA expected to consult on proposed rule changes in due course.					

EU SFTR

	2023		2024				2025	
Development	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
EU SFTR	A data quality dashboard for SFTR is under development during 2023. ESMA is focusing in 2023 on monitoring of data reconciliation and the accuracy and integrity of SFTR reports by trade repositories.							

	2023				2024			
Development	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
EU MiFID2/ MiFIR	National supervisors to deprioritise action on breach of Art 27(3) requirement from 28 February 2023. European Parliament adopted the package in March 2023.Trilogue expected to start April 2023. Commission Retail Investment Strategy expected to be published in Q2. ESMA Guidance on Market Outages expected Q2.		ESMA updated Guidelines on suitability apply 6 months after translation into official EU languages, expected to be Q3/Q4. Revised Guidelines on Suitability expected to apply before end 2023. Following trilogue negotiations, MiFID3/MiFIR2 package expected to be adopted during 2023.					

EU SFTR

	2023				2024			
Development	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
EU SFTR	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.							

LISTING ACT PACKAGE

2023 | 2024

Development: Q1 Q2 Q3 Q4 | Q1 Q2 Q3 Q4

EU LISTING ACT PACKAGE

The Listing Act package will be considered by the European Parliament and the Council during 2023.

2023 | 2024

Development: Q1 Q2 Q3 Q4 | Q1 Q2 Q3 Q4

EU EMIR

The EMIR 3.0 package will be considered during 2023.

Pension scheme arrangements exempted from the EMIR CO until 18 June 2023.

RTS on IM models under development.

ESMA final guidelines on reporting under EMIR REFIT apply on 29 April 2024.

EU CSDR

2023 | 2024

Development: Q1 Q2 Q3 Q4 | Q1 Q2 Q3 Q4

EU CSDR

Issuers issuing transferable securities admitted to trading on a trading venue after 1 January 2023 must be in electronic book-entry form.

Draft RTS amending cash penalty requirements in Delegated Regulation (EU) 2018/1229 to continue through EU legislative process.

Consideration of Commission's legislative REFIT proposal for amendments to CSDR is expected to continue in 2023. Currently there is no firm date for the conclusion of this consideration.

FINANCIAL COLLATERAL DIRECTIVE

2023 | 2024

Development: Q1 Q2 Q3 Q4 | Q1 Q2 Q3 Q4

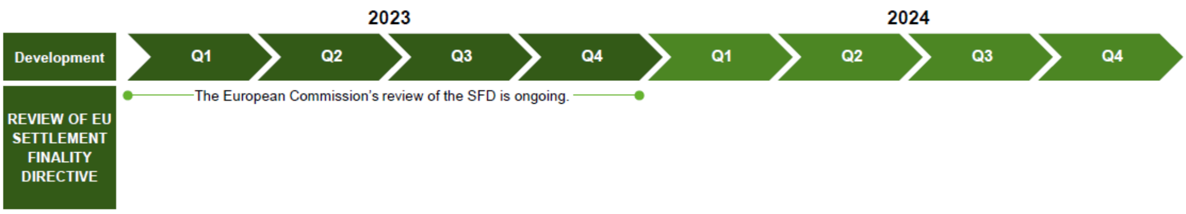
REVIEW OF EU FINANCIAL COLLATERAL DIRECTIVE

The European Commission's review of the FCD is ongoing.

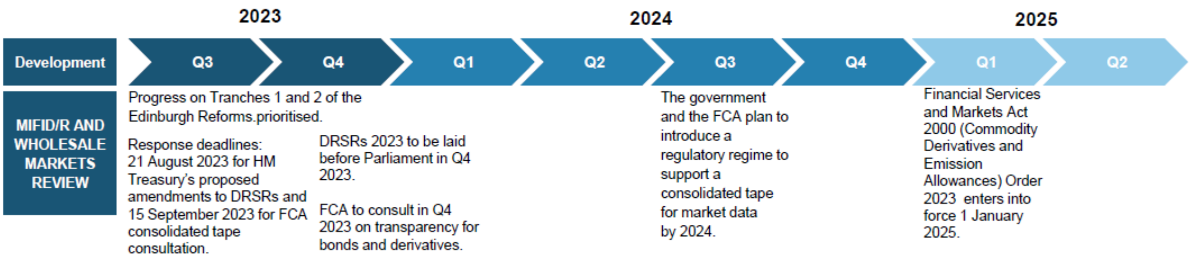
EVIA European Venues & Intermediaries Association

LEBA London Energy Brokers' Association

SETTLEMENT FINALITY DIRECTIVE



UK Divergences



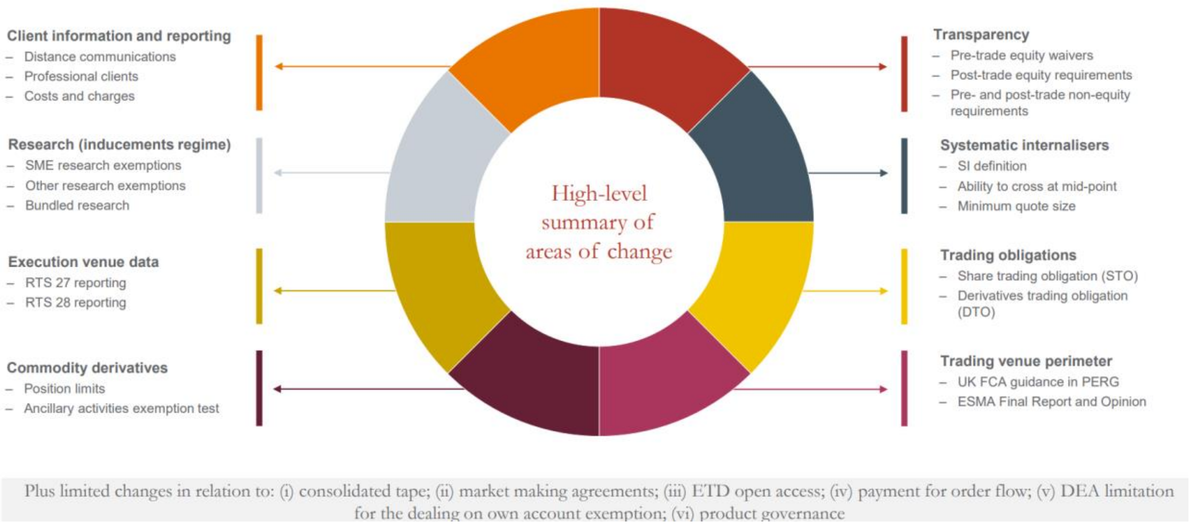
Key UK developments timeline

MiFID II/MiFIR changes since Brexit

In the UK…	In the EU…
Brexit changes The UK implemented nonpolicy changes to the MiFID legislation and rules so that they	UK status post-Brexit The EU did not need to make legislative changes but did issue statements and commentary

continued to be functional after the UK left the EU	about the practical impact of the UK's departure
"Quick fix" changes In response to Covid-19, the UK implemented changes to the MiFID legislation and rules to accommodate the pressures on firms. The UK also made related changes to the rules on investor reporting in 2022	"Quick fix" changes In response to Covid-19, the EU implemented changes to the MiFID legislation and rules to accommodate the pressures on firms
Review In 2021, HMT carried out the Wholesale Markets Review (WMR), which proposed changes to the MiFID legislation and rules	Review In 2022, the Commission launched a review which resulted in a proposed directive and regulation amending the MiFID regulatory framework
WMR rule changes In 2022, the FCA consulted on changes to its rules which it was able to make under its existing powers – some of these changes are in force (but not all)	Political agreement In June 2023, the Parliament and the Council reached political agreement on the amending proposals
WMR legislative changes FSMA 2023 makes changes to MiFIR and the MiFI Regulations 2017, which implement WMR proposals and/or give the FCA powers needed to implement them	Next steps Currently technical trilogues are ongoing, and publication in the OJ is not currently expected to be earlier than Q1 2024

Overview: key areas where there is movement *Since the UK left the EU, the UK and/or the EU have made or proposed changes in the following key MiFID areas.*



Topic	UK change?	EU change?	Summary comment
Clarifying the trading venue perimeter	Yes	Yes	Both jurisdictions have issued guidance with a very similar approach to breaking down the definition of trading venue
Commodity derivatives. *For the UK and EU there are pre-existing changes to the scope of the regime as a result of the UK FCA Statement on Supervision of Commodity Position Limits and the EU quick fix amendment*	Yes	Yes	Both jurisdictions are revising the ancillary activities exemption test and changing the scope of the position limits regime, but in slightly different ways
Waivers from the transparency requirements for equities	Yes	Yes	Both jurisdictions are looking at the reference price waiver rules, but further changes are expected in the UK following the FCA's further review
Double Volume Cap	Yes	Yes	UK has removed the cap; EU proposes a 7% single volume cap
Systematic internalisers	Yes	No	Both jurisdictions are looking at the treatment of SIs in slightly different ways and notably the UK is introducing the new designated reporter regime
STO	Yes	Yes	UK has removed the obligation; EU is limiting scope
DTO	Yes	Yes	Both jurisdictions are aligning DTO with EMIR CO and both are reviewing the scope of post-trade risk-reduction services [*the concept of post-trade risk reduction services is also relevant to other areas such as the application of best execution requirements*]

Topic	UK change?	EU change?	Summary comment
Providing client information electronically	Yes	Yes	*Broadly the same – the change shifts the default method of providing clients with information to electronic means*
Relaxation of distance communications requirements	Yes	Yes	*Broadly the same – the change allows costs and charges information to be provided after the transaction concludes where the client consents*
Relaxation of costs and charges disclosure requirements for professional clients	Yes	Yes	*Broadly the same – the change removes the costs and charges requirements (Article 50 of the MiFID Org Reg) for professional clients*

Exemption from the research payment rules for SME research	Yes	Yes	*Same intention but different thresholds of market capitalisation – UK threshold is below £200m and EU threshold is below EUR 1bn*
Exemptions from the research payment rules in other cases	Yes	No	*It is possible that the UK research regime will differ significantly from the EU research regime in future – see next slide*
Relaxation of reporting requirements for professional clients	Yes	Yes	*Broadly the same – the change removes, for professional clients: (i) the "adequate reports" requirement and (for investment advice and portfolio management); and (ii) the cost-benefit analysis requirement*
Removal of RTS 27 reporting for execution venues	Yes	Yes	*Same effect – on the EU side, this is currently not a legislative change, but ESMA has made a statement that there is no regulatory expectation of compliance*
Removal of RTS 28 reporting for firms	Yes	No	*EU firms still have to make RTS 28 reports*

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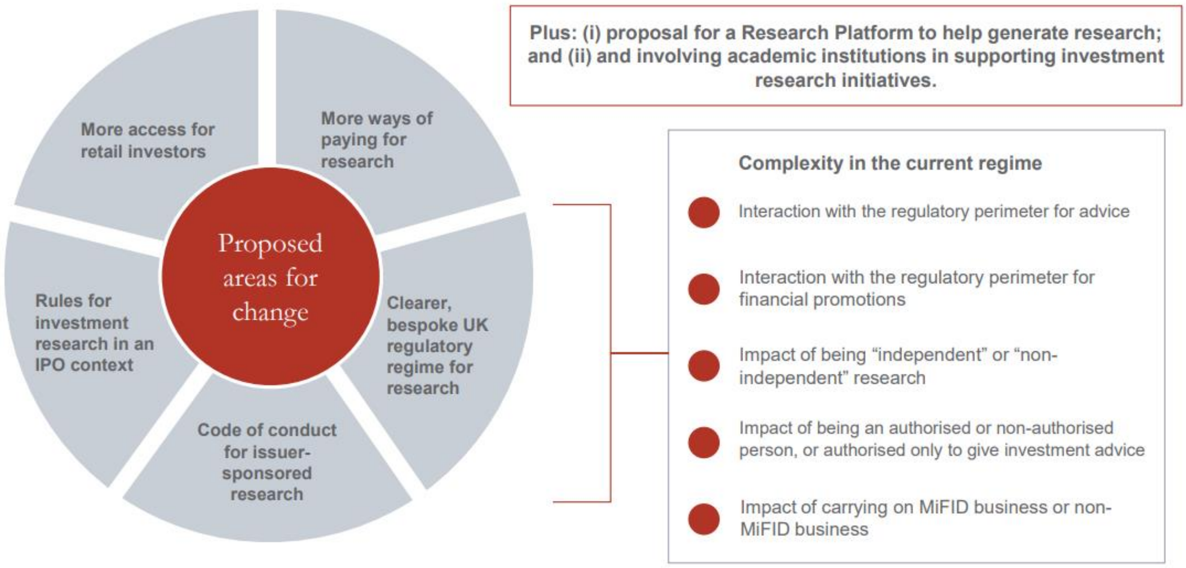
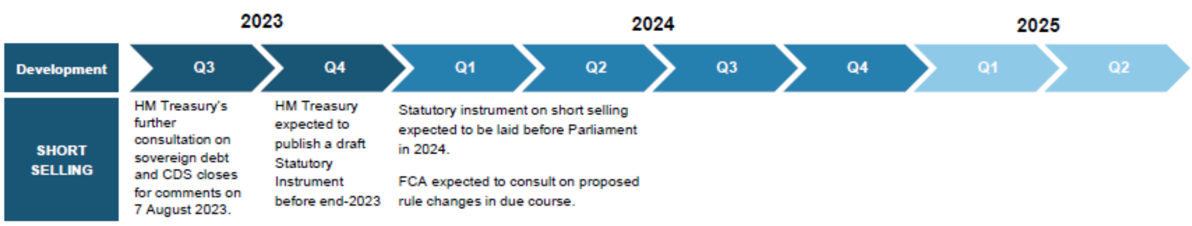


UK "smarter regulatory framework"

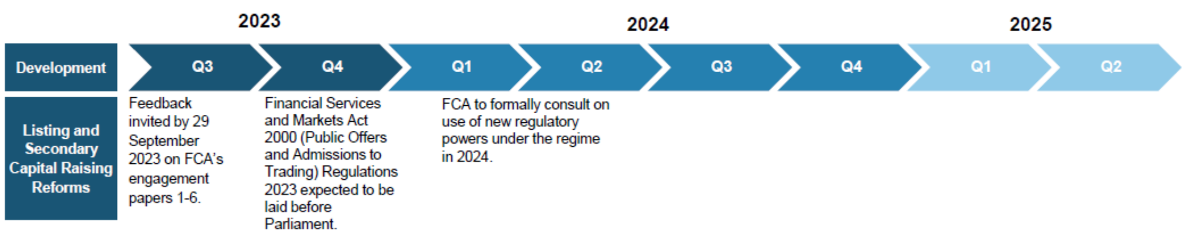
PS 23/4 changes	FSMA 2023 changes
– Streamlining the lists of non-price forming transactions used for different purposes in the context of equity transparency	– New FCA rule-making powers for pre-trade transparency requirements for equity instruments and pre- and post-trade transparency requirements for non-equity instruments (including waivers, waiver suspensions and deferrals)

– Amending the definition of most relevant market for the purposes of liquidity to remove restrictions in relation to the tick size regime [*in force*]	– Removal of the double volume cap (DVC) mechanism and the share trading obligation (STO) [*in force*]
– Remove the size threshold for OMF order waivers [*in force*]	– New definition of SI and new FCA power to make rules for this purpose
– Introduction of the designated reporter regime	– Extended ability for SI to trade at midpoint [*in force*]
– Amendments to reporting fields and trade flags	– Syncing up the derivatives trading obligation (DTO) with the EMIR clearing obligation [*in force*]
- guidance on the trading venue perimeter	– New FCA rule-making powers to suspend/modify the DTO
	– New FCA rule-making powers for risk reduction services
	– Changes to the scope of the commodity derivatives position limits regime

SHORT SELLING



LISTING AND SECONDARY CAPITAL RAISING REFORMS



SECURITISATION REFORM

Development	Q3 2023	Q4 2023	Q1 2024	Q2 2024	Q3 2024	Q4 2024	Q1 2025	Q2 2025
Securitisation reform	FCA and PRA expected to consult in Q3 2023 on proposed use of new powers. Technical comments invited by 21 August 2023 on draft Securitisation Regulations 2023.	Securitisation Regulations 2023 expected to be laid before Parliament.						

AML & MAR

UK AML REGIME

Development	Q3 2023	Q4 2023	Q1 2024	Q2 2024	Q3 2024	Q4 2024	Q1 2025	Q2 2025
UK AML REGIME	Remaining provisions of the Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 enter into force on 1 September 2023. HM Treasury consultation on reform of the AML/CTF supervisory regime closes 30 September 2023.	FCA expected to engage between Q4 2023 and Q2 2024 on various commitments in the Economic Crime Plan 2023-2026.		HM Treasury expected to publish response document on future AML/CTF supervisory regime in Q2 2024.	Regulations to be laid in due course on changes to the process for implementing regulations identifying high risk third countries.			

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EU MAR AND CSMAD

Development	Q3 2023	Q4 2023	Q1 2024	Q2 2024	Q3 2024	Q4 2024	Q1 2025	Q2 2025
EU MAR and CSMAD	Commission report on MAR has yet to be published	European Parliament's ECON Committee expected to adopt draft reports on Listing Act package on 24 October 2023	Trilogue negotiations and adoption of the Listing Act package, which would amend MAR, expected during 2024.					

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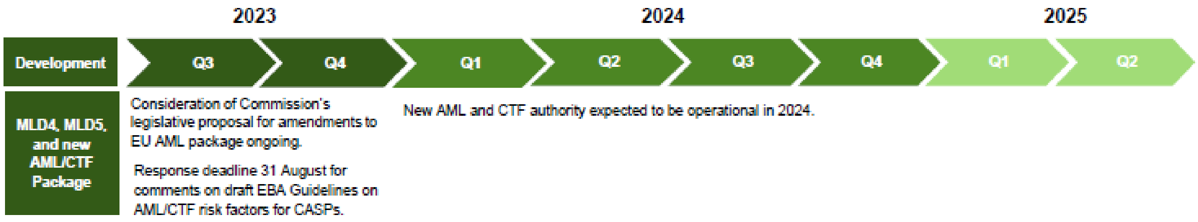
EU MLD4, MLD5 AND THE NEW AML AND CTF PACKAGE



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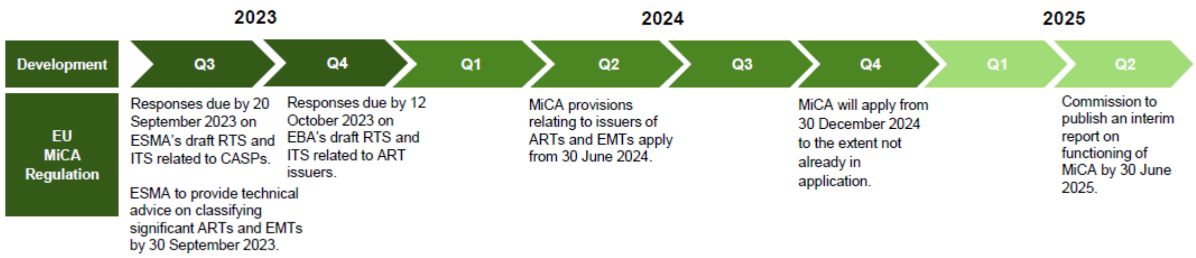
Crypto & DLT

EU MICA REGULATION



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DEVELOPING UK REGULATORY REGIME FOR CRYPTOASSETS

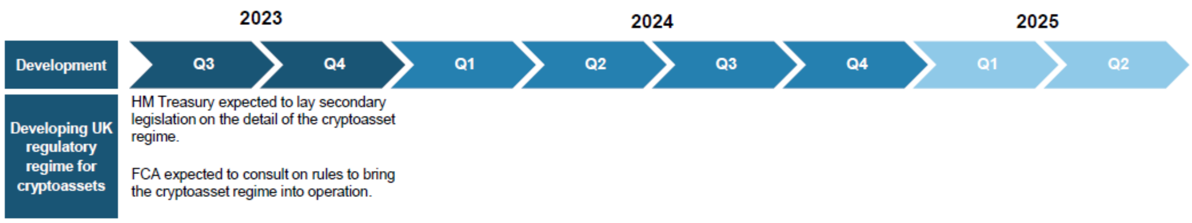

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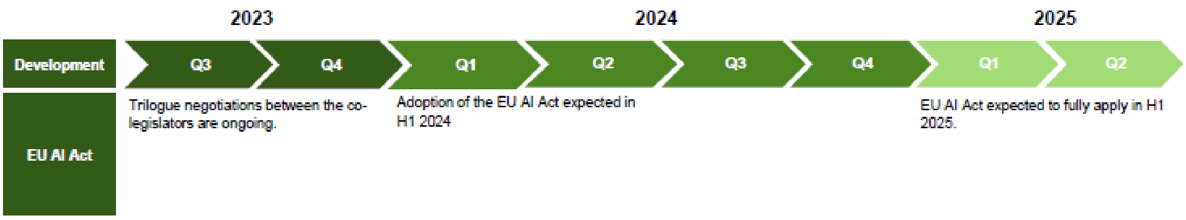
Table 4.A Proposed scope of cryptoasset activities to be regulated under Phase 2		
Activity category	Phase 2 sub-activities (indicative, non-exhaustive)	Chapter
Issuance activities	Admitting a cryptoasset to a cryptoasset trading venue	Chapter 5

	Making a public offer of a cryptoasset	Chapter 5
Exchange activities	Operating a cryptoasset trading venue which supports: ▪ the exchange of cryptoassets for other cryptoassets ▪ the exchange of cryptoassets for fiat currency ▪ the exchange of cryptoassets for other assets (e.g. commodities)	Chapter 6
Investment and risk management activities	• Dealing in cryptoassets as principal or agent • Arranging (bringing about) deals in cryptoassets • Making arrangements with a view to transactions in cryptoassets • Making arrangements with a view to transactions in cryptoassets	Chapter 7
Lending, borrowing & leverage activities	Operating a cryptoasset lending platform	Chapter 10
Safeguarding and /or administration (custody) activities	Safeguarding or safeguarding and administering (or arranging the same) a cryptoasset other than a fiat-backed stablecoin and/or means of access to the cryptoasset (custody)	Chapter 8

Digital finance, SupTech, RegTech & FinTech

EU AI ACT



Sanctions

Belarus bondholders reportedly urge unfreezing of $800M bond Belarusian bondholders are reportedly urging Euroclear to settle trades of the country's debts. Euroclear labelled the 2023 bond as matured instead of defaulted, so it is preventing holders from selling their claims on. The settlement house has been withholding payments to and from sanctioned entities in Russia, earning over €3 billion this year to October in income from frozen Russian assets. Financial Times

EU Consolidated Sanctions List :

- PDF - v.1.0
- CSV - v.1.0
- CSV - v.1.1
- XML (Based on XSD) - v.1.1
- XML (Based on XSD) - v.1.0

OFSI 6 entries amended on the consolidated list; *On 30 November 2023 the Foreign, Commonwealth and Development Office updated the UK Sanctions List on GOV.UK. This list provides details of those designated under regulations made under the Sanctions Act.*

- The following entry has been amended under the Russia financial sanctions regime and remains subject to an asset freeze and trust services sanctions:
- Mihajlo Perencevic (Group ID: 15424)
- Russia notice click here

OFSI Enacting the UN's decision to amend 5 entries on 29 November 2023, the following entries have been amended under the Libya financial sanctions regime and remain subject to an asset freeze:

- Osama Al Kuni Ibrahim (Group ID: 14142)
- Abd Al-Rahman Salim Ibrahim Al-Milad (Group ID: 13676)
- Mohammed Al Amin Al-Arabi Kashlaf (Group ID: 13675)
- Saadi Qadhafi (Group ID: 11648)
- Sayyid Mohammed Qadhafi (Group ID: 11646)

Current list of designated persons: Russia & List of persons named in relation to financial and investment restrictions

- HM Treasury Notice, Russia, 31/10/2023
- Joint OFAC/OFSI Humanitarian Assistance and Food Security Fact Sheet

8 November, the National Crime Agency has issued a Red Alert to financial institutions and other members of the regulated sector warning that Russia is using gold as a means to undermine the impact of the UK sanctions regime.

Updated 14Nov2023: Who is subject to financial sanctions in the UK? *A guide to the current consolidated list of asset freeze targets, and a list of persons named in relation to financial and investment restrictions under the Russia regulations*

- Financial sanctions targets: list of all asset freeze targets
- Russia: list of persons named in relation to financial and investment restrictions
- Search the consolidated list of financial sanctions targets

EU Consolidated Sanctions List:

- PDF - v.1.0

- CSV - v.1.0
- CSV - v.1.1
- XML (Based on XSD) - v.1.1
- XML (Based on XSD) - v.1.0

2 entries amended on the consolidated list; *On 15 November 2023 the Foreign, Commonwealth and Development Office updated the UK Sanctions List on GOV.UK. This list provides details of those designated under regulations made under the Sanctions Act.*

- The following entry has been amended under the Russia financial sanctions regime and remains subject to an asset freeze and trust services sanctions:
- Irina Anatolievna Kostenko (Group ID: 15203)
- To see the Russia notice click here

- The following entry has been amended under the Iran (Nuclear) financial sanctions regime and remains subject to an asset freeze:
- Ya Mahdi Industries Group (Group ID: 16157)
- To see the Iran (Nuclear) notice click here
- OFSI's consolidated list of asset freeze targets has been updated to reflect these changes.

Initial steps to take on discovery of a sanctions breach; *Following the unprecedented levels of sanctions activity in response to Russia's invasion of Ukraine, which has resulted in companies dealing with the most significant and complex sanctions regimes across multiple jurisdictions, authorities in the US, UK and EU are now turning their attention to enforcement of those sanctions.*

- Sanctions authorities have indicated that they are bolstering their enforcement teams to handle the expected increase in sanctions-related investigations, and we are seeing an increase in requests for information from authorities across multiple jurisdictions to support on-going investigations.
- In light of this, companies need to ensure not only that they have robust sanctions compliance programmes in place (as this may be a mitigating factor when faced with an investigation), but also the ability to identify any potential breaches and respond swiftly when detected. In this regard, authorities will expect companies to keep their risk assessments up to date, taking into account lessons learned from the Russia sanctions, and to enhance any existing processes in relation to the investigation of suspected sanctions breaches.
- We have summarised below some of the key points to consider at the outset when responding to a potential sanctions breach, and the steps companies should be taking.

1. Identify the potential breach and stop the activity that caused the breach:

- Review and identify the activity which triggered the potential breach. For example, was it dealing with a restricted party or country, or was the type of transaction or product restricted?
- Having identified the potential breach, ensure that controls are put in place to stop the activity that caused the breach and to prevent further steps being taken (e.g. to prevent shipments of goods or on-going payments being made to a sanctioned individual or entity).

2. Conduct a preliminary review of the scope of the potential breach and consider the specific sanctions breaches:

- Having identified the activity that triggered the potential breach, you then need to consider its scope. The outcome of this analysis will dictate any reporting obligations and to assess next steps with authorities.

- Work out which sanctions regimes apply (considering, for example, the location of the company, where the breach occurred, and any jurisdictions to which goods were sent), and the laws or regulations that were in force at the time of the breach. External lawyers should be engaged at an early stage to ensure that all considerations are appropriately factored in and privilege maintained over communications to the extent possible.
- You should also be considering whether the potential breach was a breach of the relevant laws or regulations, the policies of the company, and / or any contractual obligations – and then what that might mean for the company going forward.

3. Conduct an internal investigation

- Having reached a preliminary review on the potential breach and its scope, consider whether you need to conduct an internal investigation.
- Companies need to have in place a step-by-step plan to ensure that the investigation is properly structured, protected by privilege, that an audit trail is preserved, and the investigation is conducted to a standard defensible in front of authorities given the risk of potential external investigations. External counsel should continue to be involved in this process: this is particularly important when dealing with cross-border matters to ensure appropriate advice is given on differences in applicable laws and regulations.
- Key steps may include:
    - putting in place a Terms of Reference to define the client group and scope of the investigation, and to seek to preserve privilege and put in place communications protocols to protect confidentiality;
    - identifying who the relevant custodians might be – and ensuring that their data is put on legal hold where possible and document preservation notices are issued;
    - collecting any potentially relevant emails, instant messages or mobile data forensically (to ensure that the process is defensible to authorities);
    - taking appropriate data privacy advice, particularly when dealing with cross-border matters; and
    - reviewing and analysing the data and conducting interviews.
- Throughout the process, all decisions should be documented, and the audit trail preserved.

4. Consider the consequences of the breach and reporting obligations

- In parallel with conducting any investigation, you will need to form a view on the potential consequences arising from the breach and any obligations the company may be under as a result. Depending on the circumstances, you may be able to form a view relatively early in the investigation, whilst in others it will be more complex
- Key considerations may include:
    - Are you under an obligation to report to sanctions authorities?A violation of reporting obligations could amount to an offence, so it is essential to be aware of the applicability and scope of any reporting obligations.
    - Do you need to report to other regulators / authorities? Consider whether you are under an obligation to report to other regulators or authorities: for example, do you need to file any Suspicious Activity Reports to the NCA, or report to the FCA?
    - Should you make a voluntary disclosure? Even where there is no obligation to report, the company may still benefit from a voluntary disclosure given that this may lead to discount on a penalty, or additional ‘cooperation’ credit with the authority in question should the matter reach the enforcement stage.
    - Do any other third parties need to be notified? Make notifications to other parties if necessary. There may be disclosure obligations to board members or other stakeholders, including contractual requirements

- Be aware that sanctions regulators and authorities are likely to share information with each other. This is seen increasingly with enforcement authorities across jurisdictions. It is important to view potential breaches holistically, and approach authorities consistently.
- Conclusion
- A breach of sanctions can have significant legal, financial and reputational consequences for companies. Whilst an effective sanctions compliance programme is extremely important, companies need to ensure that they are prepared to take the appropriate steps at an early stage when faced with a potential breach. The initial response will set the tone for the future engagement with the authorities and could be significant later down the line when responding to information requests or negotiating enforcement outcomes.
- For a more detailed practical guide to investigating potential sanctions breaches, our global team covering US, UK and EU sanctions have recorded a webinar for clients to access on demand. Please contact us for further information.

Reminder: Frozen Assets Reporting 2023; Every year HM Treasury carries out a review of frozen assets to update its records and to capture any changes during the reporting period.

- If you hold or control funds or economic resources belonging to, owned, held, or controlled by a designated person you are required to submit a report to OFSI by Friday 10 November 2023.
- This email is a final reminder that you are required to report the value of all assets as they stand as of close of business on Friday 29 September 2023, including where this information has been reported before 29 September.
- Where the funds or economic resources relate to shares, securities, or other debt or payment instruments, the GBP value should be provided in your report.
- If you have previously reported information related to frozen assets to OFSI you are still required to submit a return to OFSI as part of the 2023 Frozen Asset Review.
- All returns need to be made, in the form of a completed template from the GOV.UK website, to ofsi@hmtreasury.gov.uk.

New package: The EU is moving ahead with a ban on Russian diamonds, with fresh sanctions proposals due to be presented next week.

More than 100 UK companies have admitted breaching British sanctions against Russia since Moscow's full-scale invasion of Ukraine last year, official data shows. *A total of 127 companies had voluntarily disclosed sanctions violations to the UK government as of May 17, according to a freedom of information request submitted to HM Treasury and seen by the Financial Times. By voluntarily admitting breaches and co-operating with investigations, businesses can reduce government penalties.*

- The UK has placed more than 1,600 individuals and companies under sanctions since Russia's full-scale invasion of Ukraine in February 2022. In response to the war, the UK has formed its most severe package of sanctions against a major economy, placing a moratorium on UK entities dealing with more than two dozen banks and more than 100 oligarchs. Stacy Keen, financial crime partner at law firm Pinsent Masons, which made the FOI request, said the sanctions' breadth had created a big test for British business, given how much more integrated Russia was with the global economy compared with other regimes under sanctions, such as Iran and North Korea. "The Russian sanction packages have been felt more keenly outside of Russia in a heightened way that others just haven't in the past," she said. "Russian individuals and entities had a footprint outside of Russia that perhaps if you look at the Iranian regime or the Syrian regime — there just wasn't those interlinks between the economies."
- Business should consider admitting breaches to ensure the greatest leniency, Keen added. Sanctions penalties can range from no action or a warning letter, to a civil penalty or criminal prosecution. Financial penalties have no cap. HM Treasury's Office of Financial Sanctions Implementation is responsible for

monitoring breaches. A person close to the OFSI said the unit was "not trying to unduly penalise honest mistakes" and takes into account relevant efforts and checks made as potential mitigating factors when assessing a breach.

- Issues around a lack of transparency over the ultimate beneficial owners and controllers of companies, as well as Russian shareholders that may sit behind shell companies, can make it harder for UK companies to ensure they have not breached sanctions.
- The extent of the links between the UK and Russia across a variety of industries was demonstrated last year when Chelsea Football Club was plunged into crisis after the UK announced sanctions against its owner at the time, the Russian oligarch Roman Abramovich.
- The move temporarily put the sale of the Premier League team on hold and its sponsorship deals in jeopardy. Western sanctions have immobilised $300bn belonging to Russia's central bank since Russian troops invaded Ukraine. EU leaders last month endorsed plans to use billions of euros in earnings generated by frozen Russian assets to help Ukraine. The European Commission is expected to put forward legal proposals in early December.

The following entry has been removed from the Russia financial sanctions regime and is no longer subject to an asset freeze or trust services sanctions:

- Sergey Stognienko (Group ID: 15584)
- OFSI's consolidated list of asset freeze targets has been updated to reflect these changes.

UK sanctions oil trader Paramount and others over Russia ties; *Emirates-based businesses among 29 entities subject to measures aiming to stem funding for Ukraine war The UK government has imposed sanctions on Dubai-based oil trader Paramount Energy & Commodities DMCC as part of a swath of actions against companies and individuals accused of supporting Russia's gold, oil and finance industries.*

- The sanctions, which target 29 people and entities including several based in the United Arab Emirates, "will hit those who provided succour to [Vladimir] Putin by helping him to lessen the impact of our [existing] sanctions on Russian gold and oil", said UK foreign secretary James Cleverly.
- The Financial Times reported in March that Swiss-based Paramount Energy & Commodities SA, founded by veteran Dutch trader Niels Troost, had transferred its Russian oil trading activity to a subsidiary in the UAE called Paramount DMCC.
- Troost, who has not been targeted by UK sanctions, has long maintained that western restrictions on the trade in Russian oil — introduced in response to its full-scale invasion of Ukraine last year — do not apply to Paramount DMCC because it is a separate legal entity from its Swiss parent company and is incorporated outside the G7.
- Emirati companies can legally buy and sell Russian oil at any price, as long as they also use non-European shipping and financial service providers.
- The UK's Foreign, Commonwealth & Development Office said that Paramount DMCC "is known to employ deceptive shipping practices as well as opaque ownership structures, and has been used by Russia to soften the blow of oil-related sanctions imposed by the UK in co-ordination with G7 partners".
- The UK also sanctioned Dubai-based Swiss national François Edouard Mauron, who was formerly a director of Paramount DMCC but told the FT earlier this year that he had stepped down. Paramount SA, Paramount DMCC, Troost and Mauron did not immediately respond to requests for comment.
- The move to target a Dubai-based oil trader marks an escalation of the UK's sanctions regime at a time when the G7's price cap on Russian oil has become less effective. The measure, introduced last December for sales of crude, was supposed to cap the price at which Russia's oil could be sold to $60 a barrel, in a bid to crimp the Kremlin's revenues while keeping enough oil in the market to avert a counterproductive price spike. But Russia's establishment of a "dark fleet" of dozens of tankers operating outside western markets, along with other methods of subterfuge deployed to circumvent the cap, has helped the average price of Russian oil to rise well above $60 a barrel in recent months.

- Jason Hungerford, a sanctions lawyer at Mayer Brown, said that the new UK sanctions followed US measures targeting a Russian natural gas project last week, suggesting G7 members are now prepared to target energy more aggressively. "The various sanctioning countries are trying to demonstrate that they're serious about the measures they've imposed on [the] Russian oil and gas trade and are stepping up enforcement," said Hungerford, a partner at the law firm.
- "Going after traders and last week's action against Russia's Arctic 2 LNG project by the US is a major sign that the next front is pushing on the Russian energy sector harder than in the past."
- The British measures block access to financial services, freeze any UK assets, prevent targeted entities from chartering vessels to British ports, and ban targeted individuals from travelling to the UK. The UK also placed sanctions on a UAE-based network that it claims is responsible for channelling more than $300mn in gold revenues to Russia, which is the world's second-largest producer of bullion.
- Named as part of the network was Paloma Precious DMCC, the owner of the Emirates Gold refinery that was suspended in July from delivering gold into Dubai and London amid money-laundering concerns. In September, London-listed Rockfire Resources announced an agreement to buy Emirates Gold from Paloma Precious DMCC as long as the refinery was allowed to deliver bullion into Dubai once again. Paloma Precious was the largest shareholder of Rockfire Resources until it sold its entire stake in the same month. Paloma Precious and Rockfire did not immediately respond to requests for comment.
- The National Crime Agency also issued an alert on Wednesday to financial institutions, flagging what it said were deliberate attempts by Russia to mask the origin of its gold to evade sanctions, a move of significance given London's position as the world's largest marketplace for bullion.

UK sanctions following Russia's invasion of Ukraine; *Foreign, Commonwealth & Development Office; 8 November 2023 — The UK and our international partners have introduced the most severe sanctions ever imposed on any major economy in response to Russia's aggression towards Ukraine.*

Our unprecedented sanctions will:

- bring a large and lasting cost on Putin and those close to him for the illegal invasion of Ukraine
- cripple Russia's war machine to help ensure Putin loses the war in Ukraine
- maximise influence on Putin to convince him to end his brutal war
- show the world that the Russian government's actions have severe consequences

What you need to know about the UK's sanctions on Russia

We have now sanctioned over 1,500 people and entities since Putin's illegal invasion of Ukraine.

We update the UK Sanctions List every time a decision is made to make, vary or revoke a designation.

It sets out which people, entities and ships are designated or specified under regulations made under the Sanctions and Anti-Money Laundering Act 2018, and why. Working closely with our allies, we have:

- sanctioned major banks including Sberbank and Credit Bank of Moscow, and removed selected banks from the SWIFT international payments system – crippling Putin's regime of access to finance
- sanctioned defence sector organisations, and banned the export of critical technologies – paralysing Russia's military-industrial development for years to come
- planned to phase out the imports of Russian oil by the end of the year – depriving Putin's government of access to their lucrative oil revenues
- stopped Russian aircraft from flying or landing in the UK and banned their ships from our ports – cutting Russia off from the international community

Timeline of UK sanctions so far; The UK has increased sanctions on Russia in a sustained way in response to its aggression in Ukraine. We have coordinated our actions closely with our allies around the world. This list outlines the action we've taken in the lead-up to and after Russia's invasion.

2023

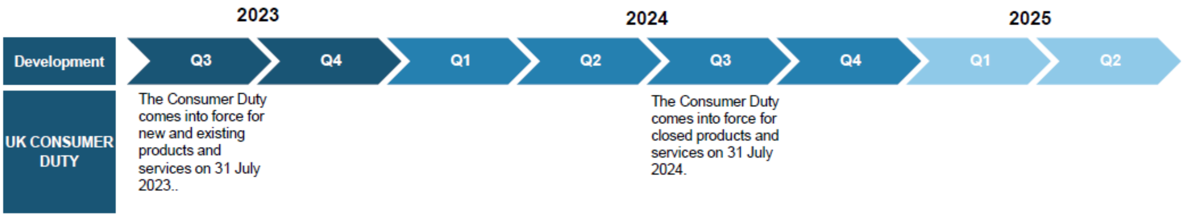
- UK cracks down on gold and oil networks propping up Russia's war economy
    - 8 November 2023
- UK announces new sanctions in response to Russian sham elections in Ukraine
    - 29 September 2023
- Largest ever UK action targets Putin's access to foreign military supplies
    - 8 August 2023
- UK sanctions key figures involved in deplorable sentencing of dual British national Vladimir Kara-Murza after appeal is rejected
    - 31 July 2023
- UK announces new sanctions in response to Russia's forced deportation of Ukrainian children
    - 18 July 2023
- New UK sanctions legislation allows the government to target Belarus exports, internet propaganda, and crack down on circumvention
    - 8 June 2023
- UK sanctions target Russia's theft of Ukrainian grain, advanced military technology, and remaining revenue sources
    - 19 May 2023
- New sanctions demonstrate G7 resolve on Russia
    - 18 May 2023
- UK sanctions FSB agents and Russian investigators behind arrest of British-Russian national Vladimir Kara-Murza
    - 21 April 2023
- UK sanctions Abramovich and Usmanov's financial fixers in crackdown on oligarch enablers
    - 12 April 2023
- New sanctions ban every item Russia is using on the battlefield
    - 24 February 2023
- New sanctions target Putin's war machine and financial networks as UK accelerates economic pressure on Russia
    - 8 February 2023

Conduct / Enforcement / Reporting

UK CONSUMER DUTY

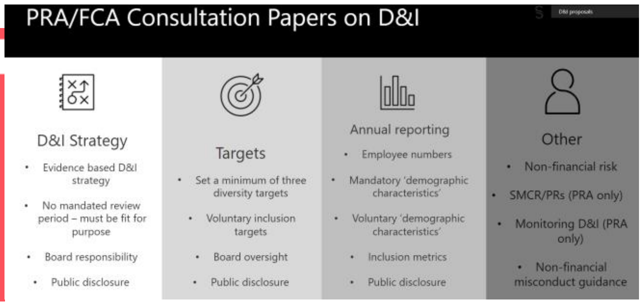
EVIA European Venues & Intermediaries Association

LEBA London Energy Brokers' Association



Conduct & Reporting

The long-awaited PRA and FCA (PDF 1.25 MB) consultations on diversity and inclusion (D&I) have been published, following on from the 2021 joint Bank of England (BoE), PRA and FCA Discussion Paper (PDF 777 KB) on diversity and inclusion in the financial sector. *The consultations overlap significantly as the regulators worked closely to develop their parallel proposals. While specific requirements will be proportionate, based on a firm's size and type, the overarching messages are clear: the PRA and FCA expect firms to develop D&I strategies and targets, consider D&I in their board and firm-wide governance, and make relevant disclosures both externally and via regulatory returns.*



- Scope

- FCA CP23/20 is relevant for firms with a Part 4A FSMA permission who are subject to the FIT, COCON and COND parts of the FCA Handbook. The requirements vary by firm type, for example some exclude Limited Scope SM&CR firms[1] and smaller firms (those that employ under 251 people). CP23/20 does not apply to non-Part 4A FSMA firms such as credit rating agencies, payment services and e-money firms.
- PRA CP18/23 applies to banks and insurers in scope of CRR and Solvency II — non CRR e.g. credit unions and non-directive firms are excluded. On 11 October, the PRA clarified that CP18/23 applies to all CRR and Solvency II firms, including third party branches in the UK, and friendly societies that are subject to Solvency II. The original publication mistakenly stated that friendly societies were out of scope.

S&S Regulators' Consultation Papers on D&I in Financial Services. This webinar is now on-demand, should you like to view it again. Use the link below to enter the webcast at any time.

- LINK: https://event.on24.com/wcc/r/4390937/C721CAD23443DF77B0C4E972C7708A0B?mode=login&email=amcdonald@evia.org.uk

Firm-wide diversity and inclusion strategies

What: Both the FCA and PRA propose that firms should develop a D&I strategy that outlines:

- The firm's core values, the culture that it is trying to create and its commitment to D&I;
- Objectives and goals for improving diversity and inclusion, as well as a plan for achieving them;
- Ways of measuring progress against the objectives and goals; and
- The firm's role in fostering an open and inclusive environment where staff are able to express their views.
- The regulators have been clear that they would expect a firm's senior leadership and board to own the strategy, with its development and review to be supported by the appropriate risk and control functions.
- The firm-wide D&I strategy should be published in an accessible format on the firm's website.
- Who: All dual-regulated firms to which the CRR and Solvency II parts of the PRA Rulebook apply, regardless of size. The requirement would also apply to large FSMA firms with a Part 4A permission that are required to follow the FIT, COCON and COND parts of the FCA Handbook (excluding Limited Scope SM&CR firms).
- Targets
  - What: The PRA and FCA propose that the largest firms set targets for underrepresented demographic groups, as well as a strategy on how to meet these targets. The targets would apply at all levels of the firm: board, senior leadership and throughout the employee pipeline. The regulators have deliberately not been prescriptive about what the targets should be, recognising that a one-size-fits-all approach would be unworkable. While firms would be expected to set targets for women and ethnicity at a minimum, they would decide what underrepresentation looks like for their own circumstances and set targets for those characteristics accordingly. The targets, progress towards them and the accompanying strategy would need to be disclosed annually.
  - Firms should note that the PRA would not consider it appropriate for them to use these proposals as the sole reason to expand the size of their board. The PRA has also stressed that the proposed requirement to set targets would not breach the Equality Act 2010 or any other relevant legislation.
  - Who: All large dual-regulated firms to which the CRR and Solvency II parts of the PRA Rulebook apply, and all large FSMA firms with a Part 4A permission that are required to follow the FIT, COCON and COND parts of the FCA Handbook (excluding Limited Scope SM&CR firms).
- Regulatory reporting

  - What: The PRA and FCA both propose that firms report their total UK employee numbers to help regulators monitor which firms should be in the scope of their additional requirements.
  - Who: All dual-regulated firms to which the CRR and Solvency II parts of the PRA Rulebook apply, regardless of size, and all FSMA firms with a Part 4A permission that are required to follow the FIT, COCON and COND parts of the FCA Handbook (excluding Limited Scope SM&CR firms) regardless of size.
  - What: Larger firms would need to report mandatory data on the following metrics to the regulators via a single template: age, sexual orientation, sex or gender, long term health condition, ethnicity, and religion.
  - Firms would also be able to report the following metrics on a voluntary basis: gender identity, parental responsibilities, carer responsibilities, and socio-economic background.
  - The regulators have included categories that go beyond legislated protected characteristics, seeking to gain data on other factors that can affect employees' work experiences. They have also been clear that they are not creating a new requirement for employees to disclose sensitive information to their employers — a `prefer not to say' category is applicable to all the above characteristics.
  - Who: All large dual-regulated firms to which the CRR and Solvency II parts of the PRA Rulebook apply, and all large FSMA firms with a Part 4A permission that are required to follow the FIT, COCON and COND parts of the FCA Handbook (excluding Limited Scope SM&CR firms).
- Public disclosure
  - What: In addition to the external disclosures already referenced (D&I strategies and targets), both the FCA and PRA propose that all large firms should disclose data on the percentage of employees in the different demographic characteristics, following the same mandatory/voluntary grouping described above.
  - The regulators propose that specific disclosures on sex, gender and ethnicity should be split into three categories to cover differing levels of seniority within firms: board, senior leadership and employee population. Firms are not expected to make disclosures that would breach data protection legislation or privacy laws. Where disclosures run the risk of identifying individual employees, firms may group the employee categories together (e.g. board and senior leadership as one category).
  - Who: All large dual-regulated firms to which the CRR and Solvency II parts of the PRA Rulebook apply, and all large FSMA firms with a Part 4A permission that are required to follow the FIT, COCON and COND parts of the FCA Handbook (excluding Limited Scope SM&CR firms).
- Board governance
  - What: The PRA proposes that firms disclose their board D&I strategy alongside the firm-wide strategy (as described above). The PRA rejects the argument that there is a limited talent pool for diverse board-level appointments. It recognises the short-term difficulties in achieving diversity at executive level but notes that firms should focus on the employee pipeline and succession planning and use alternative recruitment methods for wider board appointments.
  - Who: All dual-regulated firms to which the CRR and Solvency II parts of the PRA Rulebook apply, regardless of size.
- Non-financial misconduct
  - What: Changes are proposed to the FCA Handbook to reflect non-financial misconduct as 'misconduct', not an additional principle. Firms will be expected to consider bullying, sexually or racially motivated offences (including in an individual's private life), harassment or other similar behaviour when assessing conduct and fitness and propriety. Non-financial misconduct would be included explicitly in:
  - The Conduct Rules.
  - Fit and Proper assessments.
  - Suitability guidance on the Threshold Conditions. Who: Non-financial misconduct requirements will apply to all FSMA firms with a Part 4A permission that are subject to the FIT, COCON and COND parts of the FCA Handbook, regardless of size.

- Individual accountability
    - What: the PRA proposes to assign D&I accountability to a Senior Management Function (SMF), but states that 'SMFs would not be held to account for a failure to meet diversity targets.' Instead, it proposes that SMFs should 'be able to discuss with the PRA the reasons that firms set certain targets and, if they are not going to be met, the reasons why.'
    - Who: all dual-regulated firms to which the CRR and Solvency II parts of the PRA Rulebook apply, regardless of size.
    - What: for firms in scope of its Prescribed Responsibilities (PRs) on culture, the PRA proposes that the PRs be clarified to include responsibility for the development and implementation of diversity and inclusion strategies. PR I, usually held by the Chair, sets out responsibility for leading the board's development of a firm's culture. PR H, usually held by the CEO, includes responsibility for overseeing the adoption of a firm's culture in its day-to-day management.
    - Who: all dual-regulated firms to which the CRR applies and with assets greater than £250 million, and all dual-regulated firms to which the Solvency II parts of the PRA Rulebook apply (excluding third country branches).
- Risk and governance
    - What: The FCA proposes to introduce new guidance for large firms to make clear that matters relating to D&I are to be considered as a non-financial risk and treated appropriately within the firm's governance structures. The PRA expects development and review of the D&I strategy to be supported by appropriate risk and control functions at the firm, and for these functions to play a role in ensuring the risks involved in having poor D&I are managed alongside other business risks. Neither regulator is being prescriptive on how firms should achieve this.
    - Who: All large dual-regulated firms to which the CRR and Solvency II parts of the PRA Rulebook apply, and all large FSMA firms with a Part 4A permission (excluding Limited Scope SM&CR firms).
    - What next?
    - Firms have until 18 December to submit responses to both consultations, with the final policy expected in 2024.
    - The proposed timelines for reporting and disclosure are:

- Regulatory reporting: submitted to regulators annually, with the first round due within three months of the rules coming into effect. The first returns would be on a 'comply or explain' basis. Submissions from the second year onwards would include all mandatory datasets.
- Public disclosures: required in the second year after the rules come into effect, alongside firms' annual reports.
- These consultations will be closely considered by firms and will no doubt lead to many suggestions and requested clarification from impacted firms. While firms are likely to have some time following the end of the consultation period in December before final rules are published (likely early next year), it appears clear that proposals of this nature will soon be a reality as regulators continue their focus on culture and conduct across the sector as a priority. These proposals require thoughtful consideration from several, multi-disciplinary angles, including, at the very least, legal (employment and data protection in particular), HR/ER, governance, risk and compliance, regulatory practices, reward, and data perspectives. It is important that firms start engaging with these proposals now, educating stakeholders and relevant functions, and getting ready sooner rather than later in an interconnected way across their legal, people, data, risk and compliance and reward functions.

FCA supervisory priorities for wholesale banks; Managing risks in a volatile environment; *After a break of several years, the FCA has written (PDF 95.5 KB) to the CEOs of all wholesale (investment) banks active in the UK setting out its main supervisory priorities for the next two years. Recently wholesale banks have had to react to a number of stresses in the market ranging from a weak macro-economic environment, shocks to the commodities markets* *from geo-political events and a cyber-attack on a widely used financial data and services provider. The FCA's supervisory areas of focus are not a surprise given these stresses — risk management, maintaining high standards of control and operational resilience.*

- The letter also sets out the FCA's expectations for wholesale banks around booking models, LIBOR transition, Consumer Duty, AI, ESG, Diversity, Equity & Inclusion (DEI) and non-financial misconduct. The letter gives clear guidance to firms on what they should expect in their supervisory interactions and indicates a ramping up of those interactions. The FCA expects all CEOs to have discussed this letter with their fellow directors and/or Board and to have agreed actions and/or next steps within the next two months.
- Supervisory priorities
- Risk management
- FCA expectations
    - Firms should ensure that their stress assumptions have been updated in the light of market events last year and are fit for the current environment. Stress testing should recognise that severe stresses will often affect the entire system and take into account that markets may be concentrated in a limited group of buyers and seller types that may react to events in a similar fashion.
    - Firms should improve their management of client relationships. They should have good knowledge of clients' business profiles and understand how counterparties could be related and their concentrations in the market.
    - The FCA is keen to hear from firms if they see emerging pockets of risks which may affect the orderly functioning of markets.

- FCA action; The FCA will:

    - Expect senior management to evidence (i) that remediation programmes in response to events of the last 18 months have delivered better risk management and oversight across businesses and (ii) how they are comfortable that this is underpinned by a strong culture. Better firms will have undertaken remediation programmes whether or not they were directly affected.
    - Look to Boards to evidence how they are ensuring that such improvements in risk management are long-lasting.
    - Carry out supervisory testing on the embeddedness of improvements in risk management by looking at the production and approval process of new products and transactions.

- Maintaining high standards of control; FCA expectations

    - A challenging external environment should not lead to a reduction in conduct standards. For example, as a result of cuts to the control framework or when short term commercial interests are prioritised over regulatory obligations.
    - Boards and senior management should provide an unambiguous tone from the top on the importance of good conduct.
    - There should be clarity of responsibilities between the first and second lines of defence. For example, in ESG-related activities, the FCA has observed a lack of clarity of who is responsible for ensuring the bank is delivering against its public commitments.

- FCA action

    - The FCA will ramp up its testing programme to look at how banks are controlling these risks, including more in-person supervisory assessments. Reviewing how firms manage conflicts of interest will be a particular area of focus. The FCA will look to test outcomes (rather than solely policies).

- Operational resilience
- FCA expectations
    - Firms should comply with the requirements set out in policy statement on Building Operational Resilience. (PS21/3)
    - Wholesale banks should understand their dependence on third party providers and take steps to mitigate the potential impact on business continuity that loss of service may have. The FCA hold firms, not the third parties on whom they might rely, responsible, and ultimately accountable, for their own operational resilience.

- FCA action

- The FCA will continue to review banks' compliance with the requirements of PS21/3.
    - It will engage with relevant senior management to assess how they have learned the lessons of operational resilience events, even if their firm has not been directly impacted.

- Other expectations
- Booking model — if a firm starts to consider changes in the way it serves clients, its location, booking model or risk management arrangements, the FCA expects to be notified promptly before any change is made.
- LIBOR transition — firms should continue actively transitioning the last of the contracts that reference USD LIBOR and not rely unnecessarily on synthetic LIBOR. Client and conduct considerations should remain at the core of the transition programme.
- Implementation of the Consumer Duty — the FCA will test the robustness of assessments made and actions taken to implement the Consumer Duty. It will also test the effectiveness of processes firms have to identify whether any new activity will be caught by the Consumer Duty.
- ESG — firms should demonstrate that their financing activities are aligned with their own transition plans, and that product and public-facing commitments relating to ESG are delivered in practice. They should also have regard to the Transition Plan Taskforce's (TPT) developing framework for disclosure and implementation guidance. This will be an area of future discussion with firms.
- AI — the FCA will engage with wholesale banks on current deployment of AI as well as plans for the future and the associated control infrastructure the firm has established.
- DEI — supervisors will focus on understanding how wholesale banks are playing their role in helping to accelerate the pace of meaningful change on diversity, equity and inclusion in the sector.
- Non-financial misconduct — should allegations or evidence of non-financial misconduct come to light, the FCA expects firms to take them seriously through appropriate internal procedures, and to act according to the established facts. The FCA's position is that a corporate culture that tolerates sexual harassment or other non-financial misconduct is unlikely to be one in which people feel able to speak up and challenge decisions. Such a culture also raises questions about a firm's decision making and risk management.

FCA and PRA consultations on D&I in the financial services sector: An employment law perspective; *FCA & PRA have recently published consultation papers setting out proposals to promote D&I in the financial services sector. The papers follow on from the joint discussion paper in July 2021 when the regulators made it clear that firms should consider D&I. This was followed by a review paper by the FCA in December 2022. Our Regulation Tomorrow blog on the consultation papers can be found here.*

- The FCA make it clear that when introducing the new framework, they are also required to have regard to their Public Sector Equality Duty under the Equalities Act 2010. In addition to this, firms of all descriptions and employee headcounts should continue to be mindful of the broader obligations that already exist under the Equality Act 2010.
- Non-financial misconduct: The FCA proposes that all firms with a Part 4A permission under the Financial Services and Markets Act 2000 (FSMA) will be required to consider non-financial misconduct within the conduct rules, the fit and proper assessments and suitability guidance on the Threshold Conditions. The types of conduct in the Conduct Rules will include serious instances of bullying or harassment and guidance will be given on the type of conduct which will fall within these rules. The test for determining fitness and propriety will clearly include non-financial misconduct such as sexual or racially motivated offences and will include such behaviour in a person's personal or private life. These matters which relate to an individual's private life may be excluded for the purposes of the Conduct Rules but will be relevant for an assessment of fitness and propriety. This causes a number of issues from an employment law perspective. For example, to what extent can an employer investigate an individual's conduct outside the workplace? In addition, what is the level of investigation that the employer is required to enter into if the actions of the individual questionably affect the individual's honesty, integrity or reputation, and, as a result finding that someone is not fit and proper will affect their ability to work in the regulated sector? The guidance to be provided to firms will be important.
- D&I strategies: A key component of the FCA's and PRA's proposals is a requirement for certain firms to have in place a D&I strategy (D&I policy). Many firms already have D&I strategies in place, but the proposal is that dual regulated firms (Capital Requirements Regulation and Solvency II firms of any size and all firms with a Part 4A permission who have 251 or more employees (excluding so called 'Limited Scope' firms under the Senior Managers and Certification Regime) must have such a strategy in place. The strategy must include as a minimum D&I objectives and goals; a plan for meeting these and measuring progress; a summary of arrangements to identify and manage any obstacles; and ways to ensure staff have adequate knowledge and understand the strategy. Firms covered by the PRA would also require a "strategy to promote diversity and inclusion on the board". The firm's board would be responsible for the maintenance and oversight of the firm's D&I strategy.
- Under the Equality Act 2010, an employer will be liable for acts of discrimination (including harassment) by its workers unless it can show that it took "all reasonable steps" to prevent the discrimination. The steps that an employer should take to reduce the risk of liability for any bullying or harassment or acts of discrimination includes having in place robust policies on equality, diversity and inclusion; ensuring that these policies are implemented in practice and providing effective and ongoing training. So, while employers may not have to have in place D&I strategies in the form suggested by the FCA and PRA proposals, all firms should have in place a form of policy and training on D&I. It should also be noted that the Worker Protection (Amendment of Equality Act 2010) Act 2023 received Royal Assent on 26 October 2023. This Act amends the Equality Act 2010 to introduce a duty on employers to take reasonable steps to prevent sexual harassment of their employees and gives employment tribunals the power to uplift sexual harassment compensation by up to 25% where an employer is found to have breached the new duty to prevent sexual harassment. The Act will come into force on 26 October 2024 and means that all firms, regardless of their size and the regulatory requirements in place will have a positive duty to take these reasonable steps.
- Setting targets: The FCA proposes that firms would be required to set targets to address underrepresentation at both board and firm-wide levels. The FCA will not mandate which demographic characteristics the targets must cover nor what those targets should be and a firm will be required to publicly disclose their targets. Clearly employers can set targets which they hope to achieve with respect to those who are underrepresented. However, in doing so an employer must ensure that they do not discriminate against those who do not have the relevant protected characteristic. The Equality Act 2010 contains certain provisions where an employer can take lawful "positive action" meaning that the employer can take certain actions to enable or encourage those with the protected characteristic to overcome or minimise the disadvantage. Any such action taken must also be proportionate. This will be an important consideration for firms in seeking to meet their targets.

- Reporting requirements: The FCA considers that data is important in understanding the areas of underrepresentation and setting appropriate targets and monitoring progress. However, there are challenges in collecting good quality data. The proposal is that large firms will be required to report annually on a range of demographic characteristics including age, ethnicity, sex or gender, religion, disability or long-term health conditions and sexual orientation. Firms may also choose voluntarily to report on both sex and gender, gender identity, parental responsibilities, carer responsibilities, and socio-economic background. Currently large firms are required to report on the gender pay gap, but the government decided not to extend this to other protected characteristics such as ethnicity, holding that instead ethnicity pay gap reporting should be voluntary. Firms may already seek to collect data in this area for monitoring purposes, but employees cannot be forced to respond to such requests and should be allowed to specify a preference not to reply. Another issue in this area is the taxonomy that should be applied to the different characteristics.
- Next steps
- Firms should be considering their existing policies and procedures in place and how these may need to be amended considering these proposals. However, they should also make sure that notwithstanding the regulatory requirements they comply with their employment law obligations with regard to equality, diversity and inclusion.

The UK's FCA has shared its observations relating to the market soundings regime within the UK Market Abuse Regulation (MAR) in its latest Market Watch newsletter. *Having robust market sounding controls in place offers protection to firms from the risk of committing market abuse, as was seen in 2012, when David Einhorn and Greenlight, Capital Inc were both fined by the UK regulator.*

- The FCA has observed that Market Sounding Recipients (MSRs) have traded the relevant financial instruments having had an initial communication with Disclosing Market Participants (DMPs). Although the DMPs had not specifically disclosed the identities of the financial instruments to the MSRs, the MSRs were still able to identify those details using other information available to them.
- One example involved an MSR selling a financial instrument in the secondary market, then buying the same quantity of the same financial instrument back in a subsequent placing, potentially at a discount. It's not clear how similar this example is to when two bond traders, Darren Morton and Christopher Parry were publicly censured for market abuse by the UK regulator in 2009.
- The FCA is concerned that in some instances MSRs could have an unfair advantage over other market participants even before they have agreed to receive inside information. To help minimise this and other associated risks, the FCA helpfully sets out several ideas and sound processes that would constitute best practice, including the suggestion that DMPs assess the scripts they use at all stages of the sounding.
- Given the serious consequences for firms and market participants that get this wrong, this Market Watch newsletter is an important read.

On 31 October 2023, the FCA published Market Watch 75. *In this edition of Market Watch, the FCA shares its observations about market soundings since it published Market Watch 51 and 58. It also reminds firms of the arrangements made by the UK Market Abuse Regulation's market soundings regime, which provides formalised arrangements for issuers, and their advisors acting as Disclosing Market Participants (DMPs), to legitimately disclose inside information where the disclosure is made in the normal exercise of a person's employment, profession or duties.*

- The FCA highlights the following recent observations:
    - It has observed cases where market soundings recipients (MSRs) have traded the relevant financial instruments during the time period after a DMP has initially communicated with them or sought their consent to receive the sounding and inside information, but before the DMP has disclosed the inside information. The DMPs did not, during the initial communication, disclose the identities of the financial instruments or the nature of the proposed transaction and the likelihood of its taking place. However, the MSRs were still able to identify those details using

other information available to them. Frequently, this has occurred where there has been a delay between DMPs requesting the MSR's consent and the MSR giving it.
    - In these instances, the MSRs have provided rationales that are not easily reconcilable with the circumstances of the trading. For example, an MSR selling a financial instrument immediately after a DMP has sought its consent to receive inside information, then buying the same quantity of the financial instrument back in the subsequent placing does not reconcile with 'Rebalancing a portfolio.' Nor does this rationale reconcile easily with instructions to trade being phrased with urgency.
- Following these observations, the FCA recommends that firms take the following actions (amongst others) to minimise the risks of insider dealing and unlawful disclosure:
    - DMPs should take particular care when making soundings on financial instruments that have few actors and where potential external information the MSRs hold could reasonably be used to identify the relevant financial instrument.
    - When initially communicating with MSRs and seeking their consent to receive the market sounding and inside information, DMPs should also be alert to the risk of unlawfully disclosing inside information. They should consider whether the information provided at this stage is essential for MSRs to decide if they wish to receive the information.
    - DMPs may also want to consider specific arrangements and scripts where the MSR is a private individual whose awareness of possible breaches may be less than those of corporate clients.
    - DMPs should carefully consider and assess the standardised information which they intend to provide to MSRs in their initial communications and requests for consent. They should make clear at the start of any market sounding that the communication is a market sounding.
    - DMPs and MSRs should consider minimising time intervals between the DMP's initial communications and requests for consent, and the MSRs consenting to such requests.

- Firms and their employees should be aware of the breadth of information that the FCA can request and which is available to the FCA when reviewing trades, communications and documentation relating to soundings.

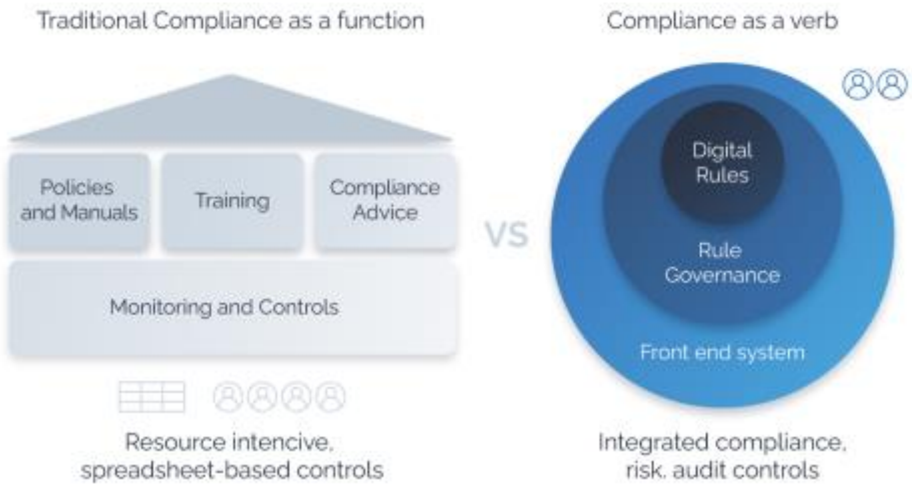
FCA publishes Dear Remuneration Committee Chair letter; *On 31 October 2023, the FCA published a Dear Remuneration Committee Chair letter, setting out some key areas to consider and to factor into the firm's remuneration approach. Key points set out in the letter include:*

- As set out in the FCA's recent joint Policy Statement PS23/15 with the PRA, the regulators aim to make the remuneration regime more effective by increasing the proportion of compensation at risk and subject to the incentive-setting tools in the remuneration framework.
- Firms should prioritise embedding the Consumer Duty in their business to provide customers with products and services that meet their needs and offer fair value on an ongoing basis. The FCA encourages firms to consider how they can use relevant risk metrics and performance criteria to help inform both individual and firm-wide remuneration decisions, including making remuneration adjustments if progress in embedding the Duty falls short.
- The FCA expects firms to encourage a culture in which staff feel able to speak up, particularly where they see something which could affect the outcomes for consumers or markets or create a significant risk of harm.
- It also expects roles and responsibilities in a firm to be clearly explained, with clear goals and expectations to enable an effective system of individual accountability.
- Firms should continue to maintain gender neutral pay policies in line with the FCA's existing requirements and make sure that awards of variable remuneration do not discriminate on the basis of any protected characteristic.

- A growing number of firms have committed to sustainability-related objectives – most notably net zero commitments. Where a firm has made such claims and commitments, the FCA expects that the firm will link appropriately its strategy, governance arrangements and remuneration structures to these. The FCA also expects firms to ensure they have the relevant skills and capabilities across the organisation.
- The FCA concludes by stating that it expects Remuneration Committee Chairs to take the letter into account in their role and welcomes their response on how they will be adopting the principles outlined in this letter.

[Rule-based vs. Generative AI-based compliance]

	Rule-based framework		Generative AI framework
Source for regulatory answers	Regulatory content as rules in machine-executable format (derived from text-based regulations, legal opinions or policies)		Regulatory content in its basic format (text-based regulations, legal opinions or policies)
Maintenance	**Rule updates and upkeep as managed service**	**Rule updates by internal regulatory experts**	**Regulatory content updated by internal regulatory experts**
Pros	• Binary regulatory answers • Rules maintained as managed service • Choose preferred regulatory provider • Manage risk appetite precisely	• Binary regulatory answers • Leveraging in-house expertise • Manage risk appetite precisely	• No pre-structuring/ transformation of regulatory content required
Required resources	• Resources for initial review and approval of rule interpretation	• Resources for initial transformation of regulatory content into rules • Resources for rule maintenance	• Resources for maintenance of regulatory content • Resources for review of AI-generated answers
Required functionality	• Traceability of regulatory answers provided (audit trail) • Full control over rules/documents applied (versioning, validity, permissions) • Ability to map regulatory answers to regulatory source (sourcing) • Functionality for regulatory experts to review and verify regulatory answers provided by the system		
Best suitable regulatory area	• High-risk, complex regulatory topics with regular changes (e.g. cross-border marketing restrictions)	• Less complex and more static regulatory subjects (e.g. internal bank policies)	• Medium to low risk regulatory subjects (e.g. internal bank policies) • In combination with rule-based framework (more precise answers) also for higher risk regulatory areas
Best suitable use cases	• Compliance checks embedded in existing banking systems (e.g. travel approval or portfolio management system)	• Compliance checks embedded in existing banking systems (e.g. pre-approval system for employee trading)	• 'Search tool' for providing fast answers to complex regulatory subjects (e.g. policy search chatbot for bank employees)



Embedded Compliance business needs and implications

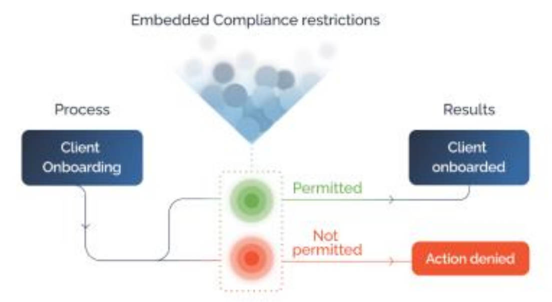
Target state needs	Implications
▶ Digitized rule repository	▶ Aligned interpretation across teams ▶ Common taxonomies
▶ Senior manager accountability	▶ Governance framework with auditable workflow, controls
▶ Easily adjustable rules	▶ Configurability, data-driven
▶ Digital, client accessible platforms	▶ Common data, rule library
▶ Digital advisory services	▶ Legal/audit opinion as rulesets

Embedded Compliance technology needs and implications

Target state needs	Implications
▶ Rule lineage	▶ Transparency, not 'black box' AI
▶ Organisation-wide standards alignment	▶ Mapping to common models
▶ Standard rule APIs, common data	▶ Library access protocols, data
▶ No compliance spreadsheets	▶ Codified rules, accessible by apps and internal systems
▶ Code lineage	▶ Mapping code to rule interpret

Target state needs	Implications
▶ Key risks mitigated through embedded checks	▶ Risk and control alignment between first, second line of defense and audit
▶ Common control framework	
▶ Compliance as policy advisors, not training and controls operation	
▶ 'Front foot' with regulators	▶ Fact-based policy; rule lineage
▶ Repeatable regulatory change management	▶ Standardized impact assessment

Client onboarding ;*The requirements for onboarding a new client were described in one or several policies and checklists which reflected the applicable AML & CTF regulations of the local jurisdiction. These policies described documentation requirements depending on clients classification and risk rating in a generic nature.*

Embedded client onboarding checks	Business impact
	• Onboarding time of foreign entities were reduced from up to three weeks to 4 working days • Successful roll-out of digital onboarding for corporate clients, complex wealth management structures and other legal entities • Increased client satisfaction due to significant reduction of follow up questions during customer onboarding

The first line of defence had to interpret these generic requirements for each client during the onboarding process. Foreign legal entities or complex structures required specific knowledge often not available in the organisation. This resulted in lengthy onboarding time and created a frustrating back and forth between first and second line of defence functions. KYC and CDD review process by compliance required significant resources and had a negative impact on client experience. Embedded compliance enhancements Client-specific AML & CTF requirements were embedded directly in the CRM/CLM and onboarding tool. Depending on the contracting party type and risk rating, the system dynamically applied the relevant digitised AML & CTF rules and created the required data fields, documents needed and due diligence tasks. These automated compliance checks enabled the financial institution to speed up the onboarding process and significantly reduced the efforts of compliance when reviewing the respective files. A significant risk reduction was realized by having concrete requirements in real time and eliminated the back log of the second line of defence

DFSA fines FFA Private Bank (Dubai) $370,000 for system failures in detecting market abuse;; *Interesting insights from a recent regulatory action by the Dubai Financial Services Authority (DFSA). FFA Private Bank (Dubai) Limited was fined USD 373,842 for inadequate market abuse identification systems. FFA's systems and controls* *failed to identify, assess, and report suspicious trading. FFA outsourced its responsibility for monitoring and assessing client trading , however, it did not effectively supervise the outsourced activities*.

- This case from the DFSA serves as a fresh reminder of why companies must uphold solid controls and not merely depend on delegated tasks.

Suspicious Trading Activity

4.16 Since 1 February 2017, FFA was required under GEN Rule 11.10.12A to notify the DFSA immediately of any transactions or orders from clients which it had reasonable grounds to suspect may constitute Market Abuse. Further, GEN Rule 5.3.20 requires FFA to establish and maintain adequate systems and controls to ensure that, as far as reasonably practicable, the firm and its employees do not engage in conduct, or facilitate others to engage in conduct, that may constitute market abuse. The appropriate and reasonable identification of clients' transaction and orders as suspicious trading activity is essential to compliance with both of these Rules.

4.17 During the Relevant Period, the DFSA requested and obtained information from FFA regarding trading undertaken in 25 securities around the time of 28 announcements which the DFSA had identified as being suspicious. The information provided by FFA in response highlighted that the vast majority of the trading considered by the DFSA as being suspicious constituted trades undertaken on behalf of two clients (**"Client A"** and **"Client B"**) (21 out of 28 announcements). This trading resulted in total profits of more than USD 17.28m for Client A and Client B, with average profit margins of 21.4%.

Client A and Client B Trading Red Flags

4.18 As per paragraphs 4.4 to 4.12 above, FFA had in place a system that would raise Red Flags should the results of a Client's trading meet certain thresholds as set out at paragraph 4.6. However, the DFSA found that the process used to generate Red Flags was ineffective. As a result, FFA may have failed to identify a number of instances of suspicious trading activity undertaken by its clients.

4.19 Of the 34 instances of trading by Client A and Client B the DFSA identified as being suspicious, 16 instances (47%) were not subject to investigation by the RMD and as a consequence no RMD Report was produced. Of these instances, 13 met the criteria to generate a Red Flag for investigation (as set out in paragraph 4.6 above). These instances, which represent almost half the instances of suspicious trading undertaken by Client A and Client B identified by the DFSA, resulted in a combined profit of over EURO 5.5 million.

4.20 As per paragraph 4.8 above, RMD maintained a log of alerts raised by FFA's systems regardless of whether RMD decided to raise a Red Flag for investigation. Of the 13 instances of trading by Client A and Client B that met the criteria to generate a Red Flag

3. SUMMARY OF REASONS

3.1 The DFSA decided to take this action as it considers that between February 2018 and March 2021 (the **Relevant Period**), FFA failed to:

a. notify the DFSA regarding transactions executed for Clients which it should have had reasonable grounds to suspect may have constituted Market Abuse, contrary to General Module of the DFSA Rulebook (**GEN**) Rule 11.10.12A;

b. establish and maintain systems and controls that ensure, as far as reasonably practical, that it did not facilitate others to engage in conduct that may constitute market abuse, contrary to GEN Rule 5.3.20; and

c. effectively supervise activities performed by an outsourced function, contrary to GEN Rule 5.3.21(3)(b).

3.2 Further, as an Authorised Firm, FFA was at all times required to comply with the DFSA's Principles for Authorised Firms in GEN Section 4.2. The conduct giving rise to the contraventions set out in paragraph 3.1 also demonstrates that FFA failed to ensure that its affairs were managed effectively and responsibly by its senior management, contrary to Authorised Firm Principle 3 (Management, systems and controls) in GEN Rule 4.2.3, by failing to maintain systems and controls to effectively identify and assess transactions that may constitute Market Abuse.

3.3 On 18 May 2021 the DFSA prohibited FFA from accepting orders from certain clients until it had remediated failures in its STOR identification process relating to those clients. As a consequence of FFA taking appropriate action in respect of those clients and making a number of enhancements to its systems and controls, the DFSA lifted this prohibition on 15 July 2021. See paragraph 4.23 below for further details.

3.4 The DFSA considers it appropriate in the circumstances to impose the Fine on FFA.

4. FACTS AND MATTERS RELIED ON

Background

4.1 FFA was incorporated in the DIFC and authorised by the DFSA on 4 October 2006. During the Relevant Period it was a wholly owned subsidiary of FFA Private Bank SAL (**FFA SAL**), which was founded in 1994 and is based in Beirut, Lebanon. In 2022 FFA SAL changed its name to Investment and Capital Bank (also known as I&C Bank).

FMSB announce that Kieran Higgins has assumed the Chair of the FMSB Market Practices Committee. Kieran is currently Head of Flow Rates Trading, EMEA and Co-Head of Global Finance & Rates SM at Citi. Kieran has a long association with FMSB having served on its Advisory Council from 2015-2020 before joining Citi. *In his role as Chair of this Committee Kieran will oversee the output of the Committee and take a leading role in determining future topics for review. Kieran replaces JP Morgan's Charles Bristow.*

- Kieran Higgins said: "I am delighted to actively contribute to the work of FMSB. It is a unique organisation representing the wider wholesale market community. It is a natural venue to examine topics such as Pre-Hedging currently, and I look forward to engaging with all Members and stakeholders."

Rulings strengthen US in spoofing prosecutions; The Seventh Circuit's trilogy of opinions in October have provided a clear legal framework for prosecuting spoofing in commodities markets, paving the way for increased enforcement by the Department of Justice and Commodity Futures Trading Commission. These decisions address fundamental questions about spoofing prosecutions, affirming the government's ability to bring cases under both Dodd-Frank and general fraud statutes, and set out key factors for proving fraudulent intent in spoofing cases, marking a significant development in the battle against market manipulation. Bloomberg Law

Navigating a skilled person review (also known as a section 166 review); *The response to, and the management of, a skilled person review can be challenging, costly and time consuming for firms.*

- In our latest briefing note we set out some key points for firms to consider when dealing with a skilled person review requirement imposed by the FCA or PRA, from the initial stages of negotiating the scope of the requirement, managing the skilled person and regulator during the review, and then through to the closure of the review. Our briefing can be found here.
- The FCA and PRA have the power to require an authorised person (or any member of the authorised person's group or partnership of which the authorised person is a member) to appoint a 'skilled person' to provide the regulator with a report or to 'collect or update information.' They can also directly appoint a skilled person (as opposed to requiring the firm to appoint one).
- These powers may be used where the FCA or PRA has concerns regarding a firm's risk framework and/or the effectiveness of its systems and controls and considers it is appropriate to obtain expert analysis and recommendations for areas of improvement and/or remediation.
- The section 166 tool may be used by the regulators to achieve a variety of objectives, including for diagnostic purposes, to identify and assess certain risks, to review a firm's systems and controls in light of certain risks that have been identified, or to prevent or reduce those risks from crystallising by obtaining recommendations for improvements or enhancements to a firm's systems and controls. Skilled persons may also be appointed to develop and oversee remedial action where risks have already crystallised (e.g. such as the design and monitoring of a customer redress exercise).
- Current trends
- At a time where the regulatory narrative is increasingly around implementing more assertive, proactive supervision and intervention, it is not surprising that we have seen an increase in the use of section 166 powers by the FCA: in the year 2022-2023, the FCA used the section 166 power in 44 cases (up from 38 in 2021-2022) with the vast majority relating to the retail investments sector.
- With regards to the PRA, six skilled person reviews were commissioned in Q2 2023/24 (the quarter ending 31 August 2023), with the majority in "Governance, accountability, strategy, and culture", and "Controls and risk management frameworks". This was up from five reviews in Q1 2023/24 (the quarter ending on 31 May 2023). Interestingly, in Q1 2023/24 there were no reviews relating to accountability or culture, with the majority of the reviews relating to "Controls and risk management frameworks" (three in total).
- Key points to consider when managing a skilled person review
- The response to, and the management of, a skilled person review can be challenging, costly and time consuming for firms, so in this briefing note we aim to set out some key points for firms to consider when dealing with a skilled person review requirement imposed by the FCA or PRA, from the initial stages of negotiating the scope of the requirement, managing the skilled person and regulator during the review, and then through to the closure of the review.
- Early engagement, scoping and planning
- Early engagement: Responding promptly to the section 166 requirement notice and making sure the firm has properly understood the crux of the FCA or PRA's concerns and rationale behind its decision to appoint a skilled person (or to require the firm to appoint a skilled person) is critical to establishing a productive relationship with the regulator from the outset. The regulator will generally provide a draft notice in the first instance and as referenced further below, this gives the firm a valuable opportunity to consider the issues and communicate with the regulator including to deal with any misunderstandings and to set the tone for the firm's approach to the review. The timeline for the review will also need to be considered and there is balance between a natural impetus to ensure the process is concluded swiftly and allowing sufficient time for the firm to respond including through conducting any immediate remedial activity and providing comments on the draft report.

- What is the ultimate outcome for the regulator? It is easy (and understandable) to become embroiled in the day-to-day management of responding to the review, but it is important to keep the end goal in sight, which is usually that the firm is able to demonstrate to the regulator that the regulator's concerns have been addressed and any necessary improvements have been made. On receipt of the section 166 notice, consider: will the way the notice is drafted achieve the regulator's objective or should amendments be made to the scope and/or timeframe? Are there any fundamental issues with the scope of the review that should be discussed with the regulator?
- Skilled person selection and contract: If the firm is responsible for appointing and contracting with the skilled person (as opposed to the regulator directly contracting with the skilled person), the process of short-listing and selecting the skilled person should be approached carefully and with a number of key criteria in mind. It is usually necessary to balance a number of factors and significant senior management time may be required before a selection is made. Consider also appointing internal or external legal counsel to review the contract to ensure the relevant regulatory requirements and legal provisions appropriately reflect the requirements of the section 166 requirement notice.
- Internal governance: Consider implementation of a 'working group' to manage the skilled person process and any correspondence with the regulator. A clearly defined working group comprising of specifical individuals not only demonstrates good governance and oversight in relation to the review but can assist with asserting privilege over communications between external or internal counsel and members of the working group for the purpose of seeking or giving legal advice in connection with the review (and protecting this material from disclosure to a regulator or third party). Consideration can also be given by the working group to how to manage aspects of the review such as responding to future information requests, including beginning to collate potentially relevant materials.
- Preparation for the review: In parallel with any scoping and selection activity, firms should take the opportunity to assess whether they can take any immediate steps to resolve the regulators' stated concerns. Depending on the nature of the concerns raised by the regulator and time available, this may include limited remediation activities, scoping out/conducting an initial review of the documents that are likely to be requested by the skilled person and thinking ahead to preparation for any meetings and interviews with the skilled person. This can provide firms with the opportunity to start the review with their best foot forward and provide the regulators with the most accurate representation of the firm's business.
- During the review
- Document and data review: Most skilled person reviews will involve a substantial document review which will often comprise a broad range of data, including emails, messaging platforms such as Teams or WhatsApp, and might also involve imaging of employees' devices. Firms should consider seeking legal advice where relevant material may be held on personal devices or be encrypted and ensure compliance with any relevant data protection laws when processing personal data. Advice on legal privilege and the extent to which material may be protected from disclosure may also be needed. A document review platform can be beneficial in providing tools to easily search, sift and scrutinise potentially relevant material.
- Interviews: The section 166 requirement notice might anticipate interviews with members of key personnel including senior management. It is important to bear in mind that the skilled person ultimately reports to the regulator and interviewees should be mindful of this and prepare accordingly, for instance by reviewing relevant materials and reminding themselves of key information. Consideration should also be given to seeking legal advice and holding preparation sessions in advance of meetings with skilled persons. Some meetings with the skilled person may not be billed as formal interviews but all interactions with the skilled person can feed into the report to the regulator and so should be approached accordingly (and as with any meeting with the regulator itself).
- Monitoring emerging issues: As the review progresses, issues may arise which can be addressed quickly and without the need to wait until the conclusion of the review. Firms should take proactive steps throughout the review to identify these issues and rectify them accordingly or feed them into any remediation plan.
- Record keeping: Key steps and decisions taken throughout the review (including any changes to the scope of the requirement notice at the outset) should be properly documented; this will assist in responding to

regulatory queries or information requests at a later stage regarding the rationale for a certain decision at a particular stage of the review. A clear audit trail of the steps taken by the firm and its senior management during the review will assist in demonstrating to the FCA or PRA that there was appropriate governance in place, that it was adhered to throughout the review, and that any recommendations made by the skilled person were appropriately implemented.

- Updating the regulator: Ensure regular updates are provided to the regulator throughout the review (whether or not this is a formal requirement set out in the requirement notice), including in relation to progress on implementation of any recommendations arising from the skilled person report or subsequent remediation exercise.
- <u>On conclusion of the review</u>
- Notification obligations: In light of the findings of the skilled person following completion of the review, firms should consider if they have an obligation to immediately notify regulators and/or insurers and/or law enforcement (if there is sufficient suspicion to give rise to the requirement to report a SAR for example). However, the firm's reporting obligations should be monitored throughout the review to ensure that any issues arising which may have a serious regulatory impact on the firm are notified to the regulator immediately after the firm becomes aware. This consideration should extend to other jurisdictions relevant to the firm as regulators there may require notification.
- Skilled person report: Ensure there is the opportunity for senior management to review and comment on the draft report, with advice from internal or external legal counsel, before it is finalised and submitted to the regulator in accordance with the agreed timeline.
- Implementation of recommendations: Even before the report has been delivered to the regulator, the firm should be considering the next stage in the process which may include ensuring proper implementation of any improvements/enhancements recommended by the skilled person, including taking a proactive remediation approach (where appropriate or recommended to do so). Failure to manage effectively this phase carries a high risk of further consequences including subsequent skilled person reviews, regulatory intervention and potential enforcement action.**FMSB, NZFMA Sign Consultation Agreement;** *UK-based Financial Markets Standards Board (FMSB), has signed a consultation agreement with The New Zealand Financial Markets Authority (FMA), a move that formalises cooperation between the two bodies.*

- The two associations say the FMA supports the primary objectives of FMSB to promote fair and effective global wholesale financial markets; to produce clear guidance on how business should be conducted to eliminate or mitigate vulnerabilities; and to promulgate such guidance as widely as possible globally and obtain commitments for its use.
- They add they have strong shared interests in maintaining, and where appropriate, improving the operation of wholesale fixed income, currency and commodities markets and the consultation agreement "underpins their close strategic and working relationship".
- While industry standards do not replace obligations under New Zealand law, the development and promotion of good industry standards can complement principle-based laws and drive robust operational practices among market intermediaries. The agreement will facilitate the FMSB's consultation with the FMA in the development of draft guidance and other publications.
- "This agreement supports FMA's alignment with international best practice and will help the FMA strengthen its engagement with the wholesale industry and market to deliver regulation that sets robust standards and supports innovation," says FMA chief executive, Samantha Barrass. "New Zealand is a small open economy, and so market and regulator-led thinking on global standards is an important part of the FMA's outcomes-focused approach to regulation."
- Myles McGuinness, FMSB CEO, adds, "Our strategic goals, to promote fair and effective markets for all participants, align closely to those of the regulatory authorities, policy makers and supervisors both in New Zealand and around the world. I am very pleased that this consultation agreement demonstrates our important relationship with FMA and look forward to establishing similar arrangements with key regulatory authorities in other jurisdictions as our membership expands."

Financial markets infrastructure provider Symphony says it will combine its AI and domain expertise with Google Cloud's transcription and generative artificial intelligence (gen AI) capabilities to offer built-for-purpose financial markets voice analytics. *The firm says transcription of voice in the financial markets space is a complex endeavour given the highly specialised and fast-paced nature of the business, its jargon, and the security required to protect the confidentiality of business deals, strategy, and everyday conversations. "Off-the-shelf transcription services are not fit-for-purpose and do not provide the security required by financial services firms," Symphony states*.

- To provide its customers with high-accuracy voice analytics, Symphony will use Google Cloud's gen AI platform, Vertex AI, to enhance its Cloud9 voice product with speech-to-text fine-tuning and natural language processing (NLP) capabilities. Cloud9 is a cloud-based voice solution that helps finance and trading teams collaborate across multiple asset classes.
- With gen AI, Symphony says Cloud9 will provide financial institutions with enhanced real-time voice analytics capabilities that can be used to improve customer service, accelerate trade reconstruction, and minimise post-trade processing issues while maintaining compliance and security standards. The compliance-enabling functionality can also extend to active risk analysis and risk management by flagging calls for compliance review when suspicious discussions are detected, it adds.
- Beyond transcribing and summarising conversations for compliance, the gen AI-powered capability will be able to extract product and other contextual insights from unstructured data to enrich the Cloud9 user experience for an enhanced understanding of the market, Symphony claims, adding customers will also be able to extract additional insights from this data such as tagging relevant entities, understanding customer sentiment, and identifying trending topics.
- "We have been on a journey with Google Cloud for the past two years, one that has been a true partnership on many fronts," says Symphony CEO Brad Levy. "We are confident that by tapping Google Cloud's AI capabilities for voice analytics, Symphony will be able to offer the more than 1,000 institutions we serve with top notch service that will create further efficiency and innovation in financial markets."
- Zac Maufe, global head of regulated industries, Google Cloud, adds, "Generative AI has the potential to transform the trading landscape from automating routine tasks to identifying potential misconduct through anomalies in data. Our expanded partnership with Symphony builds on the success of our long-standing collaboration, and with the integration of speech-to-text gen AI, Symphony can provide financial institutions with high accuracy voice analytics that can help improve risk management and drive efficiencies across the trading floor."

SEC Charges Crypto Trading Platform for Failing to Register as an Exchange;; The SEC seeks: (i) a permanent injunction preventing further regulatory violations, including from acting as an unregistered exchange, broker, dealer, or clearing agency, (ii) disgorgement of ill-gotten gains and (iii) civil money penalties.

- In a Complaint filed with the U.S. District Court for the Northern District of California, the SEC alleged that the trading platform's registration failures created risk for its investors by taking "billions of dollars" in fees and trading revenue without following securities regulations. The SEC said that the trading platform lacked internal controls and adequate recordkeeping practices that would have been required of registered securities intermediaries while holding customer crypto assets of $33 billion in value. Further, the SEC alleged that the trading platform commingled customer assets with its own and that recordkeeping failures caused the trading platform to make material errors on its financial statements. As a result, the SEC asserted that the trading platform violated Exchange Act Sections 5 ("Transactions on unregistered exchanges"), 15(a) ("Registration and regulation of brokers and dealers") and 17A(b) ("National system for clearance and settlement of securities transactions").

- U.S. District Court for the Northern District of California Complaint: SEC v. Payward, Inc. and Payward Ventures, Inc.
- SEC Press Release: SEC Charges Kraken for Operating as an Unregistered Securities Exchange, Broker, Dealer, and Clearing Agency

NFA Tells FCMs/IBs to Keep AML Programs Current; *NFA notified futures commission merchants and introducing brokers of the Financial Action Task Force's ("FATF") adoption of a report on crowdfunding techniques used by terrorist groups to raise money for attacks.*

- In the Notice, NFA also highlighted that FATF, the "intergovernmental body that establishes international standards for anti-money laundering, countering the financing of terrorism, and countering the financing of proliferation of weapons of mass destruction (AML/CFT/CPF)," urged vigilance on risks associated with the "circumvention of measures taken against the Russian Federation."
- NFA advised its members to update their AML programs with the most current information on FATF-identified jurisdictions with AML/CFT deficiencies.
- NFA Notice I-23-21: FCM and IB Members—FinCEN adopts terrorism crowdfunding report and updates its list of FATF-identified jurisdictions with AML/CFT deficiencies

FINRA AWC: Cowen and Company Fined for Inaccurate Trade Routing Reports; *A broker-dealer settled charges with FINRA for publishing incorrect quarterly reports required under National Market System regulations ("Regulation NMS").*

- In a Letter of Acceptance, Waiver and Consent, FINRA found that the broker-dealer published quarterly reports regarding its handling of NMS securities that (i) lacked the required disclosures, (ii) included inaccurate information and (iii) were not filed in a timely manner. FINRA determined that the broker-dealer violated Regulation NMS Rule 606(a) ("Disclosure of order routing information") and FINRA Rules 3110 ("Supervision") and 2010 ("Standards of Commercial Honor and Principles of Trade").
- To settle the charges, the broker-dealer agreed to (i) a censure and (ii) pay a $275,000 fine.

FINRA AWC: TD Private Client Wealth LLC Fined for Failing to Review Internal Communications; *settled charges with FINRA for failing to review internal communications.*

- In a Letter of Acceptance, Waiver and Consent ("AWC"), FINRA found that the broker-dealer failed to review approximately 3.5 million emails associated with numerous employees' email accounts. In addition, FINRA stated that the broker-dealer did not address red flags raised by employee email accounts missing from the firm's internal review queue. FINRA determined that the broker-dealer violated FINRA Rules 3110 ("Supervision"), specifically, Rules 3110a and b ("establishing and maintaining a written supervisory system"), Rule 3110(b)(4) ("Review of Correspondence and Internal Communications") and Rule 2010 ("Standards of Commercial Honor and Principles of Trade").
- To settle the charges, the broker-dealer agreed to (i) a censure, (ii) pay a $600,000 fine and (iii) comply with additional undertaking set forth in the AWC.

FCA Regulation round-up - November 2023

Regulatory Initiatives Grid November 2023; The Financial Services Regulatory Initiatives Forum has published the latest Regulatory Initiatives Grid.

- New UK Financial Services Regulatory Initiatives Grid published; includes governmental (HMT) FRF_SRF agenda; 29Nov2023 .pdf
- We publish the Grid twice a year to help manage the operational impact on firms of implementing initiatives from the Forum members. It also helps firms and other stakeholders plan for forthcoming initiatives. The Grid provides detail on the timing of initiatives over a 24-month horizon and highlights key examples of closely interconnected initiatives to help stakeholders easily identify these.

Dear Remuneration Committee Chair letter; *In October, we wrote to the Remuneration Committee Chairs of level one firms (Dual-regulated banks, building societies and PRA designated investment firms with total assets exceeding £50bn).*

- This letter set out some important points for them to consider and adopt into their firm's remuneration policies and practices, to incentivise a consumer-centred approach that ensures good outcomes for consumers across all products and services.
- The letter also acknowledged that many firms have been focused on supporting lower paid workers while no doubt remaining cognisant of inflationary pressures and highlighted the ongoing importance of building and nurturing healthy corporate cultures.
- While we sent the letter to Level one remuneration firms, other firms may find it useful.

Finalised non-handbook Guidance on cryptoasset financial promotions; *We've published our finalised non-handbook Guidance for cryptoasset financial promotions and the accompanying feedback statement.*

- The Guidance supports crypto firms complying with the new marketing rules introduced in October, which aim to help consumers better understand what they are investing in, and the risks involved. The Guidance is designed to help firms develop fair, clear and not misleading promotions for certain types of cryptoassets and services. It also details how firms should apply the Consumer Duty when communicating or approving financial promotions of cryptoassets.
- We continue to remind people that cryptoassets remain largely unregulated and high-risk. People should be prepared to lose all the money they invest.

Regulating cryptoassets Phase 1: Stablecoins; *This month we published our Discussion Paper on regulating stablecoins. Stablecoins are a new type of digital asset which aim to maintain a stable value. This marks the start of the first phase of the Government's plan to introduce a wider cryptoasset regime and builds on the Treasury's Policy Statement.*

- Our paper outlines our initial thinking on how the issuance and custody of stablecoins should be regulated. We also set out potential regulatory requirements for these stablecoins to be used for payments in the UK, as they could help make payments faster and cheaper.
- The aim of the regime is to make sure stablecoins that are issued in or from the UK, held in custody and/or used for payments in the UK are subject to strong regulatory standards. This helps mitigate the risks and harms that we have seen while offering consumers appropriate protections when using this money-like instrument.
- You have until 6 February 2024 to share your feedback on our approach.

Regulatory fees and levies: policy proposals for 2024/25; *We have published a consultation paper setting out plans for changes to the way we will raise FCA fees from 2024/25. We are inviting firms and stakeholders to comment on our proposals by 16 January 2024.*

- This document applies to all FCA fee-payers, levy-payers of the Financial Ombudsman Service and of the Financial Services Compensation Scheme, and any businesses considering applying for FCA authorisation or registration.

Send us your views on Big Tech; *We want your views on the potential competition impacts from the data asymmetry between Big Tech firms and firms in financial services*.

- The next stage of our work in this area seeks to better understand this asymmetry, its influence on how effectively competition evolves in the future, and the potential impact on market power, price discrimination and innovation.
- We'll use your feedback to shape a future regulatory response on Big Tech - respond by 22 January 2024.

IFPR Implementation observations – concluding report; *We published the observations from our multi-firm review into firms' progress in implementing requirements under the Investment Firms Prudential Regime (IFPR).*

- Firms engaged well and showed that they were able to make the transition to the new regulations. However, there are areas for improvement. This publication should be considered together with our February 2023 publication. Firms must act now to consider our findings and assure themselves that they are meeting our rules. We are also holding briefings on the contents of our publications. Please get in touch with your supervisors or trade associations for further information.

Digitisation of authorisation process and performance statistics; *We are reviewing and updating authorisation forms to improve the user journey and guidance text. This will save you time and give us the quality data we need to assess applications.*

- We have made improvements to Form A first, used for Senior Management Function and Controlled Function applications. This is one of our longest and most common forms.
- The new and improved version of Form A will be rolled out to more firms shortly.
- We intend to make changes to other application forms once our work on Form A is complete.
- The new digitised forms will support quicker assessments by making sure we get all the information we need when an application is submitted, preventing avoidable 'back and forth' with applicants to chase missing information.
- This work is part of our aim to become a digital, data-led regulator.
- You can read more in this blog.
- We have also published our latest quarterly authorisations performance metrics.
- The statistics show we are continuing to perform well, with 96.8% of authorisation applications were determined within the statutory deadline.

Consumer Duty: the next steps; *We're hosting a webinar on 6 December to help firms understand our expectations now the Duty is in force.*

- During the webinar we'll talk about our supervision and enforcement approach, sector specific areas of focus, examples of good practice, and next steps for firms. We'll also take questions, which you can submit when you register or during the event. The webinar will be available on demand.
- The webinar follows a speech by Nisha Arora, Director of Cross Cutting Policy and Strategy, on 1 November marking 3 months of the Duty being in force. In the speech Nisha set out that the Duty is not a 'once and done' exercise. Firms need to make sure they are learning and improving continuously and

must be able to evidence this in their annual board report. She also reminded firms with closed products and services that they should check they are on track to meet the 31 July 2024 implementation deadline.
- The Consumer Duty remains a top priority for the FCA. We will continue our work across all sectors to test firms' implementation and embedding and will share good practice to support the industry.

Strengthening anti-fraud systems and treating victims of fraud better; On 7 November we published the findings of our review of anti-fraud controls and complaint handling in a sample of payment service providers, with a focus on Authorised Push Payment (APP) fraud.

Helping consumers navigate the market for sustainable investment products - *Sacha Sadan, Director of Environmental, Social and Governance (ESG); With more and more investors opting for ESG orientated funds, we are seeing greater demand for investments with a positive impact. Through our Financial Lives research, 80% of consumers told us they want their money to do good.*

- https://www.fca.org.uk/publication/financial-lives/financial-lives-survey-2022-key-findings.pdf
- As a regulator tasked with protecting consumers, trust is vital. According to research, 7 in 10 investors are concerned that many investments that claim to be sustainable are not.
- We have published our Sustainable Disclosure Requirements (SDR) and investment labels regime to help consumers navigate the sustainable products available to them. The aim is simple: financial products marketed as sustainable must do as they claim - with evidence to back this up.

Synthetic Data Expert Group update; *In March 2023, we set up the Synthetic Data Expert Group (SDEG) to further explore the use of synthetic data in financial markets.*

- The group aims to provide practical and tangible synthetic data insights for practitioners and policymakers.
- The SDEG will publish a report in 2024 providing practical experiences of generating and using synthetic data across different financial use cases.
- Later next year, we will also create a framework that enables organisations to collaborate on synthetic data use cases to promote data sharing.
- Find out about the progress we're making and how you can get involved.

Review your Overseas ARs (OARs); *We've reminded principals to review any arrangements with overseas appointed representatives (OARs).*

- If your OARs don't carry on regulated activity in the UK you should consider whether the arrangements remain appropriate and, if not, terminate the AR contract.
- You should notify us of terminations (and other AR updates, including to addresses) by submitting the relevant form on Connect.
- We continue to consider our approach to this model and principals may be contacted for further information.
- See PS22/11 (4.19-4.23) for further detail or contact ARDOverseasARQueries@fca.org.uk.

Diversity and Inclusion; *Recently, Sheldon Mills, Sacha Sadan, and other expert panellists discussed our consultation proposals for a more diverse and inclusive financial services industry, demonstrating how our recommendations support progress by setting minimum standards.*

- You can watch our webinar on our proposals to achieve a more diverse and inclusive financial services industry online.
- Our consultation on Diversity and Inclusion in the Financial Sector is open until 18 December 2023, for you to read and respond to.

Changes to reporting requirements for dual regulated firms; *All firms must ensure that we have their correct information by checking, amending (if required) and confirming their firms details at least annually, using Connect, in line with SUP 16.10 reporting requirements. Some of this information is on the Financial Services Register.*

- We have written to all dual regulated firms (firms supervised by the FCA and the PRA) to inform them that they will need to attest to their firm details within 60 business days of their Accounting Reference Date (ARD), from 1 December 2023.
- For more information, visit our website.

Artificial Intelligence and Machine Learning; *In October we published a joint Feedback Statement (FS) on Artificial Intelligence and Machine Learning with the Bank of England. The FS summarises responses to the Discussion Paper published in October 2022.* Key points include:

- Support for principles-based or risk-based approaches to the definition of AI with a focus on specific characteristics of AI or risks posed or amplified by AI.
- Focus of regulation and supervision should be on consumer outcomes, especially with respect to ensuring fairness and other ethical dimensions.
- More coordination and alignment between regulators, domestic and international would be helpful.
- Ongoing industry engagement is important.

Recruitment: CBA Chair; *The FCA Cost Benefit Analysis Panel is a new independent panel established following the enactment of the Financial Services and Markets Act 2023 to provide advice and report on how the FCA and Payment Systems Regulator (PSR) conduct cost-benefit analysis (CBA) in policy development*.

- We are recruiting our first Chair, who will lead a Panel of experts to provide independent and pragmatic advice, challenge, and scrutiny to help raise the standard of CBA and evidence-based policy development in the FCA and PSR.
- We are looking for someone with substantial experience of being in a senior position in the Financial Services industry who also has a strong background in economics and is interested in CBA. Role description with details of how to apply.

Benchmarks Regulation; *On 7 November, the Treasury laid in Parliament a Statutory Instrument (SI) extending the transitional period for third country benchmarks under the UK Benchmarks Regulation (BMR) from 31 December 2025 to 31 December 2030.*

- The SI will come into effect on 1 January 2024, subject to successfully passing through parliament.
- This extension will ensure continued access to third country benchmarks in the UK.

UK Short Selling Regime; *The Treasury has published a draft statutory instrument for a new UK Short Selling Regime to replace the UK Short Selling Regulation as part of the Smarter Regulatory Framework with an accompanying Policy Note as part of the Autumn Statement. The Treasury welcomes comments by 10 January 2024.*

- The Treasury plans to increase the threshold for firms reporting short positions to the FCA to 0.2%, replace the public disclosure of individual firms' short positions in companies with aggregated short positions in companies, and to remove reporting and covering requirements for sovereign debt and sovereign credit default swaps.

Update on property funds; *Following the Government's Autumn Statement announcement that open-ended property funds with extended notice periods will be eligible to be held in an ISA, we will reconsult on proposals contained in CP20/15 to introduce mandatory notice periods for authorised funds that predominantly invest in property.*

- We do not expect to finalise our policy position until at least Q4 2024.
- We understand the operational work required across the value chain to support notice periods. If we proceed with applying mandatory notice periods, we will allow an implementation period of at least 18 months before the rules come into force.

Tokenisation; *In November, we welcomed the industry-led Technology Working Group's report on fund tokenisation.*

- It sets out an approach firms can follow to use distributed ledger technology, such as a blockchain, to make investment funds more efficient within the existing legal and regulatory frameworks. We set out our regulatory views in a letter to the Working Group and a new fund tokenisation webpage.

Project Guardian; *We announced that we are partnering with regulators across the world as part of the Monetary Authority of Singapore's (MAS) Project Guardian. Project Guardian is a collaborative initiative with the financial industry that explores fund and asset tokenisation use cases, and decentralised finance.*

- The project aims to share knowledge and examine the benefits, regulatory challenges, and commercial use cases of asset and fund tokenisation.
- Read more: MAS partners policymakers in Japan, Switzerland and the UK to foster responsible digital asset innovation.

Speeches, Events & Blogs

Speech - Consumer Duty: Not once and done

Nisha Arora, Director of Cross Cutting Policy and Strategy delivered a speech at Deloitte on Consumer Duty next steps.

Speech - How to flex your organisation's power through culture and conduct

Emily Shepperd, Chief Operating Officer and Executive Director of Authorisations delivered a speech at City & Financials' Culture and Conduct Forum on how to flex your organisation's power through culture and conduct.

Speech - Building firm foundations for healthy cultures

Sheree Howard, the FCA's Executive Director of Risk and Compliance Oversight, set out how and why it was important for firms to build healthy cultures.

FCA - The recording of "Diversity and inclusion in the financial sector – working together to drive change" is available to view on demand

FINRA Proposes to Disseminate TRACE Information on Treasury Security Transactions; *FINRA proposed amendments to the Trade Reporting and Compliance Engine ("TRACE") Rules to provide for FINRA to disseminate information on certain Treasury security transactions.*

- The proposed amendments to TRACE Rules 6710 ("Definitions") and 6750 ("Dissemination of Transaction Information") would provide for FINRA to disseminate information on transactions in U.S. Treasury securities reported to TRACE that are "On-the-Run Nominal Coupons" (*i.e.*, transactions in the most recently auctioned U.S. Treasury securities that pay a fixed interest rate). In order to mitigate concerns with respect to information leakage, FINRA proposed to disseminate this information on an end-of-day basis (not on a more accelerated basis), and to indicate whether large transactions meet specified size thresholds (or "dissemination caps"), and not disseminate the actual dollar value of such large transactions. The proposed rule change does not affect reporting requirements of broker-dealers or "covered depository institutions" (*i.e.,* banks subject to TRACE reporting for transactions in U.S. Treasury securities).

- Additionally, FINRA proposed to amend FINRA Rule 7730 ("Trade Reporting and Compliance Engine") to include Treasury securities within the existing fee structure for end-of-day and historic TRACE data.
- Comments on the proposal must be submitted within 21 days of publication in the Federal Register.
- SR-FINRA-2023-015 Rule Proposal: Proposed Rule Change Relating to Dissemination of Information on Individual Transactions in U.S. Treasury Securities and Related Fees

DTCC has launched a new service, OTC Direct Connect, that provides access to OTC derivatives transactions data that are reportable in the US and Canada. *The infrastructure provider says the new service enables firms that are active in the derivatives markets to gain access to a frictionless data delivery solution helping subscribers manage market risks and trading risk factors in near real-time. It also eliminates manual data collection methods, providing scalability and automated access to repository and other published data.*

- “This solution systematically and seamlessly disseminates OTC derivatives transaction data to interested parties,” says Tim Lind, managing director of DTCC Data Services. “OTC Direct Connect improves transparency in the OTC derivatives markets, as intended by regulatory disclosure mandates, by providing subscribers with improved information access.”
- Subscribers receive data on Amazon Web Services (AWS) through AWS Data Exchange, where they can find, subscribe and use third-party data in the cloud. AWS Data Exchange also natively integrates with other AWS services for a frictionless experience, including Amazon Simple Storage Service (Amazon S3), Amazon Athena and Amazon Redshift, which can be used to streamline data storage and ingestion into a subscriber’s own systems and applications.

DTCC Report Hub Introduces Trade Reporting Analytics And UTI Exchange Capabilities As Industry Prepares For Upcoming Trade Reporting Rules Rewrites; DTCC; DTCC, the premier post-trade market infrastructure for the global financial services industry, today announced the launch of Trade Reporting Analytics and UTI Exchange as part of its DTCC Report Hub service. Report Hub is a cloud-based pre and post reporting platform that helps firms manage the complexities of meeting multiple derivatives and securities financing transactions mandates across 14 global regimes. DTCC Report Hub's new Trade Reporting Analytics provides reporting parties access to a growing library of over 100 data insights on their own reporting behavior to identify potential errors, highlight trends, and benchmark performance against anonymized peers. Report Hub's Trade Reporting Analytics capabilities have been validated by a pilot user group of some of the world's largest firms, including J.P. Morgan, Nomura Americas Services, LLC and Wells Fargo. /jlne.ws/45Q5vGr

New Guidance on Future CFTC Enforcement Resolutions Breaks With Precedent; *The Commission’s Division of Enforcement recently released a new advisory to its staff related to penalties, corporate compliance monitors and consultants, and admissions in CFTC enforcement actions (the Advisory).[1] The Advisory reflects Enforcement’s focus on achieving accountability and minimizing future misconduct when negotiating a proposed resolution to recommend to the CFTC. The Advisory also applies to proposed resolutions of federal court or administrative enforcement actions.*

1. *We expect Enforcement to recommend significantly higher penalties than have been imposed in similar actions previously, particularly in matters involving similar conduct across multiple market participants or matters involving perceived recidivism.*
2. *Enforcement will likely recommend monitors and consultants more often, especially for perceived recidivists.*

3. *We anticipate demands for admissions will become more common when negotiating settlements with the CFTC.*

- In announcing the Advisory, Enforcement Director Ian McGinley noted that "*approaching resolutions requires consistent calibration to achieve the right balance between incentivizing settlement and deterring misconduct*" and that the new Advisory was "important to striking that balance properly."[2] Chairman Rostin Behnam noted that approaching resolutions consistent with the Advisory will "*ensure greater transparency and answerability throughout the process*," consistent with the CFTC's "duty to ensure that every enforcement action aims to elevate compliance and optimize deterrence."[3] Commissioner Goldsmith-Romero supported the Advisory, focusing her statement on the Advisory's approach to admissions, which "adopt[s] [her] proposal of replacing the routine practice of neither-admit-nor-deny settlements with a case-by-case decision on requiring settling defendants to admit their wrongdoing."[4]
- The Advisory is consistent, in various respects, with other federal agency guidance. For example, the Advisory's approach to monitorships aligns with the Department of Justice's (DOJ) March 1, 2023, Revised Memorandum on Selection of Monitors in Criminal Division Matters, which outlines the factors the DOJ considers when evaluating the necessity and potential benefits of a monitor.[5] The Advisory is also consistent with statements by Securities and Exchange Commission (SEC) leadership regarding the importance of admissions.[6]
  - Civil Monetary Penalties (CMPs)
- The Advisory declares that, going forward, Enforcement is "recalibrating" how it is assessing proposed CMPs "to achieve general and specific deterrence," warning that this may lead to "higher penalties in resolutions than may have been imposed in similar cases previously." In particular, the Advisory cites to the need to assess higher penalties where "multiple similarly situated respondents violate similar laws in similar ways over time." The Advisory also makes clear that Enforcement will heavily weigh recidivism by the same respondent when determining the appropriate CMP to recommend to the Commission.
- To determine whether a person or entity is a recidivist, the Advisory notes that Enforcement will consider various factors, including (i) whether prior and current Commission actions involve the same or similar kinds of violations or subject matter or result from the same root cause; (ii) the time between offenses, with more recent conduct being given more weight; (iii) whether overlapping management was involved; (iv) the pervasiveness of the new misconduct; and (v) the robustness and effectiveness of remediation taken since the prior resolution.
- The Advisory's focus on general deterrence and recidivism suggests that Enforcement expects to demand significantly higher penalties than might be expected given prior precedent. We expect that this trend will be the case where Enforcement observes similar violations across numerous market participants and is seeking to send a signal to the market or believes the firm does not "get it" and lacks the culture of compliance necessary to remediate and prevent future misconduct. The CFTC's aggressive approach to even relatively minor compliance lapses and the growing trend of industry-wide investigative sweeps create an environment where registrants of any significant size will be in front of the CFTC more frequently, thereby increasing the risk of higher penalties on account of perceived "recidivism."
  - Corporate Compliance Monitors or Consultants
- The Advisory highlights that Enforcement anticipates recommending a monitor in "cases involving the most significant and/or pervasive compliance and control failures reflecting a lack of sufficient commitment to effective compliance" and where Enforcement lacks confidence that the entity will remediate on its own.[7] Consultants will be recommended in less severe cases, specifically where Enforcement believes the entity requires advice regarding remediation but can otherwise remediate its misconduct without oversight. The Advisory identifies the responsibilities of a monitor or consultant as including (i) testing to identify, address and prevent future misconduct; (ii) drafting specific recommendations to address issues identified during testing; and (iii) testing the sufficiency of enhancements to implement recommendations.
- For a monitorship, Enforcement must approve the selection of the monitor. Enforcement will receive reports from the monitor describing the remediation plan and implementation of the remediation plan. If an entity chooses not to adopt a monitor's recommendation, it must state the reasons for non-adoption

in writing to Enforcement. The monitor and the entity must certify the entity's completion of a remediation plan.

- For a consultant, Enforcement approval typically will not be required. The consultant will be expected to advise the entity regarding implementation of remediation-related undertakings and periodically report to Enforcement on progress of implementation. The entity will certify completion of remediation-related undertakings at the conclusion of the consultant's engagement.
- In connection with the CMP discussion, the Advisory notes that, for recidivist entities, Enforcement will be inclined to recommend a monitor or consultant be imposed. This approach could make resolving certain matters with the CFTC significantly more challenging, given that a resolution increases the likelihood that the entity will be treated as a recidivist in the future and thus a candidate for a monitor or consultant.
- Admissions
- Finally, the Advisory makes clear that "respondents should no longer assume that no-admit, no-deny resolutions are the default;" rather, in each case, Enforcement "will discuss with respondents whether admissions are appropriate."
- The Advisory identifies certain factors that Enforcement will consider when assessing whether admissions are appropriate. The Advisory notes that certain factors "may be more or less relevant" and "no factor . . . is dispositive," and that additional factors may be relevant.
- Factors in favor of admissions include (i) the respondent's entry into parallel criminal resolution with admission of misconduct; (ii) evidence conclusively establishing the misconduct, for example, a respondent admission via testimony or documents compel the admission; (iii) whether and to what extent the respondent seeks cooperation credit, since admissions are evidence of cooperation; and (iv) whether the offense is a strict liability offense in clear violation of the law and state of mind is not relevant. Factors counselling against admissions include (i) whether criminal exposure may arise from an admission and (ii) whether there is a legitimate factual dispute that persuades Enforcement that it faces significant litigation risk establishing the fact at trial.
- We note that several of these factors militate in favor of demanding admissions based on Enforcement's assessment of the strength of its own case and its read of the evidence. In fact, the Advisory suggests Enforcement may seek admission in more cases than not. *Given this dynamic, we expect that demands for admissions will become increasingly more common when companies are negotiating settlements with the CFTC.*

1. https://www.cftc.gov/media/9466/EnfAdv_Resolutions/download
2. https://www.cftc.gov/PressRoom/SpeechesTestimony/opamcginley2
3. https://www.cftc.gov/PressRoom/PressReleases/8808-23
4. https://www.cftc.gov/PressRoom/SpeechesTestimony/romerostatement101723
5. https://www.justice.gov/criminal-fraud/file/1100366/download
6. https://www.sec.gov/news/speech/grewal-remarks-securities-enforcement-forum-west-051222 ("We don't play games with admissions. If we say, during settlement negotiations, that we demand admissions, we mean it and are prepared to litigate the case if the Commission authorizes an action. Admissions are not a bargaining chip.")

SEC contradicts itself on exchange pricing, say firms *Cboe warns ban on volume-based rebates will not improve pricing for investors*

- The US Securities and Exchange Commission is doing battle with itself on equity market structure reforms, according to market participants. The regulator last month issued a proposal that would prohibit national securities exchanges from offering volume-based transaction fees on agency orders. But some in the industry think the rule will not achieve its goals and may instead collide with some of the proposals in the wide-ranging market structure overhaul the SEC adopted in December 2022. "There are just inherent contradictions, as if one rule said everybody needs to go to the left side of the ship, and the next proposal says everybody needs to go to the right side of the ship, and then they say: 'Please comment'," said Gregg Berman, managing director of market analytics and regulatory structure at non-bank market-maker Citadel Securities. "The comment is I don't know which one you want us to go to first – tell me, and then I'll be able to give you a robust comment." Berman was speaking at a conference on November 2 organised by the Securities Industry and Financial Markets Association (Sifma).

- In announcing the latest proposal on October 18, SEC chair Gary Gensler said the aim was to create a more level playing field among agency brokers. The proposed rule would allow volume-based pricing to continue for proprietary trades, but with anti-evasion measures to ensure no agency execution is circumventing the ban. "Through volume-based transaction pricing, mid-sized and smaller broker-dealers effectively pay higher fees than larger brokers to trade on most exchanges," said Gensler. "We have heard from a number of market participants that volume-based transaction pricing along with related market practices raise concerns about competition in the markets."
- However, speaking at the Sifma event, Adam Inzirillo, head of data and access solutions at Cboe Global Markets, argued that the proposal would not foster competitive markets. "Pricing is a mechanism for exchanges to be able to compete effectively, not just with other exchanges but also with off-exchange market participants," said Inzirillo. "If you look at the recent agency fee proposal, it seems to contradict that."
- The SEC's rulemaking unveiled on December 14, 2022, tackled the topic of exchange fees from a different direction. Previously, the National Market System regulation (Reg NMS) allowed exchanges to calculate volume-based tiering and fee rebates at month's end. But the SEC said this "impedes the ability of market participants, including investors, to evaluate the total price of a trade at the time of execution and impedes a market participant's ability to evaluate best execution and order routing."
- Therefore, one of the numerous planned reforms to Reg NMS in the December rulemaking was a requirement that all fees and rebates must be determined at the time of execution. Berman complained that this reform would become largely pointless if tiering and rebates for agency trades were banned outright. "The SEC stated in the NMS proposal they do not want to have volume tiers that are retroactive, because it is too difficult for agency brokers to pass the fees back if they don't know what those fees are," said Berman. "Now… if you are going to eliminate tiers for agency orders, then doesn't that mean 100% of all the concerns that they raised about the backward-looking tiers are no longer a concern?" Whatever the SEC's view of volume-based tiering as a concept, said Berman, the agency should not be issuing two rulemakings that are so "contradictory."

On the design stage of implementing effective transaction monitoring systems; Three steps to effective transaction monitoring; *These risks can be substantially reduced by focusing on three areas as part of the design stage of implementing transaction monitoring systems: deciding on an overall strategy, taking advantage of all relevant inputs, and dovetailing with other monitoring systems.*

- Effective transaction monitoring is the cornerstone of an effective financial crime framework. Yet many firms, large and small, neglect this important area. From older systems that are no longer fit for purpose to poorly calibrated newer systems, many firms struggle to get transaction monitoring right. And when they get it wrong, it can lead to poor customer outcomes, expensive rework and remediation projects and even regulatory fines.
- Deciding on an overall design
- Rules-based and profile-driven approaches to transaction monitoring are among the most common approaches we come across. These are often somewhat limited in design and result in high volumes of false positive alerts. But they do provide firms with assurance that certain types of transactional activity and changes in customer behaviour will always be monitored.

- Network-based approaches, leveraging the strengths of graph database technology, are more sophisticated and able to detect the all-important transactional patterns (such as cycles and washes) that facilitate the detection of organised criminal activity.
- At the cutting edge of approaches being taken by firms today are machine-learning based systems that use artificial intelligence to detect suspicious activity through reference to previous cases that have been detected in the past. While machine-learning systems can be highly effective, their opacity can make it hard for firms to explain (for example, to regulators) how they operate and what kinds of activity they actually detect.
- The most effective transaction monitoring frameworks use a combination of all four approaches, taking advantage of the strengths of each. Case management and workflow systems can be good short-term solutions to bring together the outputs of multiple separate systems to allow cross-comparison of information and reduce duplication of effort. An even better solution is implementing all four capabilities into one system, allowing factors from each area to be considered in determining whether to flag certain activity for review.
- Taking advantage of all relevant inputs
- The effectiveness of a transaction monitoring system also depends on the inputs that go into the system. The most important of these is the customer activity itself. Most firms will consider numerical data (transaction amounts and timings) for the purposes of monitoring, but many neglect additional factors that are also relevant. Rules that take into account the presence of high-risk phrases in narratives and counterparty names, including partial and fuzzy matches, are a must, as is consideration of non-transactional activity, such as system login records, changes of address and alterations in account signatories for corporations. Geographic identifiers (locations of ATMs involved in transactions and clustering in locations of corporate counterparty addresses) are of particular importance for network-based solutions. Each of these elements require firms not only to ensure that the relevant data is supplied to the system and appropriate rules developed to use this data, but also that relevant information (such as lists of high-risk terms and physical locations) is kept up to date by the business.
- Another core input into transaction monitoring is the various risk assessments completed by the business. Firms need to consider how their customer risk assessment methodology supports effective transaction monitoring, rather than being oriented around customer due diligence. The most effective customer risk assessment methodologies output more than just a single risk score for each customer, and are able to support a differentiated, segmented approach to monitoring by providing separate scores for multiple risk factors such as a customer's geographical origin and industry of occupation.
- Dovetailing with other monitoring systems
- Financial crime transaction monitoring is not an isolated activity. From periodic file reviews, through sanctions and name screening to anti-fraud measures, ongoing monitoring is a broad area.
- Firms operating outside of the core financial services sector conduct additional types of monitoring. Firms operating in the capital markets space operate sophisticated trade monitoring and communications surveillance systems. Firms in the gaming sector monitor gambling 'transactions' for cheating and in relation to safer gambling concerns.
- In designing an effective transaction monitoring system, firms must consider the risks – and potential opportunities – in the way these different systems overlap and work together. Wash trades picked up via trade monitoring may not always be classifiable as market abuse but may be indicative of sophisticated markets-based money laundering. Customer identified as vulnerable via safer gambling monitoring may be at threat of becoming mules to launder the proceeds of crime on behalf of criminals. Some customers flagged up via anti-fraud monitoring may be perpetrators rather than victims.

Comms monitoring takes centre stage with global regulators; Morgan Stanley's £5.4m fine for failing to monitor communications is another warning that policies and training don't always equate to 'reasonable steps' in ensuring compliance. *Different regulators have different requirements when it comes to recording and* *monitoring communications so it's worth revisiting all your processes to make sure they match up to the relevant rules and your firm's specific risks.*

- Ofgem fine highlights expectations
- Ofgem, the UK energy regulator, fined Morgan Stanley for failing to keep records of communications among its energy market traders after several London-based staff members discussed wholesale energy transactions on WhatsApp. The Ofgem findings are a useful guide to what is required for the recording and monitoring of communications in a world of messaging apps which blur the personal and professional.
- Ofgem found that between 2018 and 2020, Morgan Stanley had not complied with Regulation 8 under REMIT, which requires wholesale energy market participants to take reasonable steps to ensure that any electronic communications about trading wholesale energy products are recorded and retained, and to take reasonable steps to prevent the use of electronic communications which cannot be recorded. Ofgem pointed out in the Final Notice the importance of adequate records for the authority to be able to fully investigate and enforce breaches of REMIT.
- Regulators across UK, US and Asia focus on communications
- The UK energy regulator is not the only one reminding market participants of the importance of adequate audit trail for investigations. The UK's FCA has reiterated recording obligations under SYSC rules (10A), which require a particular focus in a hybrid working environment. In Market Watch 66, the FCA stressed that firms are expected to take all reasonable steps to ensure that all in-scope activities are carried out via recorded auditable means and to prevent both employees and contractors from using privately-owned equipment where a firm is unable to retain the relevant records.
- Equally, firms should be able to demonstrate upon request from the regulator that they have effective and up-to-date recording policies and procedures to meet these recording obligations, and that their approach is subject to management oversight.
- Firms arranging and executing transactions are also expected to carry out on-going communication surveillance to detect market abuse. Ensuring all relevant communications are recorded is key in fulfilling this obligation and achieving adequate and effective communications monitoring.
- Similarly, US regulations require firms to record communications pertaining to providing investment advice and transactions, as per Rule 204-2 of the Advisers Act and Section 17 of the Exchange Act. More than twenty financial groups have now been fined $2.5bn collectively for their employees' use of WhatsApp and other encrypted messaging apps to discuss deals with colleagues and clients. High-profile failures have also been noted regarding the storage of electronic communications.
- In 2021, Morgan Stanley was fined $200m by the US regulator, as were a number of other banks including Credit Suisse and HSBC. It forfeited (and clawed back) up to $1m per employee, with individual fines factoring number of messages sent, employees' seniority and previous warnings received. Most recently, Goldmans Sachs has shown they take their obligations seriously, announcing that it was firing its transaction banking chief over communications policy breaches. While no details have been provided, under Goldman's communications policy, employees are required to communicate about firm-related business on channels that have been approved by the bank.
- In Singapore, Principle 2.13 of the Trade Surveillance Practice Guide states that brokers should record all communications with persons providing instructions on orders and trades for clients' accounts. It also warns that electronic communication channels, such as messaging platforms, are increasingly common and may require the use of sophisticated monitoring tools; and that the records of such communications, which may provide strong evidence of market misconduct, should be made available to surveillance staff for their review and active monitoring.
- Similarly, in Hong Kong, under the Securities and Futures Commission's (SFC) Keeping of Records Rules, client orders and instructions have to be recorded. A 2018 SFC circular ("Receiving client orders through instant messaging") addressed the increased use of WhatsApp and similar applications by brokers. It states that IM communications are to be recorded and monitored in line with regulatory requirements to keep proper records of client orders; checks are to be performed on electronic messages to detect irregularities and potential malpractice.

- Mitigating risks
- If your firm is subject to one or multiple regimes, you should ensure your controls and approach are aligned with the relevant regulators' expectations. As seen with the Ofgem outcome, each regulator's approach to what may be 'reasonable steps' varies.
- The lessons learnt in the Morgan Stanley case are a good starting point for understanding the regulatory expectations in this space. Though specific to REMIT, it demonstrates that a policy and basic training is not enough to prevent and detect breaches around the use of personal devices. The bank had rules to prohibit the use of WhatsApp for business purposes. It also sent e-mail reminders of the company policy, required employees to sign an undertaking not to use unofficial means to carry out relevant communications and provided training focused on the misuse of WhatsApp and similar messaging systems. Still, Ofgem found that it did not take "sufficient reasonable steps to ensure compliance with its own policies and the requirements of the regulations." Morgan Stanley was only determined to be no longer in breach once it had rolled out further training to employees which reinforced the prohibition on the use of WhatsApp, taken internal action over the use of WhatsApp by employees, and launched an internal investigation into the use of WhatsApp and other non-company approved messaging systems.
- In light of these findings, we are reminded of the importance of carefully drafted internal policies that stand up to scrutiny and provide details on how the firm prevents on-going unauthorised behaviour, for instance with disciplinary actions. It also highlights that targeted, up-to-date, tailored training is considered an essential part of the toolkit. It is also crucial that your communication monitoring is commensurate to the size of your business. If a software is used, its key word list should be tailored to your business rather than off-the-shelf. Otherwise, an effective sampling method should be in place, for instance with increased monitoring at sensitive times such as month-end or around announcements.

As financial institutions in Singapore deal with the fallout of August's S$2.4 billion money laundering scandal the MAS has emphasized the importance of robust anti-money laundering and countering terrorist financing measures. *Two key areas of concern are around the usage of complex structures by customers and sanction-related risks. A pair of MAS circulars last month emphasized the importance of verifying the identity of customers, understanding the usage of potentially complex structures and detecting and managing customers associated with sanctions imposed by the MAS or by international jurisdictions.*

- *These reminders follow on from recommendations to strengthen Countering the Financing of Terrorism (CFT) controls in May 2023.*
- Financial institutions are expected to conduct a gap analysis to review their AML/CFT frameworks and controls against the circulars and take steps to enhance existing controls if there are any gaps. The MAS has set out the areas which it expects to be reviewed.
- Strengthening AML/CFT related to legal persons/arrangements and complex structures
- The first MAS circular, published on the 30th August covered: Strengthening AML/CFT controls on risks of misuse of legal persons/arrangements and complex structures. The circular outlined how financial institutions should carefully assess nature of a customer's business, ownership and control structure. These focused on three areas:
    - Understanding the ownership and control structure of customers in order to identify the correct beneficial owner.
    - Assessing if there are any legitimate reasons for complex structures.
    - Scrutinising unusual transactions and assessing the associated risks.
- Detecting sanction-related risks
- The second circular, released the following day on the 31st August looked at: Ensuring effective detection of sanctions-related risks. This circular outlined the measures financial institutions should consider to enhance controls over sanctions:
- Set a clear risk appetite towards sanction risks and carefully consider the potential impact of sanctions.
    - Set clear roles and responsibilities in dealing with sanction related risks. The relevant departments should be properly trained and adequately staffed to detect, monitor and manage sanction risks.

  - Establish risk metrics to detect and monitor sanctions risks.
  - Implement an escalation process to report and sanction related risks events.
  - Continuously enhance sanction detection capabilities (for example using data analytics and lookback mechanisms)
- These events serve as a timely reminder of the importance for all financial institutions, including Fund Management Companies and other Capital Markets Services holders, to remain vigilant against financial crime as Singapore continues to grow and develop the financial sector.

The SEC has unveiled its 2024 Exam Priorities, signposting where attention is likely to be focused during the year ahead. *Typically circulated towards the start of the calendar year, the regulator has published early to ensure investors and registrants are better informed of the risks, trends, and examination topics for the upcoming year.*

- As always, the SEC will focus examinations on organizations yet to be examined (including recently registered organizations), and those that have not been examined in several years. The examinations focus on the adequacy of an advisers' policies and procedures, and the ability to implement, follow, and disclose (as applicable) those written requirements.
- Investment advisers
- Examinations of Investment Advisers

- Advisers should be prepared for examinations to focus on the ten key areas detailed in the Adviser's Act of 1940, but in the announcement the SEC called out the below areas in particular:

  - Marketing practices of advisers, including advisers to private funds, focusing specifically on adoption of the new Marketing Rule and appropriate disclosure of Marketing practices in Form ADV
  - Substantiation of processes and other required books and records
  - Assessment of disseminated advertisements that may include untrue statements, are materially misleading, or are otherwise deceptive
  - Compliance with the requirement for performance reporting, third-party ratings, and testimonials and endorsements
  - Valuation assessments regarding advisers' recommendations to clients, particularly in illiquid or difficult to value assets
  - Safeguarding assessments for advisers' ability to protect client's material non-public information, particularly in firms with shared office locations, which have high turnover, and/or use expert networks
  - Disclosure assessments to review the accuracy and completeness of regulatory filings. The announcement called out Form CRS in particular.
- The Commission is also focused on adviser's policies and procedures for selecting and using third-party service providers, overseeing branch offices in advisers with numerous or geographically dispersed offices and obtaining informed consent from clients when an adviser implements material changes to advisory agreements.
- Examinations of investment advisers to private funds

- An expected area of focus considering the release of the Private Fund Rule this September, the SEC called out some specific topics for these organizations:

  - Portfolio management risks that are present when there is high volatility and higher interest rates, particularly for private funds experiencing poor returns, significant withdrawals, valuation issues and/or fends with more leverage and illiquid assets
  - Adherence to contractual requirements regarding limited partnership advisor committees or similar structures

  - Accurate calculation and allocation of private fund fees and expenses
  - Due diligence practices with respect to private equity and venture capital fund assessments of prospective portfolio companies
  - Conflicts, controls, and disclosures regarding private funds managed side-by-side with registered investment companies and use of affiliated service providers
  - Compliance with Adviser Act custody requirements
  - Policies and procedures for Form PF.

- Investment companies
- The Division continues to prioritize examinations of registered investment companies (RIC), including mutual funds and ETFs, due to their importance to retail investors. The SEC has signalled that they will focus on fees, expenses, and whether registered investment companies have adopted effective policies, with a particular focus on:

  - Charging different fees to different share classes of the same fund
  - Identical strategies offered by the same sponsor through different distribution channels that charge differing fee structures
  - High advisory fees relative to peers
  - High RIC fees and expenses, particularly those of RIC's with weaker performance relative to their peers
  - Derivatives risk management assessment to review whether registered investment companies as well as business development companies have adopted and implemented written policies and procedures reasonably designed to prevent violations of the Commission's fund derivatives rule (Investment Company Act Rule 18f-4).

- In addition, the Division will review for compliance with the terms of exemptive order conditions and the issues associated with recent market dislocations and volatility, such as whether registered investment companies in liquidation are following liquidation procedures.
- Broker dealers
- Regulation Best Interest

- Regulation Best Interest is what establishes the standard of conduct for broker-dealers at the time they recommend to a retail customer a securities transaction or investment strategy. There are many key aspects to this rule, but the Division have particularly called out:

  - Recommendations regarding products, investments strategies, and account types
  - Disclosures made to investors regarding conflicts of interest
  - Conflict mitigation practices
  - Process for reviewing reasonably available alternatives
  - Factors considered in light of the investor's investment profile.

- Examinations will focus on products that are:

  - Complex, such as derivatives and leveraged ETFs
  - High cost, such as variable annuities
  - Illiquid, such as nontraded REITS and private placements
  - Proprietary
  - Microcap securities
  - Recommendations to certain types of investors, such as older investors or those saving for retirement or college.

- The Division will also focus on dual registrants, specifically how those firm's encompass conflicts of interest, account allocation practices and account selection practices and examinations are expected to assess broker-dealers supervision of branch office locations.
- Form CRS
- The Division's examinations will review the content of a broker-dealer's relationship summary, such as how the broker-dealer describes:
  - The relationships and services that it offers to retail customers
  - Fees and costs
  - Conflicts of interest
  - Whether the broker-dealer discloses any disciplinary history
  - If broker-dealers have met their obligations to file their relationship summary
  - If broker-dealers have met their obligations to deliver their relationship summary to retail customers

- Broker-Dealer financial responsibility rules
- Examinations will focus on broker-dealer compliance with the Net Capital Rule, the Customer Protection Rule and related internal processes, procedures and controls. Areas of review will include fully paid lending programs and broker-dealer accounting for certain types of liabilities, such as reward programs, point programs, gift cards and non-brokerage services, and will also assess broker-dealer credit, interest rate, market, and liquidity risk management controls to assess whether broker-dealers have sufficient liquidity to manage stress events.
- Broker-Dealer trading practices
- Examinations will cover broker-dealer equity and fixed income trading practices. In particular, reviewing compliance with:
  - Regulation SHO, including the rules regarding aggregation units and locate requirements
  - Regulation ATS, and whether the operations of alternative trading systems are consistent with the disclosures provided in Forms ATS and ATS-N; and (3) Exchange Act Rule 15c2-11.

- Risk areas impacting various market participants
- Finally, the Division provided clarity on some general areas of the market they will be focusing on that impact various types of market participants. These areas of focus include:
- Information security and operational resiliency
- Cybersecurity remains a perennial focus area for all registrants. The SEC will review practices related to mission-critical services, specifically interruptions may be handled and how investor information is protected.
- The SEC will also focus on policies, procedures, and controls related to the use of third-party vendors. Part of this review will consider whether registrants adequately train staff regarding their identity theft prevention program and their policies and procedures designed to protect customer records and information.
- For firms with multiple offices, examinations will look at firms' practices to prevent account intrusions and safeguard customer records and information, including personally identifiable information.
- The SEC will also assess broker-dealer preparedness for the upcoming shortening of the settlement cycle, which has a compliance date of May 28, 2024.
- Crypto assets and emerging financial technology
- The Division continues to observe the proliferation of certain types of investments (including crypto assets and their associated products and services), emerging financial technology (such as broker-dealer mobile applications), and advisers choosing to provide automated investment advice to their clients. Focus will be on organizations that:

  - Offer new products and services, particularly technological and online solutions that service online accounts aimed at meeting the demands of compliance and marketing.
  - Use automated investment tools, artificial intelligence, and trading algorithms or platforms, and alternative sources of data.

- Given the continued volatility and activity around the crypto markets, organizations that operate in that part of the market can expect exams to focus on:

  - Ability to meet and follow their respective standards of conduct when recommending or advising customers and clients regarding crypto assets, with a focus on the client's ability to understand the investment and the appropriateness of the investment for the individual
  - Reviewing that organizations are able to routinely review, update, and enhance their compliance practices, risk disclosures, and operational resiliency practices.

- With respect to crypto assets that are funds or securities, the Division will consider whether advisers are complying with the custody requirements under the Advisers Act (Rule 206(4)-2)
- In addition, the Division will assess whether any technological risks associated with the use of blockchain, and distributed ledger technology have been addressed.
- Anti-Money Laundering

- The Division will continue to focus on AML programs to review whether broker-dealers and certain registered investment companies are:

  - Appropriately tailoring their AML program to their business model and associated AML risks
  - Conducting independent testing
  - Establishing an adequate customer identification program, including for beneficial owners of legal entity customers
  - Meeting their SAR filing obligations.

- Examinations of certain registered investment companies will also review policies and procedures for oversight of applicable financial intermediaries.

UBS Remains Under Swiss Regulator's Magnifying Glass; Finma, Switzerland's financial watchdog, said it is supervising UBS 'intensively' following its tie up with Credit Suisse; UBS is facing scrutiny from Finma, Switzerland's chief financial regulator, as it integrates with Credit Suisse following the merger of the two global banks this year, the regulator said, adding that it will appoint outside monitors to oversee the process. The risks of cyberattacks, information-technology disruptions and fraud have significantly increased during the integration of UBS and Credit Suisse, Finma said Thursday in an annual risk outlook report. The regulator also noted an overarching concern that a lack of a "holistic overall risk view" could mean that controls are inadequate. /jlne.ws/3srbgwK

UK financial promotions: The new gateway and other reforms; *The FCA's new regulatory 'gateway' for firms that approve financial promotions, which opened for applications on 6 November 2023, is one of a number of reforms to the UK's financial promotion regime that have been proposed and/or introduced in recent months.*

- In our new briefing note, we look at the new gateway and also explore some of the other changes to the regime, as well as some practical considerations for firms.

Ex-NatWest chief Alison Rose to forfeit £7.6mn after Nigel Farage scandal; *Former boss of government-backed lender will forego £4.7mn in unvested share awards and a bonus of up to £2.9mn*

- **Ex-NatWest CEO Rose Loses Bonus, Stock After Farage Scandal; Lender said Rose will forfeit deferred shares she'd earned; Rose to continue to collect her salary, pension contributions**; British lender NatWest Group Plc has slashed former Chief Executive Officer Alison Rose's pay by pounds 7.6 million ($9.28 million) as the company looks to move beyond the debanking scandal that forced her out earlier this year. Rose, who led the bank until July, will forfeit pounds 4.7 million in deferred shares she'd been awarded, according to a statement on Friday. The company will also not pay Rose her pounds 2.9 million bonus and other long-term awards for 2023, the statement said. /jlne.ws/46cV93w
- Former NatWest chief executive Alison Rose will forfeit £7.6mn in outstanding pay and bonuses she could have been due from the bank, after the conclusion of a review into her role in the scandal surrounding the closure of Nigel Farage's accounts. On Friday, the board said she did not qualify for "good leaver" status that would have entitled her to the full amount. However, NatWest, which counts the UK government as its largest shareholder, said there was "no finding of misconduct" against Rose, who had been chief executive of the bank since 2019.
- That means that under the terms of her contract, Rose is entitled to receive her 2023 salary, pension and fixed-pay share allowance, which total £1.75mn for the remainder of her notice period until July next year. She will then have received £2.4mn altogether for 2023. Rose will also receive £395,000 for her legal fees and £60,000 for outplacement support, with value added tax costs covered on top.
- She will nevertheless lose about £7.6mn in potential pay. She will forego £4.7mn in unvested future share awards and will not be paid a bonus for 2023, which could have been a maximum of £2.9mn. Rose will, however, continue to receive about £850,000 of stock that can be cashed in before her notice period ends in July. "I am pleased that NatWest has confirmed that no findings of misconduct have been made against me," Rose said in a statement. "I can also confirm acceptance of the terms of the settlement agreement . . . bringing the matter to a close."
- Rose — one of the most high-profile female executives in the UK and who received a damehood in the 2023 honours list — stepped down by mutual consent in July amid a row over the "debanking" of Farage, the former leader of the UK Independence and Brexit parties. Rose previously admitted unintentionally misleading a BBC reporter into writing a story that said NatWest's private bank, Coutts, cut ties with Farage for purely commercial reasons and that the decision had nothing to do with his political views. She denied sharing confidential customer data and said she had incomplete information at the time.
- Farage subsequently obtained and released a dossier of internal documents from Coutts that showed its reputational risk committee had accused him of "pandering to racists" and being a "disingenuous grifter", which was "at odds with our position as an inclusive organisation".
- NatWest last month published an independent review by law firm Travers Smith that found the decision to close Farage's bank account was lawful and in line with its policies. It did, however, acknowledge that the bank had failed to communicate the decision properly and had mishandled Farage's complaint.
- Continuing a chaotic series of events, late last month the Information Commissioner's Office initially concluded Rose had inappropriately shared Farage's personal data in an inaccurate way. Two weeks later, the ICO was forced to apologise to Rose after conceding that it had given a misleading impression that she had breached data protection law, as well as failing to interview her during its probe or giving her the chance to comment on its findings.

Broker Fined for Omitting Negative Information on Form CRS; A broker-dealer settled charges with FINRA for omitting required information on disciplinary history and conflicts of interest in its Client Relationship Summary (Form CRS).

FRB Governor Bowman Reiterates Criticism on Banking Proposals and Guidance; Federal Reserve Board Governor Michelle W. Bowman criticized several recent banking proposals, calling on regulators to "appropriately calibrate and prioritize their supervisory and regulatory actions."

Session recording | Regtech Showcase: Mastering communications monitoring | November 2023

ICE;' Circular 23/172 - Disciplinary Notice: Settlement of Disciplinary Proceedings against Citigroup Global Markets Inc

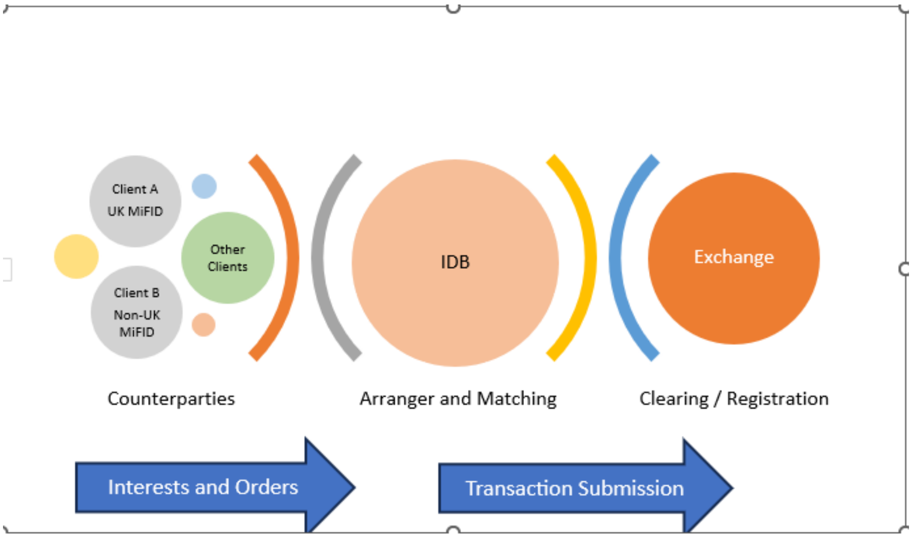
Broker-Dealer Fined for Cybersecurity Deficiencies; *A broker-dealer settled charges with FINRA for failing to safeguard customer records and information.*

Broker-Dealer Fined for Inadequate AML Compliance Program; *A broker-dealer settled charges with FINRA for failing to maintain an anti-money laundering program that could be reasonably expected to detect and report suspicious transactions.*

FCA publishes findings from multi-firm review on anti-fraud controls and complaint handling in firms (with a focus on APP fraud); *On 7 November 2023, the FCA published the findings from its multi-firm review on anti-fraud controls and complaint handling in firms, with a focus on authorised push payment (*APP*) fraud. The multi-firm review highlighted the following key findings:*

- Firms can do more to strengthen their systems designed to detect and prevent fraud.
- There is not enough focus on delivering good consumer outcomes in many firms.
- Some firms could do more to improve the support they offer to victims of fraud.
- Poor complaint handling, including firms often taking too long to respond. Customers were provided with decision letters that were sometimes unclear, confusing or included unhelpful and, on occasion, accusatory language.
- Firms are not fully considering characteristics of customer vulnerability when making decisions about fraud claims and complaints.
- The FCA is already working with firms in its review to strengthen their approach. The FCA expects all payment service providers to use the findings to inform what more they can do to detect, manage and reduce fraud and losses more effectively. It noted that customer treatment must also be improved, including how complaints are handled, to deliver consistently good consumer outcomes in line with the Consumer Duty.

The Swap Podcast: Episode 35: Reporting Revamp; *Regulators around the world have been revising their derivatives reporting rules to incorporate global data standards. JP Morgan's Eleanor Kelly and DTCC's Syed Ali discuss the importance of the rules and the benefits of taking a digital approach to implementation.*



Dutch Banking Association releases new sector standard for CDD applied by banks engaging with crypto service providers; *Crypto service providers (cryptodienstverleners) currently registered with the Dutch Central Bank (De Nederlandsche Bank,* DNB*) will soon have increased clarity regarding the customer due diligence required for their banking transactions*

- This clarity is being provided through the new sector standard established by the Dutch Banking Association (*Nederlandse Vereniging van Banken*, NVB) for risk-based customer due diligence in crypto service providers. The sector standard was developed following a series of roundtable discussions involving the Association of Bitcoin Companies Netherlands (VBNL), several of NVB's members and DNB. With this sector standard in place, banks can conduct their customer due diligence in a risk-based manner, providing both banks and crypto service providers with a clear understanding of expectations and the types of inquiries to anticipate.
- The sector standard can be accessed via the this link and additional information to the sector standard can be found via this link.

Metro Bank Added To FCA's Financial Crime Watchlist; The FCA has added Metro Bank to its financial crime watchlist because of concerns about its controls and risk management for online accounts, according to an update the bank has sent to investors. Read full article »

- The troubled lender "received confirmation of its position on the FCA watchlist for financial crime compliance" back in June, the bank said in a statement late last week. Metro said the FCA was reviewing "the ongoing management of financial crime risk within the group's back book as well as specific concerns over the effectiveness of financial crime controls over the group's online account provisions".
- The regulator's watchlist is made up of companies that "pose the greatest risk to our statutory objectives". Groups on the watchlist are placed under "enhanced supervision" by senior watchdog officials and required to show progress and address issues that are of concern.
- The admission of being added to the regulator's watchlist, which was first reported by The Sunday Times, was included in a more than 200-page prospectus to promote a rescue deal revealed in October. The refinancing package includes a £325m capital raise led by existing shareholder Spaldy Investments, alongside £600m of debt refinancing. The deal would raise the stake of Colombian billionaire Jaime Gilinski from nine per cent to 52.9 per cent and goes to a vote on 27 November.
- Metro warned shareholders that the Bank of England could impose alternative measures if they did not support the plan. An unnamed source told The Sunday Times that an investigation into Metro's financial crime systems had been long-running. The bank added: "The group continues to engage, update and co-operate fully with the FCA on these matters and the FCA's enquiries remain ongoing. "The outcome and timing of these matters is inherently uncertain and, based on the facts currently known, it is not possible to predict the outcome or reliably estimate any financial impact."
- It said it has not made any financial provision to cover a potential penalty relating to the matter.

Ex-Citi Trader Says He Was A Scapegoat For Bank's Failures; A sacked Citigroup trader who says he was scapegoated after regulatory failures in the bank's cash equities business in Asia told a London tribunal on Monday that he did not believe he was misleading clients about trades. Read full article »

EU Commission adopts RTS on AML/CFT central database; *The EU Commission has adopted a Delegated Regulation supplementing Regulation (EU) No 1093/2010, which established the EBA (EBA), with regard to regulatory technical standards (RTS) specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained in the anti-money laundering and counter terrorist financing (AML/CFT) central database*.

- The EBA is required to set up and maintain a central AML/CFT database. The database will contain information on material weaknesses in individual financial sector operators that make them vulnerable to money laundering or terrorist financing. Competent authorities are required to report material weaknesses that they have identified, as well as the measures they have taken to address those material weaknesses.

- The draft RTS specify when weaknesses are material. They also set out which information competent authorities have to report, how they have to report it, and how the EBA will analyse this information and make it available to competent authorities. They also set out the rules that will apply to ensure confidentiality and the protection of personal data contained in the database.
- The Delegated Regulation will enter into force on the twentieth day following that of its publication in the Official Journal.

Changes to UK supervision rules 'risk encouraging money-laundering; Accounting bodies warn that most of government's planned reforms would be counter-productive; Most of the UK government's plans to overhaul the supervision of anti-money laundering rules would be counter-productive and damaging to the fight against dirty money, accounting bodies have warned. In a letter to Lords Treasury minister Baroness Joanna Penn, a group representing 13 accounting bodies said the majority of the government's proposed models for reforming counter-terrorism financing and AML oversight would weaken the UK's battle against financial crime. /jlne.ws/3FZhw1T

Captive audience; *A surge in online hacking presents corporate executives a new challenge, and a new set of costs to be borne. And in the wake of an attack on the U.S. arm of China's biggest bank, a bid to stamp out ransom payments to cybercriminals looks far-fetched.*

- Cyber attack shines light on role of China's largest lender in US Treasury market; Disruption caused by hack of ICBC shows how bank has become an important link in $26tn market; As they patch up their bond trading operations following the hack of Industrial and Commercial Bank of China, brokers are also piecing together how China's largest lender became such a significant player in US Treasuries that the attack on its systems could disrupt the $26tn market. /jlne.ws/49DJpdy
- The Industrial and Commercial Bank of China's U.S. arm was hit by a ransomware attack that disrupted some trades in the U.S. Treasury market on Nov. 9. Lockbit, a ransomware gang that says it was responsible for the attack, told Reuters on Nov. 13 that ICBC had paid it a ransom and that the deal was "closed" as a result. ICBC has not confirmed that claim. A senior White House official said on Oct. 31 that the U.S. government planned to lead an alliance of 40 countries in a pledge to never pay ransom to cybercriminals.
- Joe Biden's administration has drummed up support amongst 40 allies of the United States for a collective pledge to never pay ransoms in hopes that it will starve cybercriminals of their key funding source. The White House has even considered an outright ban on firms making ransom payments. In theory, it's a great idea. If companies can't pay ransom, there's no point in asking for it.
- In the real world things are more fragile. A unit of Industrial and Commercial Bank of China last week fell victim to a ransomware attack that wasn't just a problem for the Chinese lender's employees and customers: As a bank that provides clearing for U.S. Treasuries, the attack added friction to one of the world's most critical financial markets. ICBC's self-identified attacker, a gang of digital extortionists called Lockbit, says ICBC paid up. If a critical firm – say a bank with even bigger U.S. operations – faced prolonged downtime, things could get nasty.
- That doesn't mean companies should just give in to criminals. Companies involved in recent attacks, from consumer goods maker Clorox to casino operator Caesars Entertainment, have had different responses. But more firms are having to make the choice. Digital analytics firm Chainalysis reckons ransomware attackers siphoned at least $457 million from victims last year, likely a low estimate as companies don't typically disclose much detail around such incidents.
- The alternative is to be unhackable – which means spending ever more on defenses. But there are no guarantees. Ransomed firms that had backups of crucial company information got access to their data back within a week just 45% of the time, according to a survey by cybersecurity firm Sophos, comparable to those who paid the ransom. But almost one-quarter of firms with backups still waited a month or more.

- If politicians really want to ban companies from paying ransom, they could help meet the costs when firms get hit, which can be considerable. That's unlikely to happen any time soon given the tightness of U.S. government finances. Companies should therefore be prepared to shell out themselves, one way or another.

IA and Thinking Ahead Institute publish benchmark report on EDI in UK's investment management industry; On 16 November 2023, the Investment Association and the Thinking Ahead Institute issued a report on equity, diversity and inclusion (EDI) data in the UK investment management industry.

SEC adopts new conflicts rules for clearing firms The SEC has adopted new rules that require clearing firms to establish policies that better guard against conflicts of interest, particularly among board members. The rules aim to ensure more board members are independent directors and require firms to establish risk management committees. Bloomberg Law (11/16), Reuters

NFA orders London, United Kingdom introducing broker Braemar Securities LTD to pay a $140,000 fine

November 15, Chicago—NFA has ordered Braemar Securities LTD (Braemar Securities) to pay a $140,000 fine. Braemar Securities is an introducing broker (IB) Member of NFA located in London, United Kingdom.

- The Decision, issued by an NFA Hearing Panel (Panel), is based on a Complaint issued by NFA's Business Conduct Committee and a settlement offer submitted by Braemar Securities, in which the firm neither admitted nor denied the allegations in the Complaint.
- The Complaint charged Braemar Securities with failing to comply with its communication recordkeeping obligations, in violation of NFA Compliance Rule 2-10, and disclosing customers' confidential non-public information, in violation of NFA Compliance Rule 2-26.
- The Complaint further charged Braemar Securities with a failure to supervise, in violation of NFA Compliance Rule 2-9.
- In its Decision, the Panel found that Braemar Securities violated NFA Compliance Rules 2-10, 2-26 and 2-9.
- The complete text of the Complaint and Decision can be viewed on NFA's website.

NATIONAL FUTURES ASSOCIATION
BEFORE THE
HEARING PANEL

FILED
NOV 1 – 2023
NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of:

BRAEMAR SECURITIES LTD
(NFA ID #448831),

Respondent.

NFA Case No. 23-BCC-007

DECISION

Having reviewed all matters relevant to the Complaint issued by the Business Conduct Committee (BCC) of National Futures Association (NFA) in the above-captioned case, and having considered and accepted the Offer of Settlement (Offer) submitted by Braemar Securities LTD (Braemar Securities), this Hearing Panel (Panel) hereby issues this Decision as to Braemar Securities.

I

ALLEGED VIOLATIONS OF NFA REQUIREMENTS

On August 15, 2023, the BCC issued a Complaint against Braemar Securities, a registered introducing broker and NFA Member located in London, United Kingdom. The Complaint alleged that Braemar Securities violated NFA Compliance Rule 2-10(a) by failing to maintain all oral communication records in accordance with regulatory requirements due to its brokers' use of unrecorded personal cell phones. Additionally, the Complaint alleged the firm violated NFA Compliance Rule 2-26 by its brokers disclosing customers' confidential non-public information. Finally, the Complaint also alleged Braemar Securities violated NFA Compliance Rule 2-9(a) by failing to supervise.

II

OFFER OF SETTLEMENT

Without admitting or denying the allegations made against it in the Complaint, Braemar Securities submitted an Offer proposing to settle the charges against it by agreeing to pay a fine of $140,000 to NFA within 30 days after the effective date of this Decision. Braemar Securities acknowledged in the Offer that any Decision accepting the Offer would include findings of the violations alleged against it in the Complaint.

III

FINDINGS

Pursuant to the Offer, the Panel finds that Braemar Securities violated NFA Compliance Rules 2-10(a), 2-26, and 2-9(a).

IV

PENALTY

Having considered the matter and having accepted the Offer submitted by Braemar Securities, the Panel hereby orders Braemar Securities to pay a fine of $140,000 to NFA, payable within 30 days after the effective date of this Decision.

This Decision and the Offer shall not be used as the sole basis for any other action or proceeding by NFA against Braemar Securities, including any registration matter, except that this Decision and the Offer may be used in an action to enforce the terms thereof or in a subsequent disciplinary action or regulatory action,

Chicago Mercantile Exchange, Chicago Board of Trade, New York Mercantile Exchange and Commodity Exchange disciplinary postings for the following, which have an effective date of Friday, November 17, 2023.

- Ting Jiang - COMEX 22-1537-BC-1. Read Full Notice
- Jingyou International Technology Ltd. - COMEX 22-1537-BC-2. Read Full Notice
- Vincent Bucci - COMEX 21-1523-BC-2. Read Full Notice
- Wedbush Securities Inc. - CME 22-1591-BC. Read Full Notice
- Wedbush Securities Inc. - CBOT 22-1591-BC. Read Full Notice
- Wedbush Securities Inc. - NYMEX 22-1591-BC. Read Full Notice
- Wedbush Securities Inc. - COMEX 22-1591-BC. Read Full Notice
- StoneX Financial Inc.- CME 22-1617-BC. Read Full Notice

FINRA AWC: Wedbush Securities Inc. Fined for Supervisory Failures over Customer Funds Transmittals. A broker-dealer settled charges with FINRA for failing to monitor and supervise transmittals of customer funds to third parties.

FINRA AWC: Commonwealth Australia Securities LLC Fined for Reporting to TRACE without Required "No Remuneration" Indicator; *A broker-dealer settled charges with FINRA for reporting transactions to the Trade Reporting and Compliance Engine ("TRACE") without the required "No Remuneration" ("NR") indicator.*

- In a Letter of Acceptance, Waiver and Consent, FINRA stated that the broker-dealer reported 33,000 transactions in TRACE-eligible securities without the NR indicator to TRACE. As a result, FINRA stated that the broker-dealer violated FINRA Rules 6730(d) ("Transaction Reporting") and 2010 ("Standards of Commercial Honor and Principles of Trade").
- To settle the charges, the broker-dealer agreed to (i) a censure and (ii) pay a $25,000 fine.

EU Commission adopts RTS on AML/CFT central database; *The EU Commission has adopted a Delegated Regulation supplementing Regulation (EU) No 1093/2010, which established the EBA (EBA), with regard to regulatory technical standards (RTS) specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained in the anti-money laundering and counter terrorist financing (AML/CFT) central database.*

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- The draft RTS specify when weaknesses are material. They also set out which information competent authorities have to report, how they have to report it, and how the EBA will analyse this information and make it available to competent authorities. They also set out the rules that will apply to ensure confidentiality and the protection of personal data contained in the database.
- The Delegated Regulation will enter into force on the twentieth day following that of its publication in the Official Journal.

FATF removes Cayman Islands from grey list; In connection with an announcement by the FATF of the outcomes of its plenary meeting in Paris on 25–27 October 2023, the FATF confirmed that Cayman Islands is no longer included on its grey list.

FATF announces outcomes of plenary meeting and removes Cayman Islands from grey list; *The Financial Action Task Force (FATF) has announced the outcomes of its plenary meeting in Paris on 25 – 27 October 2023.*

- The plenary discussed compliance with the FATF standards, including:
    - updating the statements identifying high-risk and other monitored jurisdictions;
    - Albania, Cayman Islands, Jordan and Panama no longer being under increased monitoring; and
    - the joint FATF-GAFILAT assessment of Brazil.

- In preparation for the next round of mutual evaluations, delegates finalised amendments to the methodology used to assess how effectively countries have implemented the FATF's beneficial ownership and transparency requirements. Additionally, the FATF agreed to a comprehensive set of procedures that relevant assessment bodies will use to assess countries' compliance with the FATF standards.
- Additionally, the plenary:
    - welcomed Indonesia as its 40th Member;
    - discussed the situation in the Middle East;
    - agreed to publish a report on crowdfunding for terrorism financing and agreed on revisions to the FATF Recommendation 8;
    - agreed on a significant set of amendments to the FATF Recommendations, with the aim of providing countries with stronger measures to deprive criminals of the proceeds of crime;
    - published a report that sets out recommendations to strengthen the roles and use of asset recovery networks (ARINs) in pursuing transnational money laundering cases;
    - adopted reports on illicit financial flows from cyber-enabled fraud and the misuse of citizenship and residency by investment programmes; and
    - agreed to release for consultation updated FATF guidance on Recommendation 25 on Beneficial Ownership and Transparency of Legal Arrangements.

New fraud rules expose UK firms to more third-party risk; The new Economic Crime and Corporate Transparency Act definition of third-party employees could have far reaching repercussions for firms, industry insiders have said. The act states any "persons associated" with the business will have to take the necessary steps to prevent fraud, meaning if any employee, agent or subsidiary commits fraud the bank will be held liable, financial crime lawyers said. Risk

ICBC Hackers Used Methods Previously Flagged by U.S. Authorities; Attack stemmed from Lockbit 3.0 ransomware and two tactics targeting users of services managed by Citrix, Treasury says The hackers who infiltrated the New York arm of the Industrial and Commercial Bank of China and disrupted trading in the U.S. Treasury market appeared to exploit three vulnerabilities that had been flagged by U.S. officials earlier this year. In an email sent to financial-services executives and trade groups Monday that was viewed by The Wall Street Journal, Treasury officials said that the ICBC attack stemmed from Lockbit 3.0 ransomware and two tactics that target users of services managed by Citrix, a cloud-computing company. /jlne.ws/46i2VZY

- Bank of China Ltd.'s management were on a plane. Officials from the world's largest lender arrived in the US over the weekend in a hastily arranged trip to limit fallout from the incident last week, people with knowledge of the situation said. As they sought to calm markets through a steady stream of discussions and calls, one question remained unanswered: When will the stricken systems start functioning again? /jlne.ws/478H2gY

The Economic Crime and Corporate Transparency Act 2023 (Commencement No. 1) Regulations 2023; *On 16 November 2023, Statutory Instrument (SI) 2023 No. 1206 – the Economic Crime and Corporate Transparency Act 2023 (Commencement No. 1) Regulations 2023 – was published.*

- The SI contains the first commencement regulations made under the Economic Crime and Corporate Transparency Act 2023. It brings section 214 of the Act into force on 15 November 2023 and certain other provisions into force on 15 January 2024. More details on the provisions covered by the SI are set out in the explanatory note published as part of the SI.

Barclays: Treasury clearing plan would raise cyber risks; The SEC's proposal to require central clearing of Treasury bond trades could increase the market's exposure to cyber risks, according to Barclays strategists, citing vulnerabilities seen via the recent hack of Industrial and Commercial Bank of China's US broker-dealer. A clearing mandate would double the amount of activity on the Fixed Income Clearing Corporation platform, notes Barclays strategist Joseph Abate. "This creates a potential single-point of failure risk as recent events illustrate," he said, adding: "That has potential systemic consequences." Reuters

Hong Kong Ousts Dubai as Biggest Hub for Russian Gold Trading; Asian city has already imported quadruple last year's volume; US sanctions and stricter UAE regulations have curbed trade; Shut out of London following the invasion of Ukraine, Russian gold trading switched to Dubai. Now it's shifting again to the bullion hub of Hong Kong. The city has long been a key conduit for bullion entering the Chinese mainland - the world's biggest consumer market - but since April, Russian shipments surged. Hong Kong imported 68 tons of Russian gold this year, four times as much as the whole of 2022. The shift to Hong Kong was driven by US sanctions on Russia's top gold miners, as well as a crackdown by the United Arab Emirates on illicit activities in its bullion market, according to people familiar with the matter. The move east underlines the challenge faced by the West in curbing resource flows that fund the Kremlin's war machine. /jlne.ws/46jbGmy

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FTT, FATCA & Taxation

Denmark Gets All-Clear To Pursue £1.4B Cum-Ex Fraud In UK; Britain's highest court ruled Wednesday that Denmark can seek to recover the proceeds of an alleged £1.44 billion ($1.76 billion) tax fraud, finding that a legal principle that prevents foreign countries from enforcing their laws in English courts didn't apply to the case. Read full article »

EU, UK oppose UN's increased role in global tax; In a contentious debate over global tax negotiations, developing countries are pushing for a stronger role for the United Nations, facing opposition from the European Union and the UK. These nations argue that expanding the UN's involvement could undermine the Organisation for Economic Cooperation and Development's established processes and fragment the international tax system, despite calls from countries like Nigeria, Ghana, India, and Brazil for a more inclusive and effective approach. Financial Times

BlueCrest Execs Fight Income Tax Claim On Incentive Scheme; A group of BlueCrest executives told an appeals court on Tuesday that a reallocation of the British-American hedge fund group's assets as part of a partnership incentive plan should not be subject to income tax.

- December 13, 2021 BlueCrest Challenges Decision Over UK Partnership Taxation; The **challenge** brought by the Cayman appellants concerns **partnership** interests in the **BlueCrest** Capital.
- **BCM Cayman LP & anr (appellants) v HM Revenue and Customs (respondent);** By Appellant's Notice filed on 24 October 2022, the first and second appellants, (BCM Cayman LP and BlueCrest Capital Management Cayman Limited respectively) appeal the decision of the Upper Tribunal (Tax and Chancery) dated 22 July 2022.
- Cayman Partnership and BlueCrest appealed to the First Tier Tribunal against the closure notices and discovery assessment issued by HM Revenue and Customs on 31 March 2017, in respect of the accounting periods from that ended 30 November 2007 to that ended 31 December 2015 (inclusive).
- (5) BCM Cayman LP & anr (appellants) v HM Revenue and Customs (respondent) - YouTube
- BlueCrest Entities Lose Corporate Tax Case, Owe £32 Million; The Court of Appeal in the UK upheld the high court's judgment that BlueCrest Group entities set up to facilitate a complex sale are liable to pay corporation tax to the tax office. PAYE and NICs – salaried members legislation – sections 863A - G ITTOIA 2005 – whether the members of the Respondent met Conditions A and B – appeal and cross-appeal dismissed
- His Majesty's Revenue and Customs argued that BCM Cayman LP and BlueCrest Capital Management Cayman Limited, both companies set up to facilitate a complex sale structure for the investment management group BlueCrest Capital Management LP, owe £32,247,848 ($39,268,527) in corporation tax.
- The complex sale structure involved certain members of the main investment group BlueCrest Capital Management LP that wanted to sell their interest in the company ...
- Read full decision in Bluecrest Capital Management LLP FINAL (002)

Tax fight: EU diplomats have been accused of trying to "kill" UN proposals that would give developing countries more influence in international tax negotiations.

The FCA targeted hundreds of firms as part of a crackdown on money laundering reporting officers last year. Indeed last March that the City watchdog had contacted firms that had churned through three or more MLROs in the previous three years, noting that "in some firms significant turnover within this function has compromised effective oversight".

- The regulator was concerned that having a revolving door in such an important role — which is tasked with making sure dirty money is not flowing through the firm — could be a sign of poor culture or a lack of resources dedicated to the position.

- A Freedom of Information Act request reveals that the watchdog wrote to 643 firms asking for explanations for why staff had filled the position for such short periods. A "sample" was targeted by the FCA for further enquiries. The FCA did not respond to a request for further comment on how many firms it followed up with and the outcomes of those probes.
- Matthew Drage, managing director at consultancy Square 4, who previously worked in risk functions at Deloitte and KPMG, said: "That feels higher than I would have expected, I would be really interested to understand the split between permanent staff versus contractors in role. "I'm aware the FCA are having real issues with contractors filling the void for permanent staff in senior management function positions. It's a fair area to probe and clearly, high turnover in such roles could be an indicator of potential issues at a firm level."
- Tough on crime; Matthew Russell, a partner at Ashurst Risk Advisory, said a number of factors could be behind the figures, including an increased focus on individual accountability, particularly in relation to financial and economic crime. "The number of Dear CEO letters during this period that have required MLROs to review controls and recommend enhancements where gaps have been identified — I suspect they may not always have got senior management buy-in to the changes that may have been required, putting them in a difficult position," Russell said.
- The FCA has slapped banks with a number of high-profile fines for money-laundering offences in recent years. NatWest was fined more than £264m in 2021 after failing checks on a Bradford-based gold trader depositing as much as £1.8m in cash per day at the lender. Santander's British arm was hit with a £107.7m penalty in 2022 for oversight failures on 560,000 business customers.
- One compliance consultancy notes that a client was written to by the FCA after it went through three MLROs within three years. After further enquiries, the FCA decided the firm was low-risk and didn't justify a full-time role solely for money-laundering issues. The firm tried to fill the role internally, but staff were reluctant to take on those responsibilities and asked to be replaced. The issue comes down to how we attract new talent into the industry," Nick Barratt, managing consultant at Bovill, said. "People don't often study financial crime in higher education, and if you ask most people who work in this field today, it wouldn't have been their first career choice. The more pressing question is what are the FCA and the government doing to attract more people into the industry and the MLRO role?"

Basel Committee discussion paper – Digital fraud and banking: supervisory and financial stability implications;
On 15 November 2023, the Basel Committee on Banking Supervision issued a discussion paper which provides a high-level assessment of the supervisory and financial stability implications of digital fraud for the global banking system. It is structured around three broad sets of questions:

- What is digital fraud? What are its main defining features? How does digital fraud affect banks and how should policymakers think about it?
- What are the supervisory and financial stability implications? How are supervision and financial stability affected by digital fraud? Why is digital fraud of relevance to the Committee and its mandate? What empirical data are available to assess its magnitude and prevalence?
- What is being done to mitigate digital fraud risks within the banking sector? What initiatives have been pursued, or are planned, at the domestic, regional, and global level?
- The discussion paper does not make a formal distinction between retail and wholesale digital fraud. While most of the discussion paper is primarily focussed on retail, there are also some elements that may have a connection to wholesale digital fraud. It also focuses primarily on external sources of fraud.
- The deadline for comments on the discussion paper is 16 February 2024.

European Commission publishes Commission Delegated Regulation with regard to RTS specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained in the AML/CFT central database; *On 9 November 2023, the European Commission published Commission Delegated Regulation of 9 November 2023 supplementing Regulation (EU) No 1093/2010 of the European Parliament and of the Council with regard to regulatory technical standards specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained in the anti-money laundering and counter terrorist financing (*AML/CFT*) central database referred to in Article 9a(2) of that Regulation.*

- The EBA is required to set up and maintain a central AML/CFT database. This database will contain information on material weaknesses in individual financial sector operators that make them vulnerable to money laundering or terrorist financing. Member State competent authorities (NCAs) have to report material weaknesses that they have identified, as well as the measures they have taken to address those material weaknesses.
- These draft technical standards specify when weaknesses are material. They also set out which information NCAs have to report, how they have to report it, and how the European Banking Authority will analyse this information and make it available to NCAs. They also set out the rules that will apply to ensure confidentiality and the protection of personal data contained in the database.
- The Delegated Regulation will enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Horse-trading; *The race to host the EU's new anti-money laundering authority (AMLA) is coming to a head: today is the last chance for countries to submit their application. But the contest has been tangled up with another bid to lead the European Investment Bank (EIB).*

- Context: Member states have outshone each other in recent months with poster campaigns to host the new watchdog, which is to be set up under new rules to tackle money laundering that are currently being negotiated. Among the most vocal candidates are Madrid, Frankfurt and Dublin, though a large number of countries such as Lithuania, Latvia, France, Luxembourg, Belgium, Austria and Italy have also said they want to apply, and more could join by the deadline at six o'clock Friday 10/11 evening.
- German finance minister Christian Lindner yesterday banged the drum for Frankfurt, saying it already hosted the European Central Bank and the banking supervision SSM, which would facilitate "the direct supervision of Europe's largest financial service providers" for AMLA. But others say that already having several agencies is an argument against them, and smaller member states should get a shot. "It's a good signal for new member states who are joining or those who have joined in recent years . . . that these institutions are spread around," the Irish finance ministry said, adding that Ireland does not host any major EU institution.
- EU officials say the AMLA race is also increasingly linked to that for the EIB presidency. Spain's deputy prime minister Nadia Calviño is currently seen as favourite for the EIB job, but Madrid has also pitched for AMLA. "If there is a prominent appointment for Spain at the EIB, it doesn't necessarily look like they also get AMLA," said a senior EU official involved in the discussions.
- To complicate things further, member states won't take the decision alone, as the European parliament will be involved for the first time. But both are still working out how exactly to decide. This has delayed AMLA's establishment past the original plan of this January. A decision on the EIB is expected in early December, officials say, which might hurry AMLA along too.

New Regulation Tomorrow plus podcast: Decisions Decoded: Key takeaways from the latest AML enforcement decision; New Regulation Tomorrow plus podcast:; This podcast is the first in our new series, Decisions Decoded, focussing on decisions and themes in regulatory investigations and enforcement. In this episode, Senior Knowledge Lawyer Catherine Pluck talks to Financial Services Partner Katie Stephen about the recent

FCA Final Notice concerning ADM Investor Services International Limited, which has been fined £6,470,600 for inadequate anti-money laundering systems and controls.

FIA highlights 6 lessons from ION ransomware event The FIA Task Force on Cyber Risk, established after the ION ransomware event of January 2023, found a six-part equation necessary to limit cyber risk and maximize operational resilience. Communication, integration, coordination, information, standardization, and preparation are all elements which could prevent similar events from emerging in the future. BornTec

Legislators Urge DOJ to Investigate Use of Crypto-Assets to Fund Terrorism; *Senator Cynthia M. Lummis (R-WY) and Representative French Hill (R-AR) urged the DOJ to evaluate the extent to which Binance and Tether are supporting terrorism through violations of federal law on material support to entities engaged in terrorism, applicable sanctions laws, and the Bank Secrecy Act.*

- In a Letter addressed to U.S. Attorney General Merrick Garland, the legislators called for "swift action . . . to choke off sources of funding to the terrorists currently targeting Israel." The legislators expressed concern over reports that these crypto asset intermediaries have facilitated significant illicit finance activity, including terrorism financing to Hamas, over the past two years.
- The legislators say the problem should be addressed by the DOJ to (i) conduct investigations into ongoing illicit activities and (ii) reach a charging decision that reflects culpability.
- Cynthia Lummis Press Release: Crypto Assets Are Not The Enemy, Bad Actors Are
- Senator Cynthia M. Lummis and Representative French Hill Letter to Attorney General Merrick Garland: Illicit Finance Activities of Binance and Tether

Ransomware attack on ICBC disrupts trades in US Treasury market; Chinese bank says it has contained a hack that affected some fixed income and equities transactions; A ransomware attack on the financial services arm of China's largest bank has disrupted the US Treasury market by forcing clients of the Industrial and Commercial Bank of China to reroute trades, market participants said on Thursday. The Securities Industry and Financial Markets Association first told members on Wednesday that ICBC Financial Services had been hit by ransomware software, which paralyses computer systems unless a payment is made, several people familiar with the discussions said. /jlne.ws/468LdIj

- The Industrial and Commercial Bank of China is trying to minimise losses after a ransomware attack on the country's biggest bank disrupted the market for US Treasuries, the Chinese foreign ministry said. At a briefing on Friday, the ministry said ICBC had done a good job in handling the attack on its financial services arm. /jlne.ws/49p8WHj

Gazprom Says Gas Exports to China Reach New High as Demand Soars; Russia's Gazprom PJSC said its natural gas deliveries to China have hit a new historic high amid rising demand. Chinese National Petroleum Corp. requested volumes via the Power of Siberia 1 route that once again exceeded Gazprom's contractual obligations on Nov. 23, the Russian producer said in a statement cited by state news service Tass on Saturday. /jlne.ws/3uFp7A1

Bloomberg: Some EU members seek to weaken Russia sanctions enforcement plan Some EU countries seek to weaken the bloc's plans aimed against Russia's ability to acquire restricted dual-use goods via third-party countries, Bloomberg reported on Nov. 25, citing undisclosed sources. The European Commission has reportedly proposed banning importers from reselling dual-use products like semiconductors to Russia while requiring the buyers to deposit a certain sum in an escrow account. /jlne.ws/40XH3lJ

Deutsche Bank chief executive urges EU to consider scrapping bonus cap; *Deutsche Bank chief executive Christian Sewing has urged Brussels to consider scrapping a cap on banking bonuses in order to keep European lenders competitive against rivals in countries with no limit.*

- "Removing the bonus cap, if this is done in most parts of the world where the major financial institutions are sitting, then this is something I think which we need to take into account," Sewing said at the Financial Times at the Global Banking Summit.
- The UK last month scrapped a cap that limited bankers' bonuses to twice their base pay.
- Earlier, the head of Deutsche Bank's investment bank said the EU cap on banker bonuses puts European lenders at a disadvantage compared to their UK and US rivals.

FINRA AWC: BofA Securities, Inc. Fined for Spoofing in U.S. Treasury Securities; *A broker-dealer settled charges with FINRA for engaging in 717 instances of "spoofing" in the U.S. Treasury securities secondary market.*

- In a Letter of Acceptance, Waiver and Consent, FINRA stated that two of the broker-dealer's former traders entered non-bona fide spoofing orders to cause market participants to execute orders on the other side of the market. FINRA found that the two traders engaged in 525 instances of spoofing in
  - (i) a U.S. Treasury security to induce opposite-side executions in the same security and
  - (ii) 192 instances of "cross-product spoofing" in a U.S. Treasury security to induce opposite-side executions in a correlated U.S. Treasury futures contract.
- In addition, FINRA found that the broker-dealer lacked surveillance to monitor orders entered into by its traders which would have allowed it to detect potential spoofing. FINRA concluded that the broker-dealer violated FINRA Rule 3110 ("Supervision") and Rule 2010 ("Standards of Commercial Honor and Principles of Trade").
- To settle the charges, the broker-dealer agreed to (i) a censure and (ii) pay a $24 million fine.
- FINRA Press Release: FINRA Fines BofA Securities $24 Million for Treasuries Spoofing and Related Supervisory Failures

MAS issues circular to finalize revised reporting rules for October 2024 implementation; *On November 27, the Monetary Authority of Singapore (MAS) issued a circular to advise all reporting entities that have obligations to report specified derivatives contracts under Part VIA of the Securities and Futures Act to start preparing for the implementation of the revised reporting requirements for over-the-counter (OTC) derivatives contracts.*

- These revised requirements will take effect on October 21, 2024, which is aligned with the implementation date of the Australian Securities & Investments Commission's Derivative Transaction Rules (Reporting) 2024. This is also approximately six months after the implementation date for the EU's revised OTC derivatives reporting requirements. MAS encourages all reporting entities to start the process early to minimize reporting disruption and ensure full compliance with the requirements when they take effect.

Spoofing Market Manipulation Cases Set Stage for More Enforcement The Seventh Circuit issued the third in a trilogy of opinions in October establishing the metes and bounds for criminal prosecutions of "spoofing"-a form of market manipulation, mostly in the commodities markets-that Congress expressly prohibited in the 2010 Dodd-Frank Act.

- The decisions create a roadmap for government enforcers to bring more cases.
- The Department of Justice and CFTChave in recent years brought several high-profile spoofing cases, including on Nov. 9, when a commodities trader with the investment bank Jeffries was criminally charged in a 16-count indictment in New Jersey federal court with securities and wire fraud for engaging in spoofing. /jlne.ws/47VXrFt

Decisions Decoded: Lessons from enforcement in relation to cyber incidents; *Last month the FCA announced that it had fined Equifax Limited £11,164,400 for failing to manage and monitor the security of UK consumer data it had transferred to its parent company based in the US, Equifax Inc, for processing.*

- Podcast; Catherine Pluck discusses with Katie Stephen and Rosie Nance the lessons from this case, and regulatory enforcement concerning IT issues more broadly, for the various phases in a firm's lifecycle regarding a cyber incident. Our podcast can be found here.

Care package: The U.S. unveiled new sanctions against Russia, targeting future energy capabilities, sanctions evasion and a menacing suicide drone. The Senate will kill by neglect a House bill to give billions of dollars in aid to Israel because it cuts IRS funding and does not include aid for Ukraine

- US imposes fresh Russia sanctions targeting UAE, China The US has imposed fresh sanctions that target individuals and companies in China, Turkey and the United Arab Emirates, which it says are helping supply Russia with goods that support its war in Ukraine. "Russia is dependent on willing third-country individuals and entities to resupply its military, and perpetuate its heinous war against Ukraine, and we will not hesitate in holding them accountable," said US Treasury Secretary Janet Yellen. Financial Times

Russia reportedly tightens currency controls on Western firms Russia has reportedly implemented tighter currency controls on Western companies, limiting their ability to withdraw proceeds from Russian asset sales in dollars and euros. The move aims to bolster the weakening ruble amid concerns over its depreciation, which has been exacerbated by sanctions following Russia's invasion of Ukraine. The ruble's value has dropped over 20% against the dollar this year, prompting the Russian government to take measures to stabilize the currency. Financial Times

Economic Crime and Corporate Transparency Act 2023 receives Royal Assent; *The Economic Crime and Corporate Transparency Act 2023, which is intended to prevent the abuse of UK corporate structures and tackle economic crime, has received Royal Assent. The Act follows the Economic Crime (Transparency and Enforcement) Act 2022, which introduced a register of overseas entities and their beneficial owners and received Royal Assent on 15 March 2022.*

- Among other things, the Economic Crime and Corporate Transparency Act introduces:
    - reforms to Companies House, including giving the registrar of companies new powers to reject and query information provided in filings or already on the register;
    - a new regime for identity verification (including via authorised corporate service providers);
    - reforms to prevent the abuse of limited partnerships, by, among other things, strengthening transparency requirements and enabling them to be deregistered;
    - additional powers to seize and recover suspected criminal cryptoassets;
    - new exemptions from the principal money laundering offences to reduce unnecessary reporting by businesses and new powers for law enforcement to obtain information to tackle money laundering and terrorist financing; and
    - an additional regulatory objective to the Legal Services Act 2007 to affirm the duties of regulators and the regulated communities to uphold the economic crime agenda.

- Many of the provisions of the Act will come into force on a day to be appointed by statutory instrument. The provisions made by Parts 1 to 5 of the Act which confer powers to make regulations, or which relate to the exercise of those powers, and paragraph 1 of Schedule 9, which amends the Proceeds of Crime Act 2002, came into force on 26 October 2023.

FATF consults on FATF Risk-Based Guidance to Recommendation 25; *On 31 October 2023, the Financial Action Task Force (**FATF**) published a public consultation on FATF Risk-Based Guidance to Recommendation 25.*

- At the February 2023 Plenary, the FATF agreed on enhancements to Recommendation 25 on legal arrangements to bring its requirements broadly in line with those for Recommendation 24 on legal persons to ensure a balanced and coherent set of FATF standards on beneficial ownership. In doing so, FATF stated that it would work on a guidance document to help countries implement the revised requirements of Recommendation 25.
- The FATF now welcomes comments to its Risk-Based Guidance to Recommendation 25 on Beneficial Ownership and Transparency of Legal Arrangements. The Risk-Based Guidance is aimed at all stakeholders from public and private sectors that regulate, supervise, enforce, form, manage or administer trusts or similar legal arrangements. It focuses on the Recommendation 25 requirements and addresses the trust-specific features and related anti-money laundering / countering the financing of terrorism transparency obligations. It is complementary to the Risk-Based Guidance published to Recommendation 24 in view of certain overlapping elements and aims at assisting the implementation of the requirements of Recommendation 25. The Risk-Based Guidance on Recommendations 24 and 25 should be read in parallel as equally informing countries' approaches to the implementation of the FATF Standards on beneficial ownership.
- The deadline for comments on the public consultation is 8 December 2023.

For the sixth year in a row, the rule of law has deteriorated in most countries, according to the 2023 report of the World Justice Project, an independent non-profit organisation

Published in OJ: CCD II; *On 30 October 2023, there was published in the Official Journal of the European Union (OJ) Directive (EU) 2023/2225 of the European Parliament and of the Council of 18 October 2023 on credit agreements for consumers and repealing the Consumer Credit Directive.*

- The Directive enters into force on the twentieth day following its publication in the OJ.
- Member States shall adopt and publish, by 20 November 2025, the laws, regulations and administrative provisions necessary to comply with the Directive. They shall immediately communicate the text of those provisions to the European Commission. They shall apply those measures from 20 November 2026.

Two Sigma reportedly hit with $620M in unauthorized changes A researcher at Two Sigma was reportedly found to have been adjusting the hedge fund's investing models without authorization, leading to $620 million in gains and losses. The employee's changes led to $450 million in gains for some Two Sigma funds and $170 million in losses for others compared with how they would have performed otherwise, allegedly in an attempt to improve the company's performance. The Wall Street Journal (10/29), Financial News

NYDFS Amends Cybersecurity Program Requirements; The New York State Department of Financial Services adopted amendments to state cybersecurity program requirements applicable to entities that operate under a license or registration provided under New York Banking Law, Insurance Law or Financial Services Law

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Financial Stability, Operational Resilience

UK new operational resilience regime in 2021

Development	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
OPERATIONAL RESILIENCE	Consultation paper on operational resilience of critical third parties expected in H2 2023.	Consultation paper on incident, outsourcing and third party reporting expected in Q4 2023.	Critical Third Parties Regime expected to enter into effect in early 2024.				Three-year transitional period for firms' compliance with operational resilience requirements ends on 31 March 2025.	

EU IFD/IFR

Development	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
IFD/IFR	EBA consultation on draft guidelines on gender neutral remuneration policies closes 24 July 2023.	EBA reports on convergence and gender-neutral remuneration policies expected by end of 2023.	EBA report on prudential treatment of ESG-related assets expected in due course.	Commission reports on various aspects of IFD and IFR due by 26 June 2024				

EU DORA

Development	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
EU Digital Operational Resilience Act (DORA)	Responses due by 11 September 2023 to ESAs' consultation on draft technical standards under Articles 15, 16, 18 and 28 of DORA. The ESAs are asked to provide their advice by 30 September 2023 on a call for advice on the designation criteria and fees for the DORA framework.		ESAs expected to submit (by 17 January 2024) draft technical standards to European Commission under Articles 15, 16, 18 and 28 of DORA		ESAs expected to submit (by 17 July 2024) technical standards to European Commission under Articles 20, 26, 30 and 41 of DORA, and to publish guidelines under Articles 11(11) and 32(7) of DORA.		DORA is due to apply from 17 January 2025	

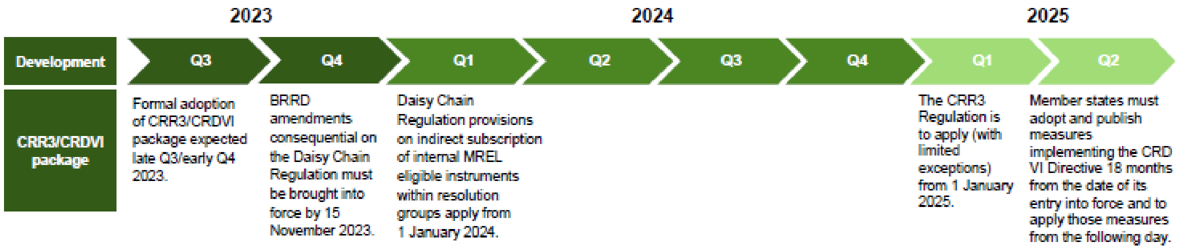
EUROPEAN SINGLE ACCESS POINT (ESAP)

Development	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
European Singla Access Point (ESAP)	ESAP proposal to be formally adopted.							

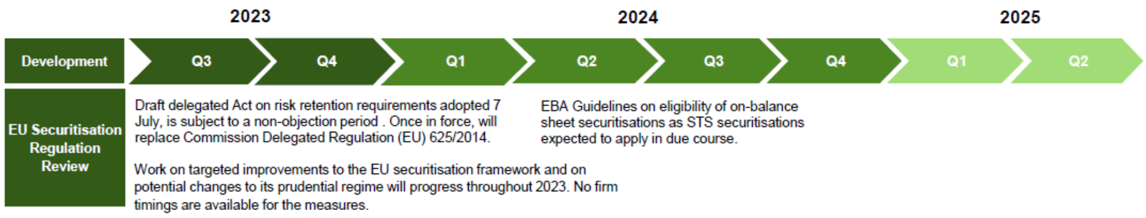
European
Venues &
Intermediaries
Association

London
Energy
Brokers'
Association

CRR3/CRDVI



EU SECURITISATION REGULATION REVIEW



UPI Plus

1. Two amendments to Existing Fields
2. Five new fields to Augment UPI

- *(To note that CDIDE (data WG of the FSB) has not formalised any concept of "UPI+" because it is bound to propagate a universal UPI. Rather, the concept stems from the replacement of ISIN for derivatives allied to necessary data fields for CTP fulfilment, and it is therefore currently a regional matter. There are multiple global derivatives reporting rewrites in 2024, all of which will mandate the use of UPI for at least a subset of reportable transactions. As such, the majority of market participants are already working on assigning UPIs to their existing reportable trade population.)*
- The adoption of UPI+ as a replacement for OTC ISIN would mandate the use of the existing ISO4914 UPI for OTC derivatives in transparency reporting, supplemented with the addition of key trade-level attributes that would result in meaningful transparency data for recipients.
- There are likely to be in the region of 700,000 UPIs available to market participants when the service goes fully live by the end of 2023, in comparison to 112 million OTC ISINs that have been created since their inception.
- Clearly none of this addresses the current failings and complexities of Total Return Swap ["TRS"] reporting data sufficiency. That's another matter.
- Earlier this month an ISDA "UPI+ working group" analysed trade level attributes in order to determine which have a material impact on Price and should therefore be included in the final proposal to augment UPI for transparency purposes.
- The working group also reviewed existing fields in Table 2 of RTS2 to confirm whether any further changes were needed.

- The below table details the attributes that were discussed and confirmed as being included in the final proposal to use UPI for transparency reporting, augmented with 5 additional trade level attributes. We have also included the reason agreed for inclusion for future reference.
- These are being advocated to the FCA via the attached letter.

Type	Attribute	Financial Instruments	Comments
Amendments to Existing Fields	Instrument identification code type	For all financial instruments	This field should be updated to mandate the usage of UPI for OTC derivatives
	Instrument identification code	For all financial instruments	This field should be updated to mandate the usage of UPI for OTC derivatives
New Field to be added to Table 2 of RTS 2	Effective Date	For derivatives	The combination of Effective Date, Termination Date and the existing "Trading Date and Time" field will allow the tenor of the contract to be derived
	Termination Date	For derivatives	The combination of Effective Date, Termination Date and the existing "Trading Date and Time" field will allow the tenor of the contract to be derived
	Clearing House LEI	For derivatives	This field should be added to provide visibility of differing prices between CCPs
	Upfront payment	For CDS instruments	Only relevant in the context of CDS, the up-front payment is considered a price-impacting field and therefore warrants inclusion
	Spread	For derivatives	The spread for certain IRS trades containing a floating leg is considered a price-impacting field and therefore warrants inclusion. As this is only relevant for a subset of IRS, a value of 0 should be allowed where no spread exists

Proposed Attribute	Reason for descoping from UPI+
Term of Contract Value Term of Contract Unit Forward Starting Period Forward Starting Period Unit	The UPI+ working group agreed not to include these fields in the proposal as Effective date / termination date are preferable values for reporting due to ease of implementation and the fact that users of transparency data can derive tenor from the reported dates.
Execution Venue LEI	Details referring to the Execution venue are already included within the existing "Venue of Execution" field and therefore the LEI would not be required
Day Count Fraction	Due to the inclusion of whole year tenors, this field is not relevant. Where there are varying day count fractions there would not be a significant enough impact on price to justify inclusion in UPI+. This decision is based on the starting assumption of the inclusion of whole year tenors only - should this change, then the day count fraction would become a relevant attribute
Payment Frequency	This field has a relatively low impact on the price and non-standard instances of payment frequency are rare. Therefore, it was agreed not to include this field

Price Multiplier	The majority of products will have a Price Multiplier of 1 and therefore there is no value including this field within transparency reporting
Look Back	It was agreed not to include Look back in transparency reporting due to the low volume of trades with a non-standard look back period. The majority of trades analysed appeared to be of a "non-standard" nature which would bring them out of scope of transparency reporting
Standard / Non-Standard Flag	The proposal for UPI+ is centred on the inclusion of centrally cleared "standard" trades and therefore there is no need to differentiate by including a specific flag
Price Forming Flag	There are already provisions in RTS2 for market participants to report a flag of 'NPFT' to identify submissions which do not contribute to price formation
Package Flag	There are already provisions in RTS2 for market participants to report a flag of 'TPAC' to identify package transactions

Focusing on Article 26, these amendments will require significant detail to be developed in RTS 22 over the following 9-18 months, meaning that it will not be possible to fully comply until the RTS is in place. *ESMA is expected to consult on the likely changes to the RTS in Q1 2024.*

- Earlier in the year we explained what we might expect to see in the revised Article. We can now confirm the changes that will impact firms reporting to EU NCAs under the new regulations in what will be the first "real legislative" divergence between EU and UK reporting rules.
- Broadening the scope of firms caught by the obligation to report
    - MiFIR Article 52 now includes a requirement that the Commission will, in close cooperation with ESMA, assess the possibility of extending the requirements of Article 26 to Alternative Investment Fund Managers (AIFMs), and management companies which provide investment services and activities and which execute transactions in financial instruments. They have 12 months to do so from publication.
- Strengthening the obligation on NCAs; *ESMA has added three additional requirements on NCAs to distribute the reports to not only;*
    - the competent authority of the most relevant market in terms of liquidity for those financial instruments;
    - But also,
        - the competent authorities responsible for the supervision of the transmitting investment firms
        - the competent authorities responsible for the supervision of the branches which have been part of the transaction, and
        - the competent authority responsible for the supervision of the trading venues used.
        - We can't be 100% certain whether this obligation will mean any additional data will be required from firms in their reports or whether there is sufficient detail already to enable NCAs to comply with this.
- Instruments in scope
    - The OTC derivatives transactions in scope has been amended. All OTC derivatives trades executed on venue will be in scope of transaction reporting – no change. Also in scope will be off-venue OTC trades which fall within the transparency requirements.
    - The amended transparency obligation has removed the link to the "traded on a trading venue"/TOTV concept and now covers OTC derivatives which are denominated in major currencies (Euro, Yen, US Dollar or Pound Sterling) and which are subject to the clearing

obligation. Where these OTC derivatives are interest rate swaps, only the most liquid tenor combinations are included.

- TvTIC in Level One; The TvTIC is now included in Level 1 legislation:
    - *"Reports on a transaction made at the trading venue shall include a transaction identification code generated and disseminated by the trading venue to both buying and selling members of the trading venue."*
    - We are not convinced that bringing the requirement into Level 1 legislation will solve the implementation challenges associated with it.
- Farewell to the short selling flag… As expected, the obligation to report the short selling flag has finally been removed which aligns EU legislation with [UK Supervisory priority](#).
- Branch Reporting
    - No change to the substance but some of the text from RTS 22 covering third country firm branch reporting has been moved up into Level 1 text.
    - *'An investment firm shall report transactions executed wholly or partly through its branch to the competent authority of the home Member State of the investment firm. The branch of a third country firm shall submit its transaction reports to the competent authority which authorised the branch. Where a third country firm has set up branches in more than one Member State, those branches shall define the competent authority that is to receive all the transaction reports.;'*
- Pre-Trade Waiver
    - The obligation to report the "applicable waiver under which the trade has taken place" has also been removed. This also aligns EU legislation with current UK FCA Supervisory priority.
- Linking
    - Of potential concern is the addition of the following requirement – the details of which won't be fully realised until we see the amended RTS 22:
    - '(j) the conditions for linking specific transactions and the means of the identification of aggregated orders resulting in the execution of a transaction;' and
    - '(k) the date by which transactions are to be reported.'
    - This could result in significant implementation challenges for firms when we fully understand which "specific transactions" they mean and how they are to be linked. With MTCH capacity not solving the problem of linking market-side to client-side fills, it may be that paragraph (j) is ESMA's solution.
    - Paragraph (k) doesn't seem to add much for regulators, but firms will have to build complex logic to determine when exactly is T+1 – over weekends and ever shifting bank holidays.
    - Much of the content has been anticipated for a while and although some of these changes will reduce the reporting burden on firms, others are likely to prove more challenging to implement and report accurately.
    - The implementation timeline has not yet crystallised, and the changes will also likely require a revision of the reporting guidelines.
- *25) Article 26 is amended as follows:*
    - in paragraph 1, the second and third subparagraphs are replaced by the following:
    - 'The competent authorities shall, in accordance with Article 85 of Directive 2014/65/EU, establish the necessary arrangements in order to ensure that the following competent authorities also receive that information:
    - the competent authority of the most relevant market in terms of liquidity for those financial instruments;
    - the competent authorities responsible for the supervision of the transmitting investment firms;
    - the competent authorities responsible for the supervision of the branches which have been part of the transaction; and
    - the competent authority responsible for the supervision of the trading venues used.
    - The competent authority referred to in the first subparagraph shall without undue delay make available to ESMA any information reported in accordance with this Article.;'
    - paragraph 2 is replaced by the following:

- 2. The obligation laid down in paragraph 1 shall apply to:
    - financial instruments which are admitted to trading or traded on a trading venue or for which a request for admission to trading has been made, irrespective of whether or not such transactions are carried out on the trading venue, with exception of transactions in OTC derivatives other than those referred in Article 8a(1a), to which the obligation shall apply only when executed on a trading venue;
    - financial instruments where the underlying is a financial instrument traded on a trading venue, irrespective of whether or not such transactions are carried out on the trading venue;
    - financial instruments where the underlying is an index or a basket composed of financial instruments traded on a trading venue, irrespective of whether or not such transactions are carried out on the trading venue;
    - OTC derivatives referred to in Article 8a(2), irrespective of whether or not such transactions are carried out on the trading venue;
- paragraph 3 is replaced by the following: '3. The reports shall, in particular, include details of the names and numbers of the financial instruments bought or sold, the quantity, the dates and times of execution, the effective dates, the transaction prices, a designation to identify the parties on whose behalf the investment firm has executed that transaction, a designation to identify the persons and the computer algorithms within the investment firm responsible for the investment decision and the execution of the transaction, a designation to identify the entity subject to the reporting obligation, and means of identifying the investment firms concerned. Reports on a transaction made at the trading venue shall include a transaction identification code generated and disseminated by the trading venue to both buying and selling members of the trading venue.
- For transactions not carried out on a trading venue, the reports shall include a designation identifying the types of transactions in accordance with the measures to be adopted pursuant to Article 20(3), point (a), and Article 21(5), point (a). For commodity derivatives, the reports shall indicate whether the transaction reduces risk in an objectively measurable way in accordance with Article 57 of Directive 2014/65/EU.';
- paragraph 5 is replaced by the following: '5. The operator of a trading venue shall report details of transactions in financial instruments traded on its platform which are executed through its systems by any member, participant or user which is not subject to this Regulation in accordance with paragraphs 1 and 3.';
    - in paragraph 8, the following subparagraph is inserted before the first subparagraph:
    - 'An investment firm shall report transactions executed wholly or partly through its branch to the competent authority of the home Member State of the investment firm. The branch of a third country firm shall submit its transaction reports to the competent authority which authorised the branch. Where a third country firm has set up branches in more than one Member State, those branches shall define the competent authority that is to receive all the transaction reports.;'
    - paragraph 9 is amended as follows:
    - the first subparagraph is amended as follows:
    - point (c) is replaced by the following:
    - '(c) the references of the financial instruments bought or sold, the quantity, the dates and times of execution, the effective dates, the transaction prices, the information and details of the identity of the client, a designation to identify the parties on whose behalf the investment firm has executed that transaction, a designation to identify the persons and the computer algorithms within the investment firm responsible for the investment decision and the execution of the transaction, the means of identifying the investment firms concerned, the way in which the transaction was executed, data fields necessary for the processing and analysis of the transaction reports in accordance with paragraph 3;'
    - point (d) is deleted;
    - point (e) is replaced by the following:
    - '(e) the relevant categories of indices to be reported in accordance with paragraph 2;';

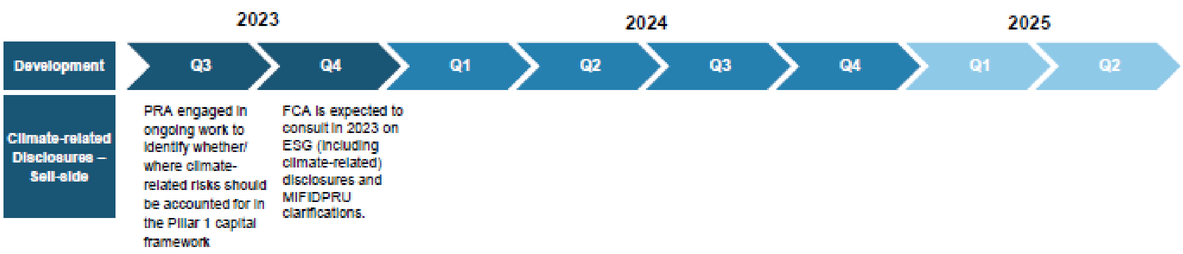
- the following points are added:
- ‘(j) the conditions for linking specific transactions and the means of the identification of aggregated orders resulting in the execution of a transaction; and
- (k) the date by which transactions are to be reported.;’
- the second and third subparagraphs are replaced by the following:
- ‘When developing those regulatory technical standards, ESMA shall take into account international developments and standards agreed upon at Union or global level, and the consistency of those draft regulatory technical standards with the reporting requirements laid down in Regulation (EU) No 648/2012 and Regulation (EU) 2015/2365.
- ESMA shall submit those draft regulatory technical standards to the Commission by ... [18 months after the date of entry into force of this amending Regulation].
- Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.’;
- (g) the following paragraph is added:
- ‘11. By [four years after the date of entry into force of this amending Regulation], ESMA shall submit to the Commission a report assessing the feasibility of more integration in transaction reporting and streamlining of data flows under Article 26 of this Regulation to:
- reduce duplicative or inconsistent requirements for transaction data reporting, and in particular duplicative or inconsistent requirements laid down in this Regulation, Regulation (EU) No 648/2012 and Regulation (EU) 2015/2365, and in other relevant Union law;
- improve data standardisation and efficient sharing and use of data reported within any Union reporting framework by any relevant Union or national competent authority .
- When preparing the report, ESMA shall, where relevant, work in close cooperation with the other bodies of the European System of Financial Supervision and the European Central Bank.;’

- *(26) Article 27 is amended as follows:*
  - in paragraph 1, the first and second subparagraphs are replaced by the following:
  - ‘With regard to financial instruments admitted to trading or traded on a trading venue or where the issuer has approved trading of the issued instrument or where a request for admission to trading has been made, trading venues shall provide ESMA with identifying reference data for the purpose of transaction reporting under Article 26 and of the transparency requirements under Articles 3, 6, 8, 8a, 10, 14, 20 and 21.
  - With regard to OTC derivatives, identifying reference data shall be based on a globally agreed unique product identifier and on any other relevant identifying data.
  - With regard to OTC derivatives not covered by the first subparagraph that fall within the scope of Article 26(2), each designated publishing entity, , shall provide ESMA with the identifying reference data.’;
  - paragraph 3 is amended as follows:
    - the following point is added:
    - ‘(c) the date by which reference data are to be reported.;’
    - the following subparagraph is inserted after the first subparagraph:
  - ‘When drafting those draft regulatory technical standards, ESMA shall take into account international developments and standards agreed upon at Union or global level, and the consistency of those draft regulatory technical standards with the reporting requirements laid down in Regulation (EU) No 648/2012 and Regulation (EU) 2015/2365.’;
  - the following paragraph is added:
  - ‘5. By ... [three months after the date of entry into force of this amending Regulation], the Commission shall adopt a delegated act in accordance with Article 50 in order to supplement this Regulation by specifying the identifying reference data to be used with regards to OTC derivatives for the purposes of the transparency requirements set out in Articles 8a(1a), 10 and 21.’;

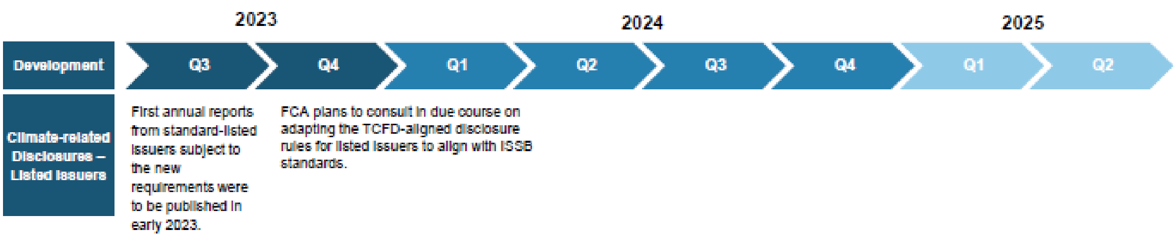
- The Commission is empowered to adopt delegated acts in accordance with Article 50 in order to supplement this Regulation by specifying the identifying reference data to be used with regards to OTC derivatives for the purposes of Article 26.

Carbon Emissions, Green finance, ESG & Disclosures

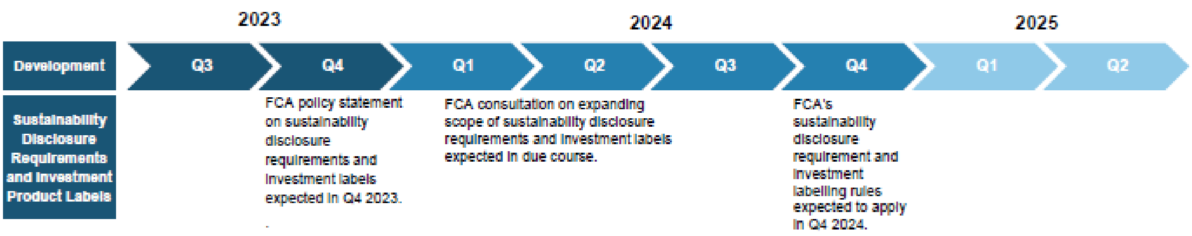
CLIMATE-RELATED DISCLOSURES – SELL-SIDE



CLIMATE-RELATED DISCLOSURES – LISTED ISSUERS



SUSTAINABILITY DISCLOSURES AND INVESTMENT PRODUCT LABELS



DIVERSITY IN FINANCIAL SERVICES

	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
Development	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Diversity in financial services	Response deadline 1 September 2023 for Treasury Committee inquiry on sexism in the city.	FCA and PRA consultation on proposed D&I measures expected in H2 2023.	FCA and PRA D&I policy statement expected Q1/Q2 2024.					

UK GREEN STRATEGY

	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
Development	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
UK Green Strategy	Consultation on the UK Green Taxonomy expected in Autumn 2023	Code of Conduct for ESG ratings providers expected to be finalised in Q4 2023. Comments on consultation draft invited by 5 October 2023.	HM Treasury expected to publish a response in due course to its consultation on regulation of ESG Ratings providers.					

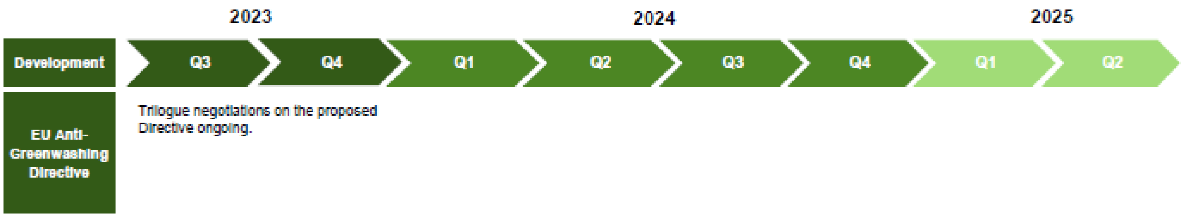
EU SUSTAINABLE FINANCE DISCLOSURE REGULATION (SFDR)

	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
Development	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
EU SFDR	ESMA final guidelines on fund names expected Q3 2023.	Commission consultation on assessing the SFDR expected in Autumn 2023. ESAs to report to Commission on PAI and financial product disclosures by 28 November 2023.		ESAs expected to provide final reports to European Commission on greenwashing risks and supervision of sustainable finance in May 2024.				

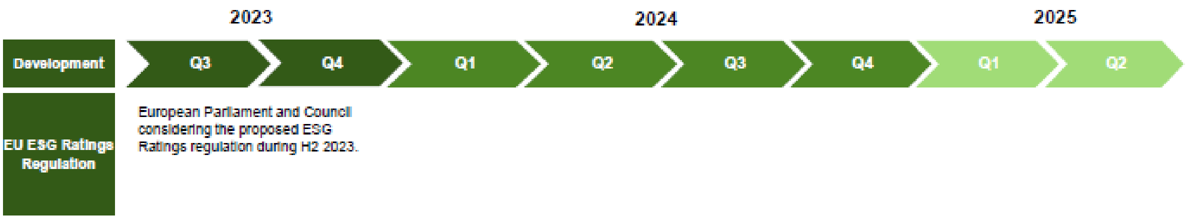
EU TAXONOMY REGULATION

	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
Development	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
EU Taxonomy Regulation	Commission published EU Sustainable Finance Package on 13 June 2023.	Draft delegated acts expected to be scrutinised by European Parliament and Council	Certain key performance indicators need to be disclosed by financial undertakings subject to Article 8 from 1 January 2024.					

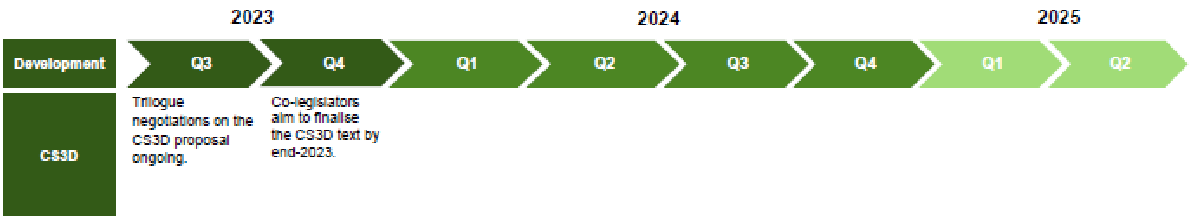
EU ANTI-GREENWASHING DIRECTIVE: AMENDMENTS TO UCPD



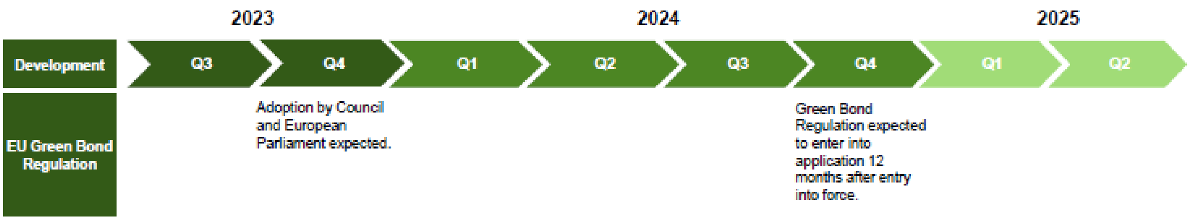
EU REGULATION OF ESG DATA AND RATINGS PROVIDERS



CORPORATE SUSTAINABILITY DUE DILIGENCE DIRECTIVE (CS3D)



EU GREEN BOND REGULATION



Energy & Commodities

Ends. 01 December 2023