EVIA European Venues & Intermediaries Association

LEBA London Energy Brokers' Association

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

Wednesday 06th September 2023

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Edinburgh Reforms & FSMA 2023: DAR to Be Different…

As you're no doubt well aware, the new Financial Services and Markets Act 2023 contains a framework for the regulators to make extensive and fundamental changes to the UK financial services sector, revokes retained EU laws,* reforms the financial promotions regime, and includes new objectives for the FCA and PRA among many other measures. You may have seen that on 03 July the FSMA 2023 received Royal Asset. ("no more the FS&M Bill")

Amidst all the planned changes, it can be hard to grasp the full implications, especially without the more detailed rules. One aspect that represents something of an opportunity for members operating broking services, platforms and TVs, and which constitutes a paradigm shift for UK regulation is the creation of a new *Part 5A "Designated Activities Regime" (DAR).* Provisions to give effect to this regime just came into force on 29 August 2023.

So, what's happening? Whereas the traditional FSMA 2000 framework operates on the basis that there are certain 'regulated' activities, and that carrying them on requires a person to become authorised and obliges them to comply with relevant FCA rules, the new DAR establishes a comparable framework based on 'designated' activities. These activities will either be prohibited outright or require compliance with relevant FCA rules (or an exemption) but do

not require the firm carrying on the activity to become authorised – or, in other words, firms may be affected even if they fall outside the licensing perimeter.

The power to designate the relevant activities rests with HMT (section 71K) and the power to make the associated regulation rests with the FCA (section 71N). Together, the effect is:

- to give HMT significant discretion to restrict activities through secondary legislation, and
- to extend the FCA's remit for making and enforcing the associated rules.

What to watch out for. The immediate rationale for the DAR is commodities, to find a new home for certain activities captured by soon-to-be-revoked retained EU laws. Basically, the government still wishes to regulate these activities, but feels they don't belong within the existing FSMA regulated activities/authorised persons framework. We're still waiting on for precise details of the initial designated activities, although various possible examples are listed (without limitation) in Schedule 6B of the Act, such as activities related to entering into derivatives (so would capture NFCs subject to EMIR), holding positions in commodity derivatives (this would catch exempt commodity firms trading commodity derivatives) and short selling.

The most interesting thing here, though, will be to see how use of the DAR evolves in the future, as it has the potential to apply a much wider scope of activities that are currently not regulated. The most likely targets for 'designation' are novel/high risk activities, but technically this new status may be applied to any activity related or connected to the UK's financial markets or exchanges, or financial instruments, financial products or (non-defined) financial investments issued or sold to/by UK persons. It goes without saying, that's an extremely broad remit.

ETSs Revisited

You may recall that the EU's "Fit for 55" package, which is the EU's overhaul and expansion of its flagship Emissions Trading System (EU ETS). Post-Brexit, the UK adopted the EU ETS architecture and created its own separate UK ETS. Like the EU ETS, the UK ETS provides for a system whereby certain energy-intensive companies (Operators) must acquire emission allowances (whether by allocation, auction or trade) to cover the GHG emissions they produce, subject to diminishing overall caps year-on-year. Indeed, the systems are so similar that that they may yet be formally 'linked', although there's no sign this is imminent.

Following the EU's lead, the UK government has proposed changes to UK ETS (via a paper published earlier this summer). But the devil – or should that be the *divergence* – is in the detail. For one thing, the EU is a step further along the process here: its changes are already embedded in published legislation, whereas the UK's will require various further phases of consultation and drafting. In terms of the proposals themselves, the table below provides a high-level summary and comparison:

	EU ETS Changes	UK ETS Changes
Cap on Allowances	Decrease the total cap on emission allowances available per year by:	Reset the cap to be 'net zero consistent'. Notably this will require a 'step change' in the overall level in

	Applying one-off reductions (in 2024 & 2026) Accelerating the yearly reduction rate from 2.2% to 4.3% (from 2024) and 4.4% (from 2028)	2024, followed by further tightening. To smooth the transition allowances released from reserve pots to the market between 2024-2027
Extension to Maritime	Include emissions from the maritime transport sector from 2024	Include domestic maritime by 2026 (NB: unlike EU ETS, this only captures journeys *within* the jurisdiction, not *to* or *from* it)
Extension to Road Transport / Buildings	Set up a whole new ETS for carbon emissions from road transport and heating fuels from 2027	No proposed coverage of road transport or heating fuels. However, this may be addressed when the government publishes its 'long-term pathway' for UK ETS later this year
Extension to Waste	Report (by 31 July 2026) on including municipal waste incineration installations from 2028.	Intend to include energy from waste and waste incineration in 2028 (preceded by a 2-year phase-in)
Extension to 'Negative Emissions'	Report (by 31 July 2026) on how to include coverage of "negative emissions" (GHG removals)	Intend to include engineered greenhouse gas reductions (GGRs). Further consultation expected later this year.
Free Allocations	Phase out free allowances for certain industries, including: full auctioning in the aviation sector from 2026; phasing out free allowances for certain other Operators as CBAM comes online	Transition to full auctioning in the aviation sector from 2026. Otherwise, continue to utilise free allowances and in fact increase the limit on the quantity of free allowances (from 37% to 40%)
Carbon Leakage	In parallel to EU ETS, phase in a "carbon border adjustment mechanism" (CBAM) requiring certain Operators to account for embedded emissions in products imported into the EU, from 2026.	The government published a Consultation in March on the potential for adopting a CBAM and/or other policy measures (e.g. mandatory product standards), and is expected to publish its feedback.

A tale of two systems. Clearly then, while the UK and EU are on a similar wavelength here, the UK is signalling an intent to go its own way and manage things at its own pace (while keeping open the possibility of a formal 'linking' of the ETSs).

Overall, a degree of divergence is perhaps unsurprising given the systems' fundamental differences in scale, underlying economic activity and governance – differences that are already apparent in the pricing of their respective allowances, with UKAs trading at increasingly heavy discounts relative to their EU counterparts this year. Needless to say, we will be keeping a careful watch for further details on the UK's proposals and their implications. Our new Carbon Reviewer tool will cover compliance and voluntary carbon credits, enabling subscribers to compare regimes themselves.

EMIR 3 / Refit: Clearing the Way

Back in December last year, the European Commission published a legislative proposal setting out amendments to the European Market Infrastructure Regulation (EMIR 3). The proposals are wide-ranging and, in many cases, technical in nature, but one in particular has caused most consternation: a plan to require FCs and NFC+s who are subject to the EMIR clearing obligation to hold active accounts at EU CCPs for clearing relevant products.

This proposal is squarely aimed at reducing reliance on third-country (particularly UK) CCPs and boosting the EU's internal clearing market and capabilities. In the background, it's worth remembering that the Commission's equivalence decision granting access to UK CCPs is currently set to expire on 30 June 2025.

What's been happening? The new active account requirement originally articulated by the Commission is set out in a proposed new Article 7a, which lists three categories of derivative contracts to which the active account obligation will apply (set out below), and provides that ESMA shall develop an RTS specifying the proportion of such activity that must be cleared at EU CCPs:

- IRDs denominated in Euro and Polish zloty;
- CDSs denominated in Euro; and
- STIRs denominated in Euro.

Off the back of that proposal, several industry bodies (including ISDA) raised reservations, in particular noting the potential impact in terms of additional costs and competitive disadvantages. In June, notwithstanding these pressures, the European Parliament issued a Draft Report which broadly retains the Commission's overall proposal, while incorporating a few amendments that represent a slight change of tack including:

- Switching to a two-step approach, whereby:
    - Initially there would still be a requirement to hold active accounts, but without the need for a specified proportion of in-scope transactions to be cleared through them (it is left to ESMA to draft an RTS specifying what exactly is meant by 'active' in this context).
    - After 18 months, ESMA would report with an assessment of the impact and, if necessary, move to phase 2 involving development of an RTS specifying the proportion of activity to be cleared at EU CCPs;
- Applying the requirement on a group-wide basis; and
- Tweaking the categories of in-scope derivative by swapping out CDSs for a bucket of "*other categories of derivative contracts…identified by ESMA as being of substantial systemic importance*".

So, what comes next? It's a fair question. As things stand, the Parliament's report introduces new possibilities (and questions) but does little to assuage the industry's broader concerns, and so heading into the autumn we anticipate further headaches before we get final clarity.

Finally, it's worth flagging that active accounts aren't the only issue in play here – there are several to keep an eye on, e.g. around NFC intra-group transaction reporting, the extension of the trade reporting to non-EU members of EU groups and the centralised supervision of CCPs.

The Bank of England, as representative of the Global FX Committee, would like to hear from you to understand how effective the FX Global Code is and to gather suggestions on how it might need updating.

Q3 2023 UK Conduct and SMCR Cases

1. *FCA's approach to Non-Financial Misconduct ("NFM")*
2. *FCA - Feedback Statement on Big Tech and Artificial Intelligence ("AI") (FS 23/4)*
3. *FCA – Guidance Consultation - Financial promotions on social media (GC 23/2)*
4. *Board governance - Report on financial services Board memberships*
5. *FCA Annual Report – Skilled Person Reports data*
6. *PRA - Consultation Paper on Pillar 3 remuneration disclosure requirements (CP 14/23)*
7. *FCA - Dear CEO letter on Liquidity Management Multi-Firm Review (Asset Managers)*
8. *Final Notices and Decision Notices – PRA and FCA*

!. FCA's approach to Non-Financial Misconduct ("NFM")

- Recalling the Treasury Select Committee's Letter to the FCA which stated that "*culture in financial services, and the experiences of women in the industry, are ongoing concerns of the Treasury Committee.*" Since then, we have seen the FCA's response which makes it very clear that it does not consider NFM to be outside the scope of the FCA's regulatory remit - the FCA link NFM and culture to decision making and risk management. At the same time, however, the FCA highlights that there are limitations to the scope of its powers or the appropriateness of it as a regulator taking action (particularly following Frensham v FCA). Specifically, the letter notes that the FCA "*is not an alternative to criminal prosecution, a firm's internal disciplinary processes or for proceedings through the Employment Tribunal*". Nikhil Rathi, Chief Executive of the FCA was also questioned in front of the Treasury Committee in relation to NFM and the letter.
- Since the implementation of the SMCR the vast majority of complex conduct issues on which we have advised have involved an element of NFM and while firms have become more sophisticated after seven years of the SMCR and are committed to achieving the right outcomes, NFM is a challenge that isn't going away. We know, for example, that NFM is being carefully considered as part of the broader 2023 SMCR Review being conducted by HM Treasury and the PRA/FCA (driven by the Edinburgh Reforms agenda) and the Diversity and Inclusion Consultation Paper (assuming it is ever actually published, although it has recently been promised for September). The FCA indicated in the letter that it does intend to provide further guidance on how NFM should be considered within its rules later in 2023…as ever with this topic, let's wait and see…
- This month the Treasury Committee also opened an Inquiry into "Sexism in the City" to examine the barriers faced by women in financial services, in order to explore further how firms, the Government and regulators can play a role in combatting sexual

harassment and misogyny. It is an interesting remit and whilst the role of regulators in relation to sexual harassment has long been discussed, our view is that it is a hugely difficult question as to whether the FCA should have power to tackle misogyny. The FCA indicated in its letter that NFM may be an area where Parliament chooses to legislate should it wish to specify that certain offences should lead to an automatic prohibition from the regulated sector. This is something the Treasury Committee also questioned – i.e. whether Parliament needed to give the FCA more powers to deal with such incidents.

- The Inquiry's Call for Evidence is open until the 1 September 2023 and we would be keen to advocate on behalf of firms if there are views you would like to share – please do let us know if you'd be interested in speaking on this.
- A final nugget of NFM intel - the FCA confirmed that it has prohibited seven individuals for NFM and is currently considering six prohibition cases, and has opened two enforcement investigations related to NFM.

1. FCA - Feedback Statement on Big Tech and Artificial Intelligence ("AI") (FS 23/4)

- Following last October's Discussion Paper on the potential competition impacts of Big Tech in retail financial services, the FCA has now published its Feedback Statement. The FCA outline that (along with the Consumer Duty) the SMCR will assist the FCA in managing the potential competition risks once Big Tech has entered the market and ensure there is a level playing field. Where the SMCR is applicable, including Big Tech firms authorised under FSMA 2000, the most senior individuals will be held accountable if they do not take reasonable steps to prevent or stop breaches of applicable regulatory requirements.
- Nikhil Rathi's speech on this Feedback Statement, confirmed that the SMCR provides the FCA with a clear framework to respond to innovations in AI, and reiterates that Senior Managers will be ultimately accountable for the activities of the firm. Mr Rathi also acknowledged the risks that Big Tech may pose to operational resilience and outsourcing and indicates regulatory focus on these areas including clarifying where responsibility lies when things go wrong in the context of critical third parties (something to also consider in the context of the recent PRA Senior Manager enforcement discussed in this Flash SMCR+ View).
- Perhaps looking into his crystal ball of future regulatory debate, Mr Rathi referenced suggestions in Parliament that there should be a bespoke SMCR-type regime for senior individuals managing AI systems, who may not typically have performed roles which are subject to FCA scrutiny but who will now be increasingly central to the firm's business.

2. FCA – Guidance Consultation - Financial promotions on social media (GC 23/2)

- The FCA has published a Guidance Consultation on financial promotions on social media (much needed given the existing guidance FG 15/4 is almost a decade old). The headline – evolution, not revolution. The key principles of existing guidance are to be retained but there is helpful guidance on how expectations on the prominence of information should apply to different social media channels and guidance on cross border complexities, amongst other things. The FCA explicitly calls out Principle 3 (*firms must take reasonable care to organise and control its affairs responsibly and effectively*), and its expectation that firms using influencers to communicate financial promotions on social media are taking appropriate

steps to ensure they understand the product or service they are promoting and are aware of the relevant rules. The reference to Principle 3 is interesting considering the introduction of Principle 12 through the Consumer Duty, and may indicate how the FCA will look to ensure compliance with the Consumer Outcomes via systems and controls.

- This will be relevant to Senior Managers with responsibility for overseeing financial promotions, social media marketing and any specific marketing partnerships with influencers. For relevant firms, it may also be of interest to the Consumer Duty Champion.

3. Board governance - Report on financial services Board memberships

- This month, EY published this report indicating that on average European financial services Board members hold an average of three Board positions, and just over a quarter hold at least four Board positions. The numbers of Board members holding more than two Board positions varied between sectors: 49% of Board members of asset managers, 41% of Board members of insurers and 39% of Board members of banks. This research has raised concerns about Board members' ability to carry out their roles effectively with 82% of investors polled believing that sitting on three or more Boards could present challenges to directors' abilities to govern effectively. Whilst this is EU focussed, in the UK we already have directorship limits (which are derived from European regulations) applicable to Significant SYSC firms and the requirement that the Board members are fit and proper to perform their role (of which capacity tends to form part of competence and capability). However, this report shines a light on this matter and, in an ESG world, highlights the importance of Board composition and time commitments of each Board member.
- The report also found that 82% of European financial services investors stated that the gender diversity of the boardroom has a significant influence on their decision to invest. 28% of listed European financial services firms have under 40% female representation in their boardroom, which is the level required by June 2026 to comply with the European Commission's European Women on Boards Directive. The FCA has also introduced Diversity & Inclusion disclosure requirements for listed companies.

4. FCA Annual Report – Skilled Person Reports data

- The FCA has published it's 2022/23 annual report and accounts, which includes some interesting data. The FCA confirmed that in 2022/23, it used its powers under Section 166 of FSMA (Skilled Person Reports) in 47 cases, with the reviews examining regulatory issues including controls and risk management frameworks, financial crime, corporate governance and senior management arrangements (including culture), adequacy of advice, adequacy of systems and controls, client money and client asset arrangements. The sector with the highest number of reviews (14) was the retail investments sector, followed by retail banking and payments sector (9 each). Across the sectors, four reviews related to governance and individual accountability.

5. PRA - Consultation Paper on Pillar 3 remuneration disclosure requirements (CP 14/23)

- Another remuneration related Consultation Paper from the PRA, this time on the proposals to enhance proportionality of Pillar 3 remuneration disclosure requirements for smaller banks and building societies. This follows on from the PRA's CP 4/23 and CP 5/23 on the

Strong and Simple Framework. The PRA sets out a number of proposals intended to enhance proportionality by reducing the number of remuneration disclosure requirements for firms classified as simpler-regime firms, small CRR firms and small and non-complex institution ("SNCI") firms, in particular the information to be disclosed using the UK REMA template (remuneration policy). The deadline for responses is 20 September 2023.

6. FCA - Dear CEO letter on Liquidity Management Multi-Firm Review (Asset Managers)

- The FCA has published a Dear CEO letter with the key findings of its multi-firm review of liquidity management by Authorised Fund Managers ("AFMs"). Whilst the review focuses on AFMs, the FCA expects all asset managers and managers of AIFs to consider the findings for their businesses.
- One of the key findings in the review was the insufficient weight many firms were attaching to liquidity risk management in governance arrangements, with insufficient challenge and escalation, particularly in stressed environments. The FCA emphasised messages from its February 2023 Dear CEO asset management supervision strategy letter around good governance and its importance during periods of heightened market uncertainty. The FCA reiterate their expectation for clear lines of accountability and escalation, Board expertise being sufficient to oversee key risks (including liquidity risks), and risk related management information being provided in a timely manner – all of which will facilitate the firm in responding to volatile market conditions or redemption stress.
- Next steps? The CEO and Board of relevant firms must review their firm's liquidity management arrangements, consider the FCA's findings and make any necessary enhancements.

7. Final Notices and Decision Notices – PRA and FCA

- There have been a number of Decision and Final Notices issued by the PRA and FCA this month in relation to: (1) Denis Lee Morgan (Final Notice) prohibiting him from performing any Senior Manager Functions and withdrawing his approvals as an SMF 3 and SMF 16, (2) Sqoan Financials Limited (Decision Notice) cancelling the firm's Part 4A permission, (3) Credit Suisse International and Credit Suisse Securities (Europe) Ltd (Final Notice) relating to failures in risk management and governance in connection with Archegos Capital Management; and (4) Paul Steel (Final Notice) fining him £3,694,400 (although he is only required to pay £850k to the FCA for the FSCS) for providing unsuitable advice to customers. This latter matter resulted in a breach of Individual Conduct Rule 1 (*acting with honesty and integrity*) and Individual Conduct Rule 3 (*being open and cooperative with the FCA*).
- There's something for all Senior Managers across various lines to consider across these different Notices in terms of culture, management structures, competence and capability, lines of defence, management of risk, escalation and integrity (turns out selling a client book to yourself for less than its value meaning customers can't pursue for redress despite being given unsuitable advice isn't OK). Some of our key takeaways include:
    a. Regulatory returns Sqoan Financials Limited failed to pay periodic fees and levies owed to the FCA and had failed to submit the necessary returns including the Directory Persons Attestation (as required under SUP 16.26.18R to 16.26.20R) thus resulting in the FCA concluding that Sqoan had failed to provide required regulatory

information. So a reminder to make sure that such Directory Person Attestations are made where required. Likely one for SMF 16s.

b. Culture: The regulators clearly impress the importance of culture in relation to balancing business risk and reward. There is a reminder of the regulators' long standing expectation for firms to have "speak-up" cultures. This is relevant to all Senior Managers, but particularly those holding culture prescribed responsibilities ("PRs").
c. Matrix management structures: Many firms operate matrixed legal structures reflecting geographical, jurisdictional and/or business division lines, but the regulators expectations are that these structures do not result in overly complex organisations that can't be readily navigated or which inhibits effective risk management. Where firms operate global functions, particularly global control functions, there must be sufficient UK challenge and no overreliance on overseas counterparts – this is similar to earlier messages we've seen on this point in relation to financial crime (see the May 2021 Dear CEO Letter to retail banks). This is relevant to Boards, control Senior Managers and the Senior Manager with the PR for the SMR.
d. Lines of defence: Nothing new here but something highlighted by regulators is the importance of the first line of defence in actively identifying, measuring, managing and reporting risks. The second line should independently monitor the first line and the third line must provide independent oversight and challenge. The second line must be empowered to exercise authority to protect and adequately oversee the business and that relevant functions are appropriately staffed (both qualitatively and quantitively) and have sufficient systems and procedures in place to support these functions. There is also reference to effective risk management arrangements where business is remotely booked to the UK and ensuring that there are clear escalation lines to relevant, local Senior Managers. This is relevant to all Senior Managers, and particularly Control SMFs – e.g. CCO (SMF 16), CIA (SMF 5) and CRO (SMF 4).
e. Escalation and governance: The PRA also emphasised the importance of terms of reference for governance bodies to ensure that they have clear purpose and that they are sufficiently embedded within organisations. For firms that have just implemented the Consumer Duty this is an important takeaway to consider for new product governance and/or Consumer Duty Committees. The regulators have been clear that these governance frameworks should adequately scrutinise and discuss appropriately escalated risks.
f. Lessons learned: The importance of addressing lessons learned from issues which arise within firms is of critical importance and what is clear is that firm's that fail to do this and then experience similar or perhaps avoidable issues in the future will not be looked on kindly by the regulators. This means ensuring (1) remediation programmes are completed, (2) that firms don't just consider each issue in a siloed manner, but rather take a step back, join the dots and consider holistically whether there are broader matters that need addressing, and (3) firms are in a position to demonstrate how they have learned from past experience.

Focus	Key Activities for 2023 / 2024
Reducing and preventing serious harm.	i. Take more action against problem firms — by prioritising action against riskiest firms, enhancing detection, intervening quicker and increasing the number of firms it takes action against. ii. Improve appropriate and efficient redress — by issuing new guidance for redress calculations, review FOS eligibility rules for SME firms and improve complaints reporting. iii. Reduce impact of firm failure — by introducing a new regulatory return requiring 20,000 of its regulated firms to more information about their financial resilience. iv. Validate the enhanced oversight of Appointed Representatives (Aids) — by testing that firms have embedded the new rules as well as improving its engagement with firms. v. Reduce and prevent financial crime — by increasing use of data to better identify which firms are more at risk whilst also developing new tools, undertaking more proactive assessments of firms' controls, and reviewing the oversight of firms communicating and approving financial promotions including qualifying cryptcassets (once regulated). vi. Be more assertive on market abuse — by improving its capability, being more coordinated, focusing more on prevention and increasing transparency and unlavirkil disclosure relating to its Persons Discharging Management Responsibility (PD R) regime.
Setting and testing higher standards.	i. Put customers' needs first — by consulting on changes to treatment of customer in financial difficulty, oversee regulation of BNPL firms and consulting on future of cash access. Additionally, specifically relating to Consumer Duty, FCA will create an additional Interventions team within Enforcement. This function will be ready from August 2023 to enable rapid action where immediate consumer harm is detected. ii. Enable consumers to help themselves — by introducing an application gateway for firms that want to approve financial promotions for unauthorised firms, preparing for the regulation of cryptoassets promotions, and increasing capability to identify illegal financial promotions faster. iii. Deliver a strategy for ESG — by consulting, when appropriate, on changes to Listing Rules to reference the final ISSB standards and providing a Feedback Statement to the Discussion Paper on ESG governance, incentives, and competence, including planned next steps. The FCA will also finalise and publish rules on Sustain-ability Disclosure Requirements and investment labels. iv. Test operational resilience — by assessing whether firms can work appropriately within their impact tolerances, (ahead of the

	31 March 2025 deadline) and making it clearer to firms how they should report operational incidents to FCA.
Promoting competition and positive change.	i. **Implement the outcomes of the FRF** — by preparing for the replacement of retained al law with requirements in the FA's Handbook and by applying the changes to its objectives, regulatory principles and accountability arrangements agreed by Parliament. ii. **Strengthen the UK's position in global wholesale markets** — by updating the regulatory framework (including MiFIID2/MiFIR, asset management regulation, and Prospectus, Short Selling and Securitisation regulation), encouraging innovations via the FMI Sandbox and supporting evolving markets on digitalisation anciT+1 settlement as well as considering where it should enable retail access to capital markets. iii. **Shape digital markets to achieve good outcomes** — by continuing the range of activities started in 2022/23 including on BigTechs in retail financial markets, artificial intelligence and Open Banking and Finance.

Regulatory Outlook and Diary

Forward Regulatory Calendar: Updated 01st September 2023		
Q32023	Australia	Expected finalization of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks
Q3 2023	Australia	Expected third consultation paper on over-the-counter (OTC) derivatives reporting and technical guidance by ASIC. Expected publication of final OTC derivatives reporting rules by ASIC
Q3 2023	Hong Kong	Consultation of Hong Kong's reporting rules on adoption of UPI and CDE.
Q3/ 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.
Q3/ 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.
Q3/ Q4 2023	EU	Earliest expected start date for the Internal Model Approach (IM) reporting requirements under the CRR II market risk standard.
Q3/ Q4 2023	EU	Targeted BMR legislative proposal amending the scope of the third country regime.
August/ September, 2023	US	Comment Deadline: CFTC advanced notice of proposed rulemaking on potential amendments to the Risk Management Program (RMP) requirements in CFTC Regulations 23.600 and 1.11 applicable to swap dealers and futures commission merchants.
September 1, 2023	US Australia Canada Hong Kong Korea Singapore	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 2023 exceeding USD 8 billion). Australia: Initial margin requirements apply to Phase 6 APRA covered entities with an average (month-end) aggregate notional amount from March, April, and May 2023 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 notional amount from March, April, and May 2023 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 2023 exceeding HKD 60 billion. Korea: Initial margin requirements apply to financial institutions with derivatives exceeding more than KRW 10 trillion average (month-end) aggregate notional amount based on calculation from March, April, and May 2023.

	Japan Brazil Saudi Arabia	Singapore: Initial margin requirements apply to MAS covered entities with an average (month-end) aggregate notional amount from March, April, and May 2023 exceeding SGD 13 billion. Japan: Initial margin requirements apply to JFSA covered entities with an average (month-end) aggregate notional amount from March, April, and May 2023 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 2023 exceeding BRL 25 billion. 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 2023 exceeds EUR 8 billion.
September 01, 2023	South Africa	Initial margin requirements apply to a provider with average (month-end) aggregate notional amount from March, April, and May 2023 exceeding either ZAR 15 trillion
September 18, 2023	US	Comments due: CFTC Advanced Notice of Proposed Rulemaking for Risk Management Program Regulations for Swap Dealers, Major Swap Participants, and Futures Commission Merchants (See 88 Fed. Reg. 45826-45836 (July 18, 2023)).
September 26, 2023	US	Comments due: CFTC Proposed Rule for Derivatives Clearing Organizations Recovery and Orderly Wind-Down Plans; Information for Resolution Planning (See 88 Fed. Reg. 48968- 49055 (July 28, 2023))
October 18, 2023	UK	Deadline for response to PRA/FCA CP13/23: Equity options margin requirements and initial margin model pre-approval.
October 30, 2023	US	Comment Deadline: SEC re-opening of comment period for the proposed rule “Safeguarding Advisory Client Assets.” (See 88 Fed. Reg. 59818-59820 (August 30, 2023)).
December 04, 2023	US	Swap data repositories (SDRs), swap execution facilities (SEFs), designated contract markets (DCMs), and reporting counterparties must comply with the amendments to the CFTC swap data reporting regulations found in Part 43, Part 45 and Part 49 by the compliance date of December 5, 2022; provided, however that SDRs, SEFs, DCMs, and reporting counterparties must comply with the amendments to §§43.4(h) and 43.6 by December 4, 2023.
December 04, 2023	US	Compliance date for CFTC Block and Cap reporting amendments. Expiry of relief in CFTC Staff Letter No. 22-03.
December 31, 2023	EU	The amended Benchmarks Regulation that entered into force on February 13, 2021 extends the BMR transition period for non-EU benchmark administrators until December 31, 2023 and empowers the

		European Commission (EC) to adopt a delegated act by June 15, 2023 to prolong this extension by maximum two years until December 31, 2025. It also enables the EC to adopt delegated acts by June 15, 2023 in order to create a list of spot foreign exchange benchmarks that will be excluded from the scope of Regulation (EU) 2016/1011.
December 31, 2023	UK	Expiry of the temporary Intragroup Exemption Regime (TIGER) from clearing and margin requirements. (*this will change subject to HM Treasury passing a statutory instrument to extend the instrument to December 31, 2026).*
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
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	Australia	Basel III: Expected implementation of FRTB framework.
January 1, 2024	Australia	Expected finalization of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
January 1, 2024	EU	Application of the Delegated Acts (DAs) with respect to the four remaining environmental objectives on the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystem.

January 1, 2024	EU	Disclosure of Article 8 Taxonomy reporting KPIs and accompanying information for financial undertakings.
January 1, 2024	EU	The requirements under the EU taxonomy in relation to the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems enter into force.
January 1, 2024	Hong Kong	Basel III: Locally incorporated AIs required to report under revised FRTB and CVA frameworks.
January 1, 2024	Hong Kong	Basel III: Expected implementation of revised credit risk, operational risk, output floor, and leverage ratio frameworks
January 2024	Australia	Expected effective date of APRA prudential standard for IRRBB (APS 117).
January 4, 2024	EU	The three-year derogation from margin rules in respect of non-centrally cleared over-the-counter derivatives, which are single-stock equity options or index option where no EMIR Article 13(2) equivalence determination is in place, was due to expire on January 4, 2021.
January 4, 2024	Hong Kong	Expiry of the SFC exemption from margin requirements for non-centrally cleared single stock options, equity basket options and equity index options.
January 4, 2024	UK	Expiry of the derogation from margin rules in respect of non-centrally cleared over-the counter derivatives, which are single-stock equity options or index options.
January 29, 2024	US	Compliance Date for registered entities and swap counterparties to use the Unique Product Identifier (UPI) for swaps in the credit, equity, foreign exchange and interest rate asset classes for P43 and P45 reporting.
February 12, 2024	EU	CCP R&R (Article 96): ESMA shall assess the staffing and resources needs arising from the assumption of its powers and duties in accordance with this Regulation and submit a report to the European Parliament, the Council and the Commission.
March 01, 2024	Australia US EU Australia Canada Hong Kong Korea Switzerland	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.

	Singapore Japan Brazil Mexico	
March 01, 2024	South Africa	Three-month calculation period begins to determine whether the average aggregate notional amount of derivatives for an entity and its affiliates exceeds ZAR 8 trillion threshold for initial margin requirements as of September 1, 2024 (per amended rule pending finalization)..
March 15, 2024	Mexico	Deadline for entities and investment funds to amend their master agreements for the exchange of margin for uncleared derivatives under the Banco de México's Circular 2/2023
March 31, 2024	Japan	Basel III: Implementation of revised credit risk, CVA, market risk (FRTB) for international active banks and domestic banks using IMM, and the leverage ratio (based on the amendment published on March 28, 2023, the implementation date for ultimate parent companies of a broker-dealer (limited to those designated by JFSA) has been changed to March 31, 2025).
April 01, 2024	Japan	Go-live of revised JFSA reporting rules based on the CPMI-IOSCO Technical Guidance. JFSA finalized the Guidelines of the revised reporting rules on December 9, 2022.
April 01, 2024	India	The RBI published draft guidelines on minimum capital requirements for market risk as part of convergence with Basel III standards. Applicable to all commercial banks excluding local area banks, payment banks, regional rural banks, and small finance banks. Not applicable to cooperative banks.
April 29, 2024	EU	Go-live of EMIR Refit reporting rules
June 28, 2024	EU	As part of the review clause inserted in CRR II, the European Commission taking into account the reports by the European Banking Authority is expected to review the treatment of repos and reverse repos as well as securities hedging transactions through a legislative proposal.
June 28, 2024	EU	As part of CRR II, the European Banking Authority is to monitor and report to the European Commission on Required Stable Funding (RSF) requirements for derivatives (including margin treatment and the 5% gross-derivative liabilities add-on).
June 30, 2024	EU	The EC to review the application of the Article 8 Taxonomy Regulation including the need for further amendments with regards to the inclusion of derivatives in the numerator of KPIs for financial undertakings.
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)).
September 1, 2024	US Australia Canada Hong Kong Korea Singapore Japan Brazil Saudi Arabia	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. 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 30, 2024	EU	Go-live of UK EMIR Refit reporting.
Q4 2024	Singapore	Expected go-live of the updated MAS reporting regime.
October 1, 2024	US	Expiration of temporary CFTC relief regarding capital and financial reporting for certain non-US nonbank swap dealers (See CFTC Staff Letter No. 22-10 and CFTC Staff Letter No. 21-20) *relief would also expire upon the Commission's issuance of comparability determinations for the jurisdictions in question.
October 21, 2024	Australia	Expected implementation of ASIC Derivative Transaction Rules (Reporting) 2024.
December 31, 2024	UK	The FCA direction under the temporary transitional powers allowing UK firms to execute certain trades with EU clients on EU venues (even though there is no UK equivalence decision in respect of those venues) expires at the end of 2024
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.
March 1, 2025	Australia US EU Canada Hong Kong Korea Switzerland Singapore Japan Brazil South Africa UK Mexico Saudi Arabia	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.
Q4 2024/Q1 2025	EU	Earliest expected start date for the Internal Model Approach (IM) reporting requirements under the CRR II market risk standard.
January 1, 2025	Australia	Basel III: Expected implementation of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
January 1, 2025	UK	Expected implementation of the Basel 3.1 standards
January 1, 2025	UK	Expected implementation of the Basel 3.1 standards
March 31, 2025	Japan	Basel III: Expected implementation of revised credit risk, CVA, market risk (FRTB) for domestic banks not using IMM.

June 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.
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.
September 01, 2025	US Australia Canada Hong Kong Korea Singapore Japan Brazil	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: 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: 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: 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: 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: 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: 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.

	Saudi Arabia	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: 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 1, 2025	US	Expiry of extension of relief concerning swap reporting requirements of Part 45 and 46 of the CFTC's regulations, applicable to certain non-US swap dealers (SD) and major swap participants (MSP) established in Australia, Canada, the European Union, Japan, Switzerland and the United Kingdom, that are not part of an affiliated group in which the ultimate parent entity is a US SD, US MSP, US bank, US financial holding company or US bank holding company. See CFTC Staff Letters No. 20-37 and No. 22-14.
January 1, 2026	Australia	Basel III: Expected implementation of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
January 1, 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 1, 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 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.

Regulatory Calendar for Wholesale financial markets

Lead	Initiative	Expected key milestones	Indicative impact on firms	Dates
FCA	Accessing and using wholesale data; Market study assessing potential competition issues about benchmarks, credit rating data and market data vendors.	Launch of market study now planned for later in Q1 2023 to align with findings of trade data review. FCA published this update on timing on our external webpage.	H	Timing Updated Jan/Mar 2023 April / June 2023
FCA	Accessing and using wholesale data Trade data review; Assessment of potential competition issues and concerns about effectiveness of	Feedback Statement published 11 January 2022 Trade data review launched June 2022 Publication of findings and next	L	Timing Updated

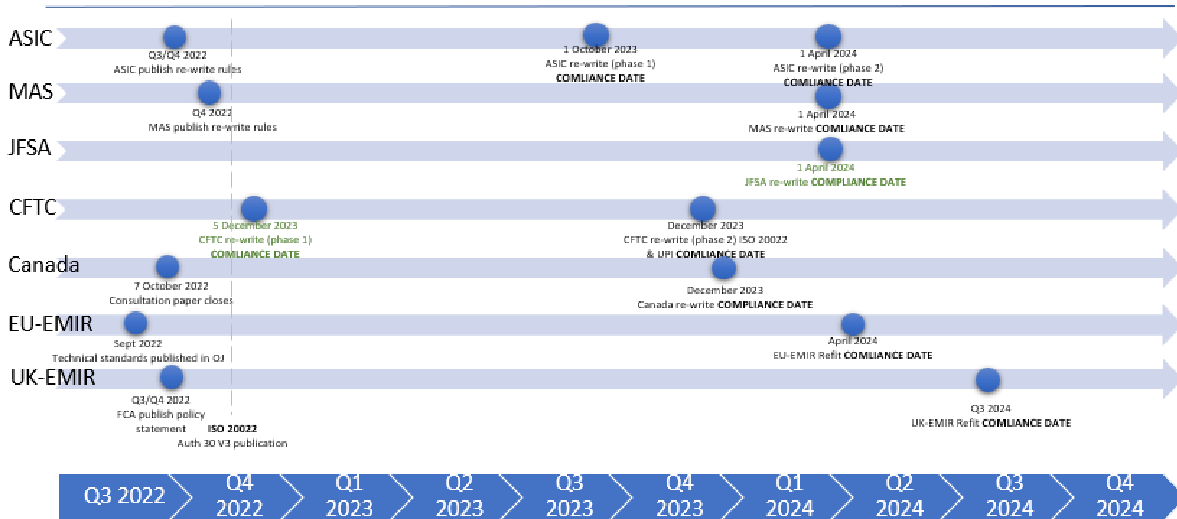
	regulatory provisions in relation to trade data.	steps - planned for later in Q1 2023.		Jan/Mar 2023
BoE/ FCA/ HMT/ PRA	LIBOR Transition; Secure a fair, clear and orderly transition from LIBOR to robust, reliable and clean alternative risk-free rates	The FCA has compelled production of synthetic LIBOR for a limited number of settings and has been clear that these synthetic settings are only a temporary measure. Following FCA announcements in November 2022, end dates have now been announced or proposed for all LIBOR settings. End-March 2023: Synthetic 1-month and 6-month sterling LIBOR will cease. End June 2023: Overnight and 12-month US dollar LIBOR will cease. UK authorities are and will continue to work closely with international counterparts to monitor any new use of US dollar LIBOR and remove dependency on it in legacy contracts. End-March 2024: Synthetic 3-month sterling LIBOR is intended to cease. End-September 2024: The FCA has consulted on a proposal to require publication of a synthetic US dollar LIBOR for the 1-, 3- and 6-month settings until September 2024. The consultation sought views on this and also on the FCA's proposed synthetic methodology, and which contracts could use these synthetic settings. However, market participants should not rely on the availability of synthetic US dollar LIBOR and should note that any potential synthetic settings would only be a temporary bridge to appropriate alternative risk-free rates. The FCA expects to announce its final decision in late Q1 or early Q2 2023.	H	Jan/Mar 2023 April / June 2023
BoE/ FCA/ PRA	Operational Resilience; Implementation of new requirements and expectations to strengthen operational resilience in the financial services sector following publication of final policy in March 2021	In-scope firms had until 31 March 2022 to operationalise the policy framework. These firms will then have a further period to show they can remain within their impact tolerances for each important business service. They must achieve this by 31 March 2025 at the latest.	H	N/A

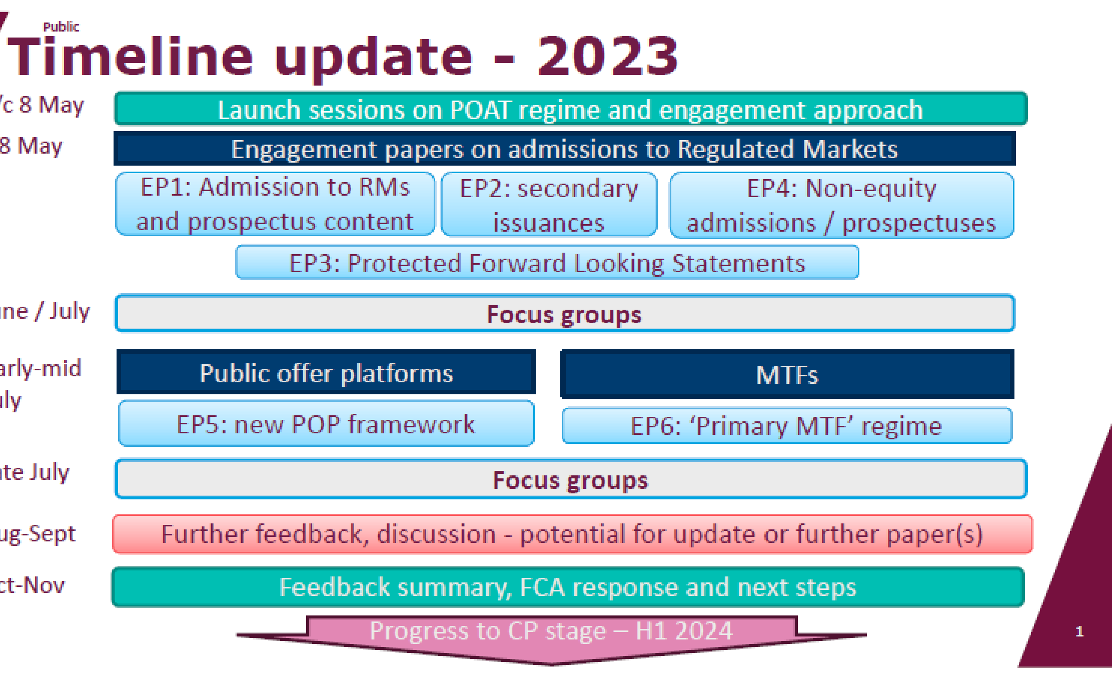
BoE/ FCA/ PRA	Oversight of Critical Third Parties (CTPs); The Bank, PRA and FCA published a joint Discussion Paper (DP) in July 2022. The aim of the DP was to inform future regulatory proposals relating to Critical Third Parties (particularly on technically complex areas, such as resilience testing) and to provide thought leadership from the Bank, PRA and FCA to UK cross-sectoral and international financial regulatory debates on CTPs. Subject to FSM Bill timetables, the supervisory authorities plan to consult on proposals relating to the oversight of Critical Third Parties in H2 2023	Consultation Paper planned for 2023.	H	Oct – Dec 2023
HMT	Review of the short selling regulation - including a Call for Evidence Repeal and replace the retained EU regulation of short selling to reduce burdens on market participants and ensure it is appropriate for UK markets	5 March 2023: Consultation closes	L	Timing Updated Jan/Mar 2023
HMT	Wholesale Markets Review; The Government introduced the Financial Services and Markets Bill on 20 July 2022. Subject to Parliamentary approval, the Bill will deliver the outcomes of the Wholesale Markets Review. The FCA consulted on improving equity markets (CP 22/12) in July 2022 and on the trading venue perimeter (CP 22/18) in September 2022. The FCA aim to publish the Policy Statements in Q1 and Q2 2023 respectively. The FCA plan to consult on changes to commodity position limits and the consolidated tape regime in Q2/Q3 2023. The FCA intend to consult on the transparency regime for bonds and derivatives in Q4 2023. The Government consulted on a number of amendments to ensure that the UK's wholesale markets regime works for UK markets in July 2021 as part of the Wholesale Markets Review (WMR). The consultation closed in September 2021. In March 2022 the Government published its response to the consultation. The proposals we consulted on as part of the WMR that are a priority have been included in the Financial Services and Markets Bill. Where industry supported changes but indicated that fast implementation is not	Treasury consultation response published in March 2022. In July 2022 the Government introduced the Financial Services and Markets Bill which takes forward the most urgently needed WMR reforms. FCA Consultation Paper 22/12 on Improving Equity Secondary Markets published in July 2022. Publication of the Policy Statement in Q1 2023. FCA consultation on guidance on the trading venue perimeter published in September 2022. Publication of the Policy Statement in Q2 2023. FCA consultation on commodity derivatives and the consolidated tape in Q2/Q3 2023. FCA consultation on transparency for bonds and derivatives in Q4 2023.	L	Timing Updated Jul - Sep 2023 Oct – Dec 2023

	paramount, the Government will use the FRF powers to deliver them.			
HMT (with input from	**Future financial services regulatory regime for cryptoassets – consultation;** In April 2022 the Economic Secretary to the Treasury set regulatory out ambitious plans for the UK to harness the benefits authorities) of crypto technologies with several commitments including consulting on a future regulatory regime. The Consultation Paper sets out our initial policy proposals for regulating cryptoassets in the UK. **UK regulatory approach to stablecoins;** Treasury consultation on the broader regulatory approach to cryptoassets, including new challenges from so-called stablecoins. Further detail on the regime will be communicated in due course.	01 February 2023: publication of Consultation Paper. The consultation will close on 30 April 2023. The Government has now responded to this consultation. The Government has now introduced legislation - the Financial Services and Markets Bill - that will give effect to the measure. Treasury is consulting on a future regulatory regime for cryptoassets (see 'Future regulatory regime for cryptoassets - consultation' under 'Payments and cryptoassets').	H	Timing Updated April / June 2023
BoE/ FCA/ HMT	[FMI Sandbox](); Legislation to create a Financial Market Infrastructure (FMI) sandbox was introduced in the FSM Bill 2022. The sandbox will support firms which want to use new technology, such as distributed ledger technology, to provide infrastructure services in financial markets. It ill enable a more flexible and tailored approach to meeting requirements in current legislation, whilst appropriately balancing any risks to financial stability, market integrity and consumer protection. Treasury have started work with the Bank of England and the FCA on secondary legislation to deliver this.	The Government has published information on this initiative as part of its response the Call for Evidence on the Wholesale and Investment uses of Security Tokens. The FMI Sandbox will be up and running in 2023.	L	Oct -Dec 2023 (Not updated)
BoE/ FCA/ HMT	[Amendments to derivatives reporting regime under UK EMIR](); The FCA and the Bank plan to finalise amendments to the derivatives reporting regime under UK EMIR to align the UK regime with international standards as set by the Committee on Payments and Market Infrastructures and International Organization of Securities Commissions (CPMI-IOSCO) to ensure a more globally consistent data set and improve data quality.	Consultation Paper setting out changes to reporting requirements, procedures for data quality and registration of Trade Repositories under UK EMIR published Q4 2021 (closed February 2022). Policy Statement, validation rules and schemas to be published in Q1 2023.	L	Timing Updated Jan/Mar 2023 and post July 2024
BOE	[Changes to the EMIR Derivatives Clearing Obligation]() The Bank has modified the scope of contracts which are subject to the derivatives clearing obligation to reflect the reforms to interest rate benchmarks, including LIBOR. No further changes are planned	Policy Statement on the changes L to USD interest rate derivatives published in August 2022. SOFR referencing IRS added 31 October 2022; USD LIBOR referencing IRS removed 24 April 2023	L	April / June 2023

	to be announced, but the implementation of the final change announced in 2022 will come into effect in April 2023			
FCA	Primary Markets Effectiveness - UK Listings Review response The FCA has bought forward consultation and discussion items on reforms to improve the effectiveness of UK primary markets, which follows FCA policy review work and responds to Lord Hill's final UK Listings Review Report and recommendations published on 3 March 2021.	Consultation Paper on special L E I purpose acquisition companies (SPACs) - published 30 April 2021 (CP21/10), closed 28 May 2021. Policy Statement on SPACs - published 27 July 2021 (PS21/10). Consultation Paper on further Listing Rule changes- published 6 July 2021 (CP21/21), closed 14 September 2021. Policy Statement on Listing Rules changes - published on 2 December 2021 (PS21/22). Discussion Paper (DP22/2) published 26 May 2022, closed on 28 July 2022. Potential Consultation Paper in Q2 2023, including feedback to DP22/2.	L	Timing Updated April / June 2023
FCA	**Implementing ISSB disclosure standards into FCA listing or transparency rules;** We expect the International Sustainability Standards Board to finalise international sustainability disclosure standards later in 2023. The FCA has previously indicated it will explore implementing those standards in its rules for listed companies once finalised, which would replace existing TCFD disclosure requirements. The FCA expects to consult towards the end of this year, with final rules in the first half of 2024 subject to feedback. Timing may be subject to the Government's response to the ISSB standards	Consultation Paper in Q4 2023 Policy Statement 2024	L	Oct -Dec 2023
HMT	Treasury consultation on power to block listings on national security grounds; This initial consultation asked for views on the scope of a proposed new targeted power to allow the Government to block a company's listings, if a listing presents a risk to national security. This power will reinforce that reputation and help us maintain the UK's status as a world-class destination for listings	This consultation closed on 27 August 2021. The Government responded to the consultation on 10 December 2021. This policy will require legislation to be enacted.However, more policy development is needed before that is possible. Treasury will continue to develop this power taking full account of the responses to this consultation	L	N/A
HMT	UK prospectus regime review outcome; This initial consultation asked for views on the scope of a proposed new targeted power to allow the Government to block a company's listings, if a listing presents a risk to national security. This power will reinforce that reputation and help us maintain the UK's status as a world-class destination for listings.	The Government will legislate to replace the regime currently contained in the UK Prospectus Regulation following the passage of the Financial Services and Markets Bill.	L	All dates applicable

DBT/ HMT	Secondary Capital Raising Review (SCRR) led by Mark Austin; The SCRR is intended to look into improving further capital raising processes for publicly traded companies in the UK. The review was started in October 2021 and reported in July 2022. The Government has accepted all the recommendations addressed to it and is considering how to take these forward	The Government has accepted all the recommendations addressed to it and is considering how to take these forward	L	N/A
HMT	Review of the Securitisation Regulation; Treasury has met its legal obligation to review the Securitisation Regulation and lay a report before Parliament. Treasury, FCA and PRA taking forward work in areas identified in the report.	June - September 2021: Call for Evidence took place December 2021: Treasury report on the review published and laid in Parliament July 2022: Based on the review, an equivalence regime for nonUK Simple, Transparent and Standardised (STS) securitisations has been included in the FSM Bill 2022. December 2022: A draft SI has been published, intended to demonstrate how Treasury may implement the outcomes of the FRF review for the Securitisation Regulation. This process will enable reforms in areas identified in the report to be taken forward. 2023 and 2024: The FCA and the PRA will plan to consult on the FCA and PRA rules to deal with the relevant firm-facing provisions in the Securitisation Regulation (and related technical standards) taking into consideration the reform areas identified in Treasury's Review of the Securitisation Regulation. Treasury plans to lay legislation to enable the introduction of these rules.	L	Timing Updated Jul - Sep 2023 Oct – Dec 2023

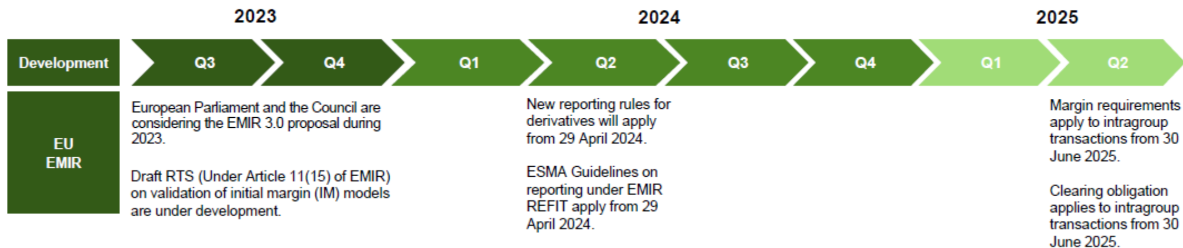




Benchmarks, RFRs & LiBOR Transition

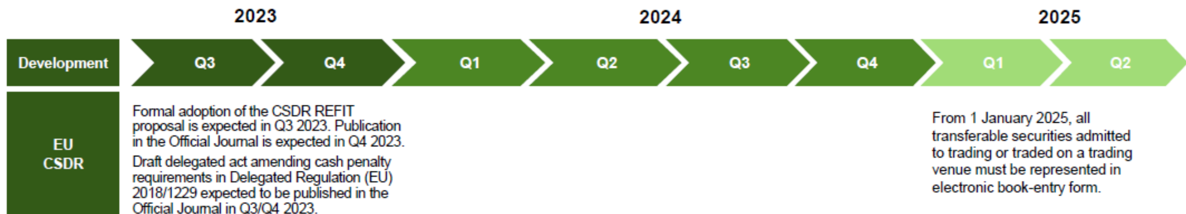
Capital Markets and Market Structure

EU EMIR



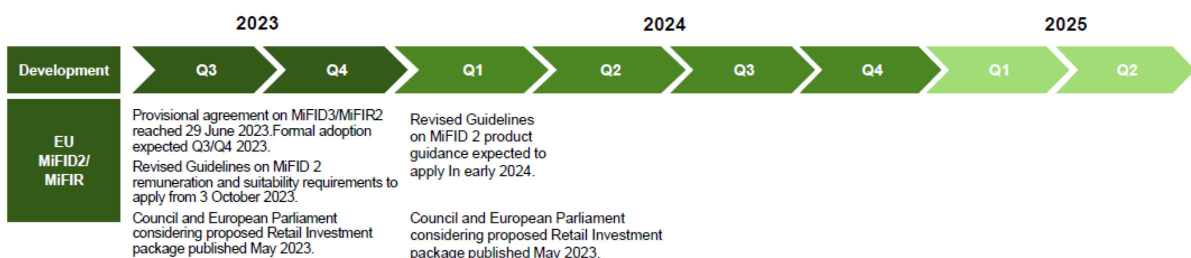
- Since its application, EMIR has been amended by EMIR REFIT and EMIR 2.2.
- Adopted in December 2022, proposals for the EMIR 3.0 package, comprising a proposed Regulation and Directive are passing through the legislative process. EMIR 3.0 will amend EU EMIR and other sectoral legislation to mitigate excessive exposures to third country CCPs and improve the efficiency of EU clearing markets, as well as to enhance the monitoring and treatment of concentration risk towards CCPs and the counterparty risk on centrally cleared derivatives transactions.
- Recently adopted Level 2 measures have deferred the application of some of EMIR's requirements to intragroup transactions.
- On the forward horizon:
- On 1 February 2023, in view of IBOR transition ESMA published a Final Report submitting to the European Commission draft RTSs: (i) under Article 5(2) of EMIR on the CO; and (ii) under Article 32 of MiFIR on the Derivatives Trading Obligation (DTO). Subject to endorsement by the Commission the RTS on the CO will enter into force on publication, and the RTS on the DTO will enter into force on application of the MiFID3/MiFIR2 package.
- Draft RTS under Art 11(15) EMIR are in development, setting out supervisory procedures for initial and ongoing validation of initial margin (IM) models used to determine the level of margin requirements for uncleared over the counter (OTC) derivatives.
- ESMA published final Guidelines on reporting under EMIR REFIT on 20 December 2022, providing clarification on compliance with the EMIR technical standards. The Guidelines apply from 29 April 2024.
- Intragroup transactions: Commission Delegated Regulation (EU) 2023/314 has extended the deferred date of the application of margin requirements for intragroup transactions to 30 June 2025.
- Delegated Regulation (EU) 2023/315 has extended the deferred date of application of the CO for intragroup transactions set in the three Commission Delegated Regulations to 30 June 2025.
- The European Parliament and the Council of the European Union are considering the EMIR 3.0 package during 2023. Once adopted, EU Member States are expected to implement the amendments set out in the proposed Directive 12 months after the date of the entry into force of the proposed Regulation.

EU CSDR

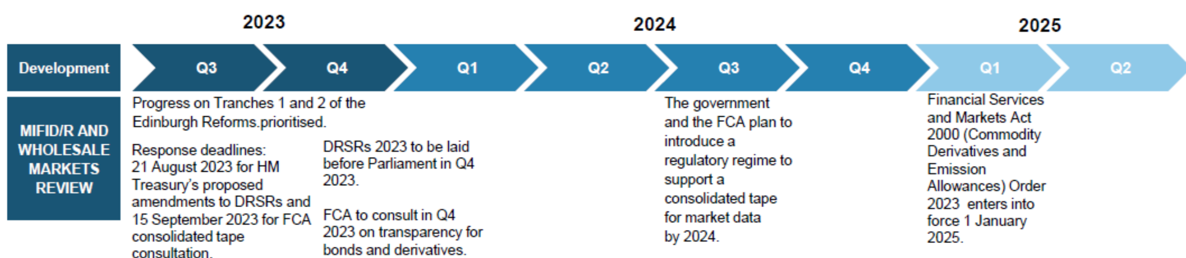


- The major phase of implementation, the introduction of a mandatory buy-in regime, was intended to come into effect on 1 February 2022, but has been suspended and will now take effect from 2 November 2025. In the meantime, in March 2022 the Commission published a legislative REFIT proposal with proposed amendments to the CSDR designed to:
    - Enhance supervisory co-operation;
    - Simplify the CSDR passporting process;
    - Facilitate CSDs' access to banking-type ancillary services;
    - Clarify elements of the settlement discipline regime;
    - Introduce an end-date for the grandfathering clause for EU and third-country CSDs and a notification requirement for third-country CSDs.
- On the forward horizon:
- From 1 January 2023, any EU issuer that issues transferable securities that are admitted to trading or traded on trading venues has been required to arrange for the securities to be represented in electronic book-entry form. From 1 January 2025, this requirement will apply to all remaining transferable securities that are admitted to trading or traded on trading venues.
- In November 2022, ESMA published a final report and draft RTS amending Article 19 of Commission Delegated Regulation (EU) 2018/1229. The amendments would remove the special distribution and collection process for cash penalties that applies to central counterparties (CCPs) and instead allocate responsibility for the collection and distribution of all cash penalties to central securities depositaries (CSDs). The Commission adopted a draft delegated act on 19 April 2023. Subject to non-objection by the Council and European Parliament, the delegated regulation will enter into force 20 days after its publication in the Official Journal of the European Union and apply 12 months later.
- In March 2022, the Commission adopted a legislative REFIT proposal to amend the CSDR. The Council and European Parliament reached political agreement on the proposal on 27 June 2023. Technical trilogues are expected to continue over summer 2023. Formal adoption is expected in Q3 2023 and the CSDR REFIT is expected to be published in the Official Journal of the European Union in Q4 2023.
- The CSDR's mandatory buy-in regime was intended to apply from 1 February 2022. The application of the relevant rules has been delayed until 2 November 2025.

EU MIFID2/MIFIR



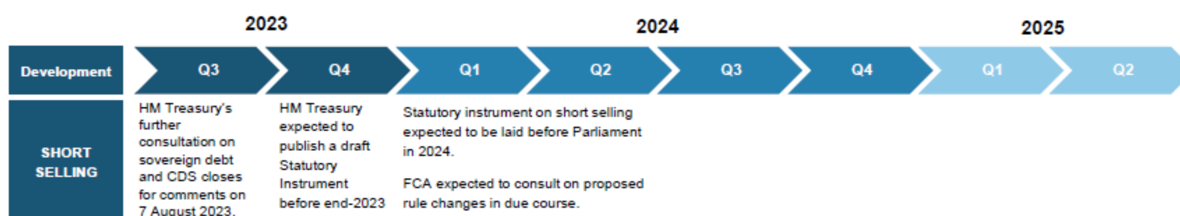
- The MiFID 2 'Quick Fix' measures in response to Covid-19 have applied since February 2022 and measures to integrate sustainability into the package were introduced in August and November 2022.
- In addition, new legislative measures following a review of the framework (sometimes referred to as 'MiFID3/MiFIR2') are expected to be finalised during 2023. MiFID2 will also see further changes due to initiatives being introduced under the Capital Markets Union (CMU) Action Plan.
- On the forward horizon
- The MiFID2 'Quick Fix' measures suspended best execution periodic reporting under Article 27(3) of the MiFID2 Directive until 28 February 2023. Given that the incoming MiFID3/MiFIR2 package will remove the Article 27(3), ESMA has advised national supervisors to deprioritise supervisory actions relating to breaches of Article 27(3) after 28 February 2023.
- The incoming Fintech Amending Directive (see slide 18) will strengthen operational resilience of MiFID firms by amending the MiFID2 Directive to apply the provisions of the DORA Regulation (see slide 35).
- Following trilogue negotiations, the Council and the European Parliament reached provisional political agreement on the MiFID3/MiFIR2 package on 29 June 2023. The package will make changes to MiFID2 and MiFIR to improve market data access and transparency. It is expected to be formally adopted later in 2023 and to apply 20 days after publication in the Official Journal of the European Union..
- An incoming CMU initiative to support access to public markets (known as the Listing Act package) (see slide 19), will among other things amend MiFID 2's provisions on research unbundling and SME growth markets, to stimulate investment in SMEs.
- During 2023-2024, the Council and the European Parliament will be considering the Commission's proposal for a Retail Investment package which sets out measures to increase consumer participation in capital markets (see slide 22) published on 23 May 2023. The package includes proposed amendments to MiFID2 (and other sectoral legislation) to introduce simplified/improved disclosures on products, new provisions relating to sophisticated retail investors and harmonisation of professional standards for advisers.
- Updated Guidelines on aspects of the MiFID2 remuneration and suitability requirements will apply from 3 October 2023, and revised Guidelines on MiFID 2 product governance will apply two months after translation into the official EU languages.



- The Financial Services and Markets Act 2023 (FSMA 2023), which was enacted on 29 June 2023, enables the government to reform the UK's prospectus regime, to implement recommendations from Lord Hill's UK Listing Review which aims to widen participation in the ownership of public companies, simplify the UK capital raising process, and make the UK a more attractive destination for initial public offerings.
- HM Treasury has also been working with the Department for Business, Energy & Industrial Strategy to deliver the recommendations made to government as part of the Secondary Capital

Raising Review, and more broadly on reforms to corporate governance, aiming to further enhance the attractiveness of UK public markets.

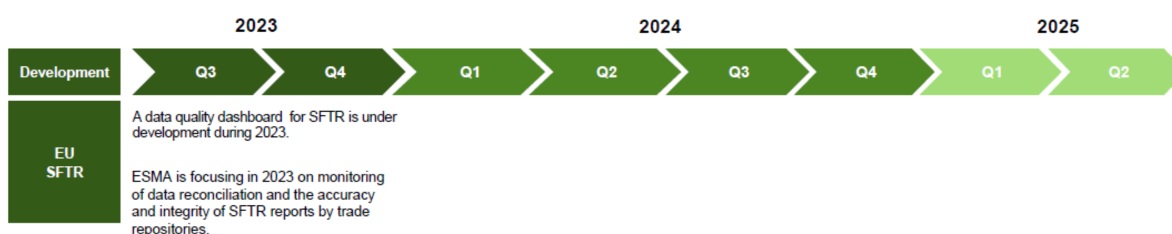
- On the forward horizon
- The UK Prospectus Regulation has been allocated to Tranche 1 of the repeal and reform programme announced in December 2022 as part of the Edinburgh Reforms package.
- HM Treasury published an illustrative draft of the Financial Services and Markets Act 2000 (Public Offers and Admissions to Trading) Regulations 2023 on use of its powers in FSMA 2023 to amend the UK prospectus regime. This was followed by a revised draft in July 2023 on which technical comments are invited by 21 August 2023. Among other things the draft SI would: create a new prohibition on public offers of 'restricted securities' in the UK (subject to exemptions and exclusions);
- give the FCA powers to specify the content requirements for a prospectus for admission to trading of 'transferable securities' on a UK regulated market or UK primary multilateral trading facility;
- Introduce a new regulated activity of operating an electronic system for public offers of relevant securities; and
- Designate certain activities for regulation under the Designated Activities Regime introduced by FSMA 2023.
- HM Treasury expects to lay the Financial Services and Markets Act 2000 (Public Offers and Admissions to Trading) Regulations 2023 before Parliament before the end of 2023.
- The FCA will need to consult on its proposed use of new powers. It plans to formally consult in 2024. The FCA has published 4 pre-consultation engagement papers in May 2023 and two engagement papers in July 2023 on aspects of the regime. Feedback on the engagement papers is invited by 29 September 2023.



- The Financial Services and Markets Act 2023l (FSMA 2023), enacted on 29 June 2023, will repeal retained EU law on financial services and will give HM Treasury powers to amend, restate and replace that law.
- IHM Treasury is exploring how, on repeal of the UK short Selling Regulation (UK SSR) the UK short selling regime could be reformed to make it work better for UK markets.
- In December 2022, HM Treasury published a call for evidence on replacement of the UK SSR, with the aim of ensuring that the UK's approach to regulating the short selling of shares admitted to trading reflects the specificities of UK markets, continuing to facilitate the benefits of short selling, whilst also protecting market participants and supporting market integrity.
- On the forward horizon
- Reform of the UK SSR has been allocated to Tranche 2 of the repeal and reform programme outlined in the Edinburgh Reform package published on 9 December 2022.
- HM Treasury's call for evidence on the UK SSR closed on 5 March 2023. Responses will inform considerations as to the appropriate framework for the regulation of short selling. HM Treasury published a response document on 11 July 2023 summarising the feedback received.

- The call for evidence did not explore other specific provisions in the UK SSR including the short selling regime for UK sovereign debt and UK sovereign credit default swaps. On 11 July 2023, HM Treasury published a separate consultation document on sovereign debt and CDS aspects of the regime, which summarises views provided in response to the call for evidence. HM Treasury proposes to remove restrictions on uncovered short positions in UK sovereign debt and UK sovereign debt CDS, remove reporting requirements and amend other parts of the short selling regime where necessary, such as the market maker and authorised primary dealer exemptions. The further consultation is open for feedback until 7 August 2023.
- HM Treasury expects to lay a draft statutory instrument (SI) on the replacement short selling regime by the end of 2023, with a view to laying the finalised SI before Parliament in 2024.
- The FCA is expected to consult on relevant rule changes to reflect the short new selling regime in due course.

EU SFTR



- ESMA Guidelines for the transfer of data between trade repositories under EMIR and the SFTR were published in March 2022 and have applied since October 2022.
- ESMA informed the European Commission in June 2022 that it has deprioritised the following EU SFTR deliverables: (a) a report on the efficiency of SFTR reporting; and (b) a report on SFTR fees.
- On the forward horizon:
- The key challenge with securities financing transactions (SFTs) is that, while many core regulatory and supervisory activities of the authorities rely on the data reported and disclosed by market participants, lack of reliable data can present difficulties in identifying property rights and counterparties and monitoring risk concentration.
- In April 2023, ESMA published its third SFTR data quality report. As regards EMIR and SFTR data quality, ESMA has been transitioning to a new approach to monitoring and engaging on data quality issues with member states' national competent authorities (NCAs), which involves: a data quality dashboard with indicators covering the most fundamental data quality aspects; and
- a data sharing framework which engages relevant authorities to follow up with counterparties in their jurisdiction upon a detection of a significant data quality issue, such as a breach of predefined levels in the agreed set of indicators
- ESMA has already worked with NCAs on implementation of a data quality dashboard for EMIR, which has undergone gradual implementation since May 2022. During 2023 it is working on an implementation of the data quality dashboard for SFTR.
- During 2023, ESMA's focus is on monitoring the correct reconciliation of data and the adequate verification of accuracy and integrity of SFTR reports by trade repositories.

UK Chancellor sets out package of major regulatory reforms in Mansion House speech

- The UK Chancellor of the Exchequer Jeremy Hunt has presented a series of financial market reforms in his annual Mansion House address to the financial industry. Specifically, the Chancellor announced a series of measures intended to improve outcomes for savers and

increase funding liquidity for high-growth companies through reforms to the UK's pension market. This includes an industry-led compact committing nine of the UK's largest defined contribution pension providers to the objective of allocating at least five per cent of their default funds to unlisted equities by 2030.

- Other initiatives in the Mansion House reforms include a warm response to the investment research recommendations set out by the chair of the UK Listings Review Rachel Kent. The review recommends the establishment of a research platform to provide a central facility for the promotion, sourcing and dissemination of research as well as changes to the rules around how investment research is paid for. This is intended to remove barriers that UK buy-side firms face when buying research from jurisdictions where payment on a bundled basis is standard practice. The UK government will now consider the recommendations and legislate accordingly.
- Finally, the Chancellor committed to replacing the Prospectus Regulation, putting in place a viable consolidated tape regime, and establishing a new intermittent trading venue before end-2024 to improve private companies' access to capital markets before they publicly list.
- The speech comes just after the Financial Services and Markets Act became law that will make significant changes to the structure of UK financial regulation. While this all fuels a narrative of regulatory divergence between the EU and the UK, there are also signs of growing cooperation between the two jurisdictions. Notably, the UK government and EU Commission have signed a memorandum of understanding (MoU) on bilateral regulatory cooperation in financial services. The first meeting of the EU-UK Financial Regulatory Forum is expected to be held in the autumn.

UK FCA consults on consolidated tape regime for bonds

- The UK Financial Conduct Authority (FCA) has published proposals for consultation on a framework for a UK bond consolidated tape (CT). The regulator is seeking feedback on the criteria for how a CT provider would operate and how the tender process for deciding a CT provider should be run. For context, a CT collates market data, such as prices and volumes associated with trades in a financial market, and aims to provide a comprehensive picture of transactions in a specific asset class, bringing together trades executed on trading venues as well as those arranged over-the-counter. The FCA proposes that a CT for equities will follow the CT for bonds and is seeking thoughts on how a CT for equities should be approached. Comments are due by September 15, 2023 and the FCA intends for a CT for bond data to be operational in 2025 following a tender process and subsequent authorisation.

UK FCA publishes final guidance on the trading venue perimeter

- The FCA has published its final guidance on the trading venue perimeter following consultation with industry. Providing firms across the trading ecosystem with greater clarity about the permissions they need is the main intention behind the final guidance. While a firm operating a multilateral system requires trading venue authorisation, the evolution of technological developments have made it more challenging to distinguish certain types of arrangements and systems from trading venues. The FCA intends that this new guidance will facilitate the correct identification of multilateral systems requiring authorization and will allow some flexibility to supervise the perimeter on a case-by-case basis. The guidance comes into force on October 9, 2023.

European legislators reach political agreement on the MiFIR Review

- Legislators from the European Parliament and Council reached a political agreement on the revisions to the markets in financial instruments regulation and directive (MiFIR-D) that governs Europe's trading and investment landscape. A key objective of this review is to facilitate the

emergence of consolidated tapes in different asset classes to provide a holistic view of market data for investors to access key information such as price, volume and time. Significantly, the agreement represents a compromise on the consolidated tape for equities after significant debate between various stakeholders. Further, the agreement specifies that the practice of 'payment for order flow' whereby brokers receive payments for forwarding client orders to certain trading platforms will be phased out by end-June 2026. A number of other significant considerations such as non-equity transparency deferrals and the cost of market data will be subject to the technical review over the summer and then implementing measures to be drawn up by the European Supervisory Authorities (ESAs) once the legislation is final. A final text will be formally approved by both the European Parliament and EU member states in the coming months.

Thailand debuts fully digital platform for corporate bond issuance

- The Stock Exchange of Thailand (SET), together with the Securities and Exchange Commission (SEC) and other industry bodies, launched the country's first digitized platform for corporate bond offerings. This will be the first time that private debt securities in the primary market will be fully digitally supported throughout the process. The new platform, part of the SEC's sandbox program, aims to enhance efficiency and transparency in Thailand's capital market services, reduce costs and improve accessibility for issuers and investors. The overarching intention is to digitally transform Thai capital markets in response to current global trends.

SEC proposes amendments to the broker-dealer customer protection rule

- The US Securities and Exchange Commission (SEC) proposed amendments to Rule 15c3-3 (Customer Protection Rule) to require certain broker-dealers to increase the frequency with which they perform computations of the net cash they owe to customers and other broker-dealers (known as PAB account holders) from weekly to daily. Net cash owed to customers and PAB account holders must be held in a special reserve bank account. The public comment period will remain open for 60 days following publication of the proposing release on the SEC website or 30 days after publication of the proposing release in the Federal Register, whichever period is longer.

Singapore finalizes approach for transitioning SIBOR loans to SORA

- Singapore's SC-STS (Steering Committee for SOR & SIBOR Transition to SORA) has finalized its recommendations on the approach to convert the Singapore Interbank Offered Rate (SIBOR) loans to Singapore Overnight Rate Average (SORA). In particular this will address the setting of adjustment spreads to account for the difference between SIBOR and Compounded SORA. The recommendations are intended to allow the industry to complete its transition from SIBOR ahead of its discontinuation after December 31, 2024. Market participants and customers with SIBOR loans are encouraged to adopt the guidance to convert their SIBOR exposures to SORA.

Even More on Blocks and new rules for FX

- *CDX block sizes will more than double in December 2023.*
- *FX block sizes will increase by many multiples (50x in some cases) under the newly calibrated levels.*
- *New block sizes in products that have a MAT determination will likely attract the most amount of attention….*
- *…but there may be consequences for non-MAT products as well, particularly in FX.*

- *The review process will be interesting to follow.*

Current Block Trade Thresholds and Volume Cap Sizes for Interest Rate Swaps		
Currency group	Tenor	50% Notional (millions)
Super-Major (USD, EUR, GBP, JPY)	Tenor ≤ 46 Days	6,400
	46D < Tenor ≤ 3M	2,100
	3M < Tenor ≤ 6M	1,200
	6M < Tenor ≤ 1Y	1,100
	1Y < Tenor ≤ 2Y	460
	2Y < Tenor ≤ 5Y	240
	5Y < Tenor ≤ 10Y	170
	10Y < Tenor ≤ 30Y	120
	Tenor > 30Y	67
Major (AUD, CHF, CAD, ZAR, KRW, SEK, NZD, NOK, DKK)	Tenor ≤ 46 Days	2,200
	46D < Tenor ≤ 3M	580
	3M < Tenor ≤ 6M	440
	6M < Tenor ≤ 1Y	220
	1Y < Tenor ≤ 2Y	130
	2Y < Tenor ≤ 5Y	88
	5Y < Tenor ≤ 10Y	49
	10Y < Tenor ≤ 30Y	37
	Tenor > 30Y	15
Non-Major	Tenor ≤ 46 Days	230
	46D < Tenor ≤ 3M	230
	3M < Tenor ≤ 6M	150
	6M < Tenor ≤ 1Y	110
	1Y < Tenor ≤ 2Y	54
	2Y < Tenor ≤ 5Y	27
	5Y < Tenor ≤ 10Y	15
	10Y < Tenor ≤ 30Y	16
	Tenor > 30Y	15

European Venues & Intermediaries Association (EVIA)

London Energy Brokers' Association (LEBA)

Revised Block Trade Thresholds for Interest Rate Swaps

Block Trade Thresholds	USD		EUR		GBP		JPY	
Tenor	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)
Tenor<46Days	8,800	38%	7,800	22%	5,500	-14%	1,200	-81%
46D<Tenor<3M	3,300	57%	3,100	48%	4,700	124%	1,900	-10%
3M<Tenor<6M	1,100	-8%	700	-42%	2,500	108%	1,800	50%
6M<Tenor<1Y	1,600	45%	1,200	9%	1,300	18%	1,050	-5%
1Y<Tenor<2Y	850	85%	550	20%	360	-22%	450	-2%
2Y<Tenor<5Y	400	67%	270	13%	190	-21%	210	-13%
5Y<Tenor<10Y	290	71%	200	18%	150	-12%	180	6%
10Y<Tenor<30Y	210	75%	130	8%	98	-18%	94	-22%
Tenor>30Y	260	2885%	56	-16%	56	-16%	42	-37%

Block Trade Thresholds	CAD		AUD		BRL		CZK	
Tenor	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)
Tenor<46Days	2,300	5%	3,400	55%	3,700	1509%	1,300	465%
46D<Tenor<3M	1,300	124%	1,050	81%	550	139%	420	83%
3M<Tenor<6M	2,100	377%	280	-36%	500	233%	410	173%
6M<Tenor<1Y	550	150%	400	82%	380	245%	120	9%
1Y<Tenor<2Y	290	123%	210	62%	350	548%	83	54%
2Y<Tenor<5Y	160	82%	130	48%	160	493%	47	74%
5Y<Tenor<10Y	100	104%	59	20%	56	273%	31	107%
10Y<Tenor<30Y	39	5%	37	0%	34	113%	23	44%
Tenor>30Y	22	47%	18	20%	0	-100%	0	-100%

Block Trade Thresholds	ZAR		KRW		INR		MXN	
Tenor	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)
Tenor<46Days	0	-100%	0	-100%	250	9%	0	-100%
46D<Tenor<3M	420	-28%	480	-17%	320	39%	700	204%
3M<Tenor<6M	47	-89%	310	-30%	280	87%	370	147%
6M<Tenor<1Y	140	-36%	220	0%	200	82%	210	91%
1Y<Tenor<2Y	84	-35%	120	-8%	140	159%	110	104%
2Y<Tenor<5Y	50	-43%	68	-23%	74	174%	51	89%
5Y<Tenor<10Y	31	-37%	38	-22%	35	133%	24	60%
10Y<Tenor<30Y	22	-41%	44	19%	0	-100%	25	56%
Tenor>30Y	0	-100%	0	-100%	0	-100%	0	-100%

Block Trade Thresholds	CLP		SEK		NZD	
Tenor	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)
Tenor<46Days	410	78%	0	-100%	2,000	-9%
46D<Tenor<3M	310	35%	950	64%	1,300	124%
3M<Tenor<6M	210	40%	110	-75%	500	14%
6M<Tenor<1Y	120	9%	270	23%	270	23%
1Y<Tenor<2Y	57	6%	160	23%	140	8%
2Y<Tenor<5Y	37	37%	79	-10%	66	-25%
5Y<Tenor<10Y	17	13%	78	59%	48	-2%
10Y<Tenor<30Y	8	-50%	32	-14%	28	-24%
Tenor>30Y	0	-100%	0	-100%	0	-100%

Revised Volume Cap Sizes for Interest Rate Swaps

Volume Caps Sizes	USD		EUR		GBP		JPY	
Tenor	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)
Tenor<46Days	13,000	103%	8,700	36%	6,000	-6%	1,200	-81%
46D<Tenor<3M	4,100	95%	3,800	81%	5,200	148%	2,200	5%
3M<Tenor<6M	1,600	33%	900	-25%	3,000	150%	1,900	58%
6M<Tenor<1Y	2,100	91%	1,500	36%	1,700	55%	1,400	27%
1Y<Tenor<2Y	1,100	139%	650	41%	550	20%	600	30%
2Y<Tenor<5Y	550	129%	350	46%	250	4%	270	13%
5Y<Tenor<10Y	410	141%	260	53%	220	29%	230	35%
10Y<Tenor<30Y	270	125%	190	58%	140	17%	150	25%
Tenor>30Y	340	353%	73	-3%	75	0%	45	-40%

Volume Caps Sizes	CAD		AUD		BRL		CZK	
Tenor	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)
Tenor<46Days	2,300	5%	3,800	73%	4,900	1860%	1,300	420%
46D<Tenor<3M	1,600	176%	1,300	124%	850	240%	430	72%
3M<Tenor<6M	3,200	627%	350	-20%	600	140%	420	68%
6M<Tenor<1Y	700	180%	550	120%	600	140%	140	-44%
1Y<Tenor<2Y	370	48%	260	4%	450	80%	120	-52%
2Y<Tenor<5Y	200	100%	170	70%	210	110%	59	-41%
5Y<Tenor<10Y	140	40%	71	-29%	73	-27%	36	-64%
10Y<Tenor<30Y	41	-45%	50	-33%	44	-41%	26	-65%
Tenor>30Y	25	-67%	18	-76%	0	-100%	0	-100%

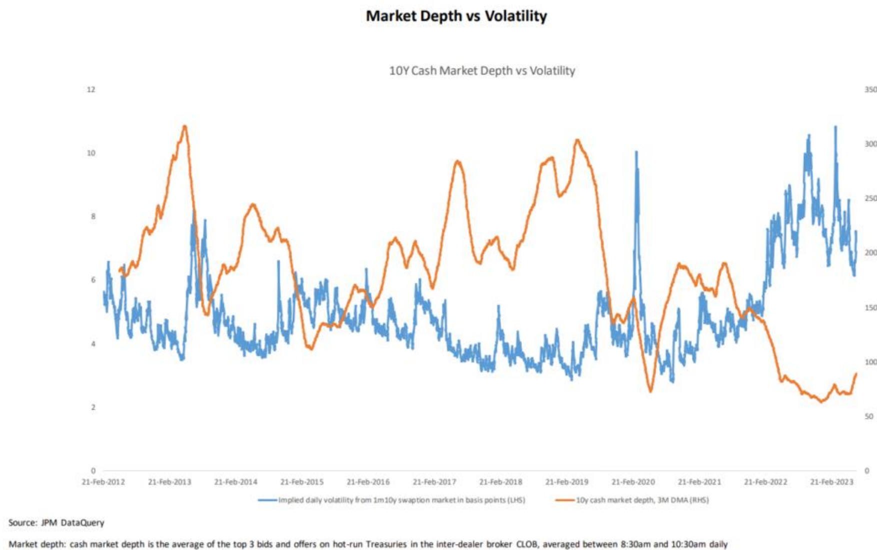
Volume Caps Sizes	ZAR		KRW		INR		MXN	
Tenor	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)
Tenor<46Days	0	-100%	0	-100%	250	0%	0	-100%
46D<Tenor<3M	450	-22%	480	-17%	400	60%	900	260%
3M<Tenor<6M	47	-89%	340	-23%	320	28%	600	140%
6M<Tenor<1Y	160	-36%	250	0%	250	0%	260	4%
1Y<Tenor<2Y	120	-52%	140	-44%	170	-32%	130	-48%
2Y<Tenor<5Y	62	-38%	87	-13%	120	20%	62	-38%
5Y<Tenor<10Y	38	-62%	46	-54%	36	-64%	32	-68%
10Y<Tenor<30Y	29	-61%	56	-25%	0	-100%	30	-60%
Tenor>30Y	0	-100%	0	-100%	0	-100%	0	-100%

Volume Caps Sizes	CLP		SEK		NZD	
Tenor	New (millions)	Change (%)	New (millions)	Change (%)	New (millions)	Change (%)
Tenor<46Days	600	140%	0	-100%	2,300	5%
46D<Tenor<3M	410	64%	1,050	81%	1,600	176%
3M<Tenor<6M	220	-12%	110	-75%	510	16%
6M<Tenor<1Y	120	-52%	340	36%	300	20%
1Y<Tenor<2Y	72	-71%	220	-12%	160	-36%
2Y<Tenor<5Y	43	-57%	99	-1%	81	-19%
5Y<Tenor<10Y	21	-79%	120	20%	67	-33%
10Y<Tenor<30Y	12	-84%	36	-52%	29	-61%
Tenor>30Y	0	-100%	0	-100%	0	-100%

CFTC Global Markets Advisory Committee; Following up on my blog last week, there is now the recording of the CFTC's Global Markets Advisory Committee (GMAC) available on YouTube:

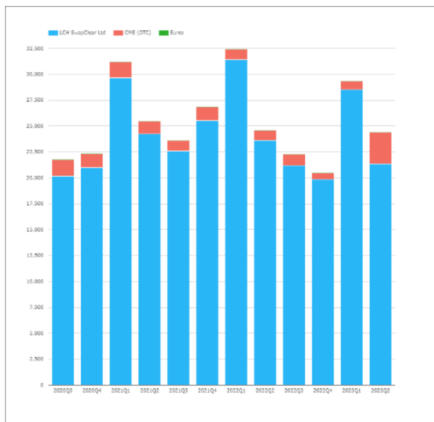
- GMAC Panel Ii: Swap Block Implications On Market Structure

- There are some interesting take-aways: The industry really needs to develop some type of [standard measure of liquidity]! Pimco highlighted that we are now in a “high vol, low liquidity” paradigm for the first time in ten years:



Showing;

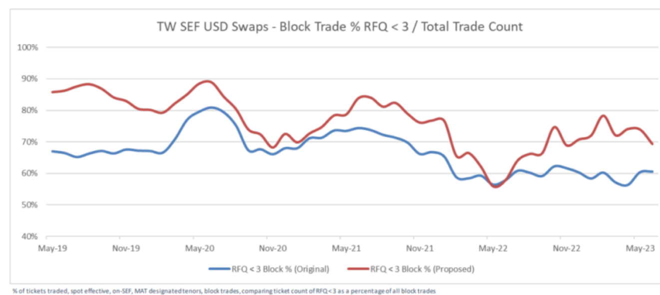
- The implied volatility in 1m10Y USD swaptions (in blue) versus the market depth of 10Y cash treasuries (USTs) for the top three orders in central limit order books.
- The chart shows that market depth has been at the lows since 2022 whilst volatility has moved to higher levels.
- As we know [from Clarus data], this typically means that the **price of liquidity** [has increased].
- There is still A LOT of volume transacting though! This is best shown by the rebound in volumes in USD swaps since Q4 2022 (in DV01 terms below):



- So liquidity might be more expensive but there are clearly plenty of people still willing to pay that price. (Does that equate to liquidity inflation or liquidity shrinkflation?).
- Elsewhere, Tradeweb and Bloomberg provided insights into the RFQ1 vs RFQ-to-many split amongst large trades. This is some really interesting data. The chart below shows that over 60% of block trades in USD IRS are sent to less than 3 dealers. With larger block sizes, over 70% (and even up to 90%!) of block trades would be sent to only 1 or 2 dealers:

RFQ Trading – Block USD IR Swaps TW SEF

- The percentage of trades that have been in-comp to one or two dealers has been marginally decreasing over the past four years, suggesting that market participants are more willing to put block trades in-comp with multiple dealers
  - Under the original block sizes, the proportion of block trades sent RFQ < 3 has dropped off slightly from 70% in 2019-2020 to 60% when looking at 2022-2023 YTD.
  - With the new proposed block sizes the proportion of trades sent RFQ < 3 for the same time periods would be 82% (2019-2020) and 69% (2022-2023)
- The chart below details the percentage of trades sent to one or two dealers, versus total block trades sent on platform. Thechart details both the original block sizes as well as the same analysis with the CFTC's proposed block sizes



% of tickets traded, spot effective, on-SEF, MAT designated tenors, block trades, comparing ticket count of RFQ < 3 as a percentage of all block trades

- *(I assume that the 2022 & 23 data includes SOFR OIS, hence the reference to "MAT tenors" on the footnote).*
- I would love to know what that chart looks like when trades are grouped 1x, 2x and 3x block size.
- I wonder if there is any evidence that trades are beginning to be broken down into smaller packages?
- The peak in RFQ-to-less-than-3 was around the March 2020 market turmoil – relationships matter in times of stress people!
- And for those of you without regular access to Bloomberg, you might be interested to witness the level of pre-trade transparency that SEFs have introduced. It is really impressive to have reached this level within ten years of SEF trading. And if anyone knows what the "Auto Trade" option that is greyed out below does, please let me know!

New forms of Pre-Trade Price Transparency – Streaming Quotes

- The take-aways from the GMAC were:
    - ISDA stated that they have requested a **one-year delay** for the new rules to come into effect. I personally think we have had more than enough time to prepare since I first blogged on this 3 years ago!
    - Everyone who spoke supported "**more investigation**" into the proposed levels.
    - Everyone was far too polite to speak about specifics, such as why do the block thresholds increase so much at longer maturities for USD swaps?

- **CDS Index Blocks;** Happily, ISDA saved me a bit of Excel work this week! I will shamelessly copy their slide showing the block threshold changes for CDS Index trades (I am sure they won't mind):

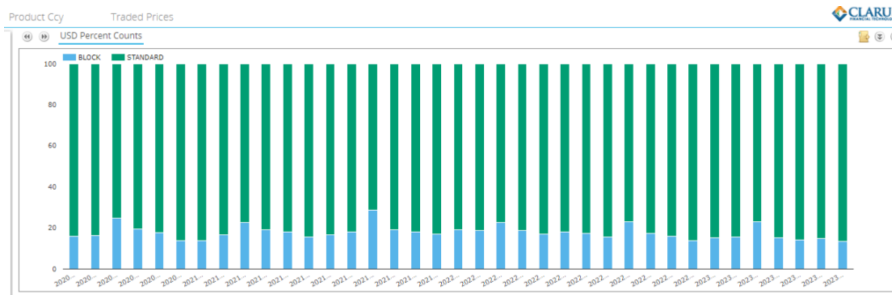
Current and Revised Block Trade Thresholds and Volume Cap Sizes for Credit Default Swaps

Block Trade Thresholds	Current (millions)	New (millions)	Change (%)
CDX IG	110	250	127%
CDX HY	26	75	188%
CDX EM	32	52	63%
iTraxx Europe	110	265	141%
iTraxx Crossover	26	69	165%
iTraxx Senior Financial	110	350	218%

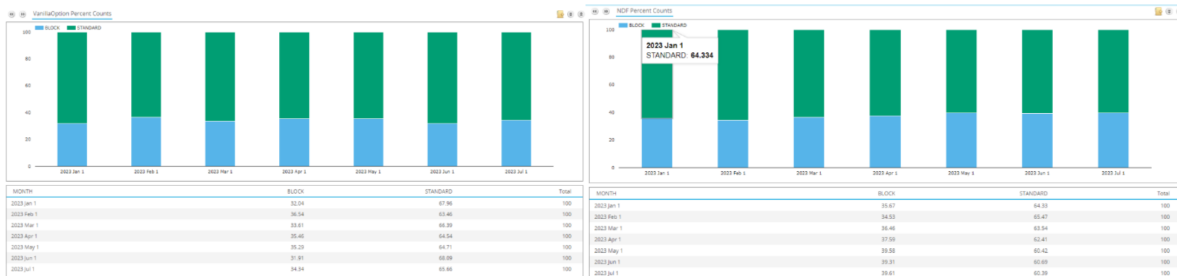
Volume Caps Sizes	Current (millions)	New (millions)	Change (%)
CDX IG	110	300	173%
CDX HY	100	100	0%
CDX EM	100	95	-5%
iTraxx Europe	110	386	251%
iTraxx Crossover	100	104	4%
iTraxx Senior Financial	110	510	364%

CFTC Global Markets Advisory Committee

- **ISDA GMAC presentation. All of the content is available here.** Showing;
    - Block trade increases in CDS Index trades are much larger than for IRS.
    - This was somewhat anticipated because 15-30% of trades each month are currently designated as "Block" in CDX reported to SDRs:



- This is higher than the 4-6% that are reported as Blocks and Capped trades for Rates products.
- It will be interesting to see how these are received by the market – most of the attention has been on the Rates products so far, so I think it is well worth flagging here. Similarly….
- FX Block Sizes; *For FX Options reported to SDRs, over 35% of trades are currently reported as* [*blocks*] *in the major currency pairs – EUR, GBP, JPY, AUD & CAD vs USD:*

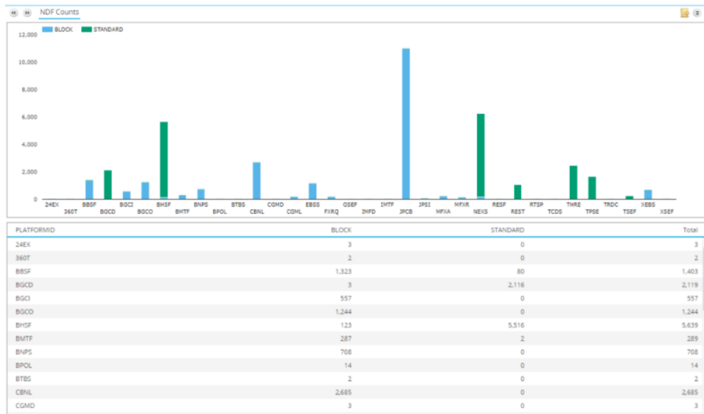


MONTH	BLOCK	STANDARD	Total
2023 Jan 1	32.04	67.96	100
2023 Feb 1	36.54	63.46	100
2023 Mar 1	33.61	66.39	100
2023 Apr 1	35.46	64.54	100
2023 May 1	35.29	64.71	100
2023 Jun 1	31.91	68.09	100
2023 Jul 1	34.34	65.66	100

MONTH	BLOCK	STANDARD	Total
2023 Jan 1	35.67	64.33	100
2023 Feb 1	34.53	65.47	100
2023 Mar 1	36.46	63.54	100
2023 Apr 1	37.59	62.41	100
2023 May 1	39.58	60.42	100
2023 Jun 1	39.31	60.69	100
2023 Jul 1	39.61	60.39	100

- And for NDFs, the data is similar, if a little higher. In CNY, INR, KRW & BRL vs USD 40% of trades were reported as block trades in the past three months.

- I believe that the high number of block trades in FX is intentional, because some currency pairs do not have any block limits set. Therefore, no matter what the size, any trade in INR or CNY can be treated as a block trade:
  - All swap transactions subject to part 43 in these unique currency combinations may be treated as blocks. The changes to § 43.6(b)(4) will significantly reduce the number of swap categories.
  - While not affording block treatment to all swaps in the FX asset class subject to part 43, these modifications will increase the number of currency combinations which will be eligible to be blocks, many of which have limited liquidity
- CFTC, 17 CFR Part 43 *Procedures To Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades; Final Rule*
  - My understanding is that this means all FX trades in INR and CNY (for example) can be treated as Block trades, irrespective of size. And that is what we see in the data, where some platforms report all trades as block trades (data below for trades executed on-SEF in July 2023):



PLATFORMID	BLOCK	STANDARD	Total
24EX	3	0	3
360T	2	0	2
BBSF	1,323	80	1,403
BGCD	3	2,116	2,119
BGCI	557	0	557
BGCO	1,244	0	1,244
BHSF	123	5,516	5,639
BMTF	287	2	289
BNPS	708	0	708
BPOL	14	0	14
BTBS	2	0	2
CBNL	2,685	0	2,685
CGMD	3	0	3

- This is, therefore, the first time that FX block thresholds have been truly calibrated. It will be interesting to see how the review process goes because most of the changes are many multiples of current levels:

CFTC "FX Swaps" Block Trade Thresholds	Current (millions)	New (millions)	Change (%)
ARS	-	17	-
AUD	7	160	2268%
BRL	1	160	14940%
CAD	10	170	1600%
CLP	-	43	-
CNY	-	160	-
COP	-	41	-
EUR	21	420	1936%
GBP	8	250	3025%
IDR	-	35	-
INR	-	51	-
JPY	13	310	2231%
KRW	5	75	1430%
MXN	3	150	5000%
MYR	-	21	-
NZD	3	110	3420%
PEN	-	31	-
PHP	-	32	-
RUB	1	76	5372%
TWD	-	51	-

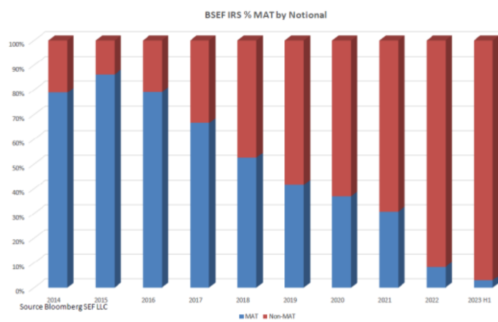
- MAT Determinations and Clearing Mandates; Whilst the changes in FX block levels are eye-poppingly large, the impact on the industry may be different because there are no MAT determinations or Clearing Mandates in the FX Asset Class.
    - However, it could have particular impacts on certain FX trading venues, who may have implemented minimum order sizes above the current block thresholds to simplify trade processing.
    - The review process will be interesting that's for sure!
- In Summary
    - Block sizes are changing in all the asset classes – Rates, Credit and FX (and even Commodities).
    - The existence of MAT determinations and Clearing Mandates will likely mean that the impacts are most keenly felt in Rates and Credit markets.

- However, this is the first time that block sizes have been calibrated using market data for FX swaps (NDFs and FX Options).
- This has resulted in some huge increases and will likely attract further comment from industry review.

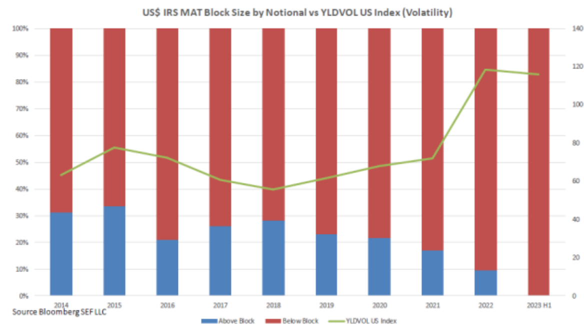
BSEF Conclusions to GMAC

1. Decrease in MAT IRS Activity as Percentage of Total Activity SEFs used for more than MAT
2. Downward Trend in Block Size IRS Activity as Percentage of Total Activity
3. Reduced Block Size Activity in IRS but increasing number of dealers in competition
4. Status of SOFR trading off facility (block and non-block) not yet easily observable versus SEF data. Difficult to predict impact of proposed threshold increase without knowing 'how' they're traded
5. Data in SOFR to become more readily available by SEF from August as MAT trade execution requirement enters into force to help understand behaviours

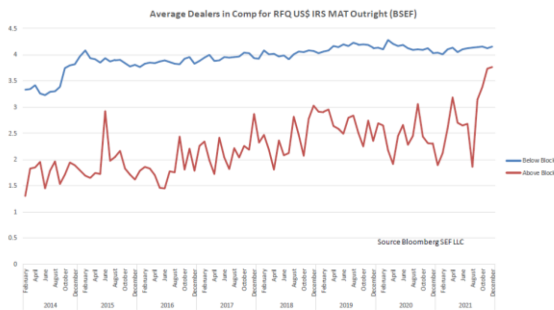
Made Available to Trade IRS BSEF Activity



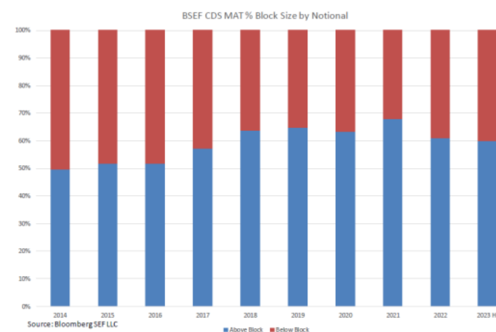
US$ IRS MAT Block Size Activity



Average Number of Dealers in Competition

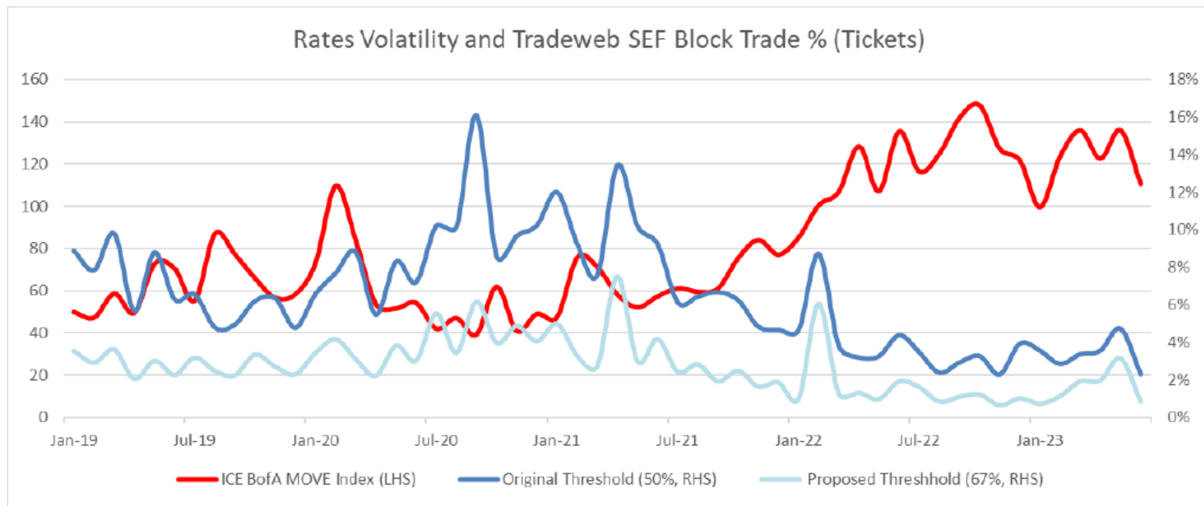


CDS MAT Block Size Activity

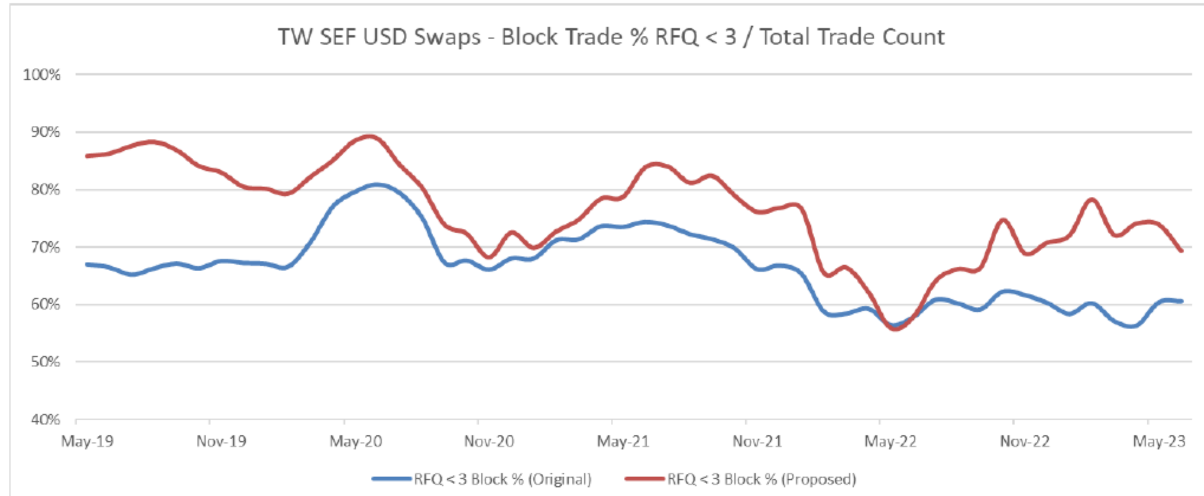


TradeWeb SEF Swaps Block Size Analysis

- In periods of sustained high volatility, the amount of block trades traded and processed on TW SEF is seen to decrease. From Jan 2019 Dec 2020, the average amount of block trades was 8% versus Jan 2022 Jun 2023 of 4%



- The percentage of trades that have been in-comp to one or two dealers has been marginally decreasing over the past four years, suggesting that market participants are more willing to put block trades in-comp with multiple dealersUnder the original block sizes, the proportion of block trades sent RFQ < 3 has dropped off slightly from 70% in 2019-2020 to 60% when looking at 2022-2023 YTD. With the new proposed block sizes the proportion of trades sent RFQ < 3 for the same time periods would be 82% (2019-2020) and 69% (2022-2023)

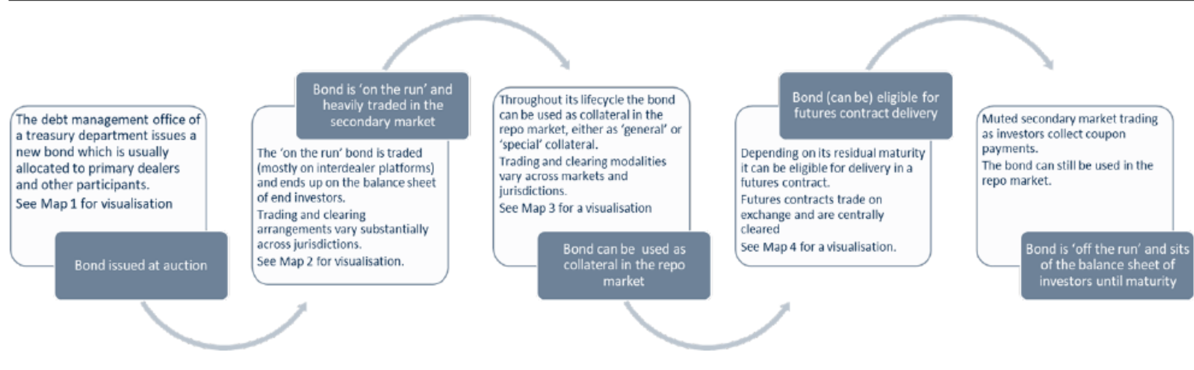


Effect of Trade Notional Size (y) on Optimal # of Dealers (CDX); *Our theoretical model of SEF trading emphasizes a fundamental trade off when the customer exposes his order to more dealers : competition versus the winner's curse.*

- In our model of the RFQ mechanism, contacting more dealers increases both competition and the winner's curse .
- Moreover, consistent with the winner's curse, dealers' spreads and customer's transaction costs in RFQs are also higher if the customer selects more dealers than expected , although the economic magnitude of the estimate is rather small.

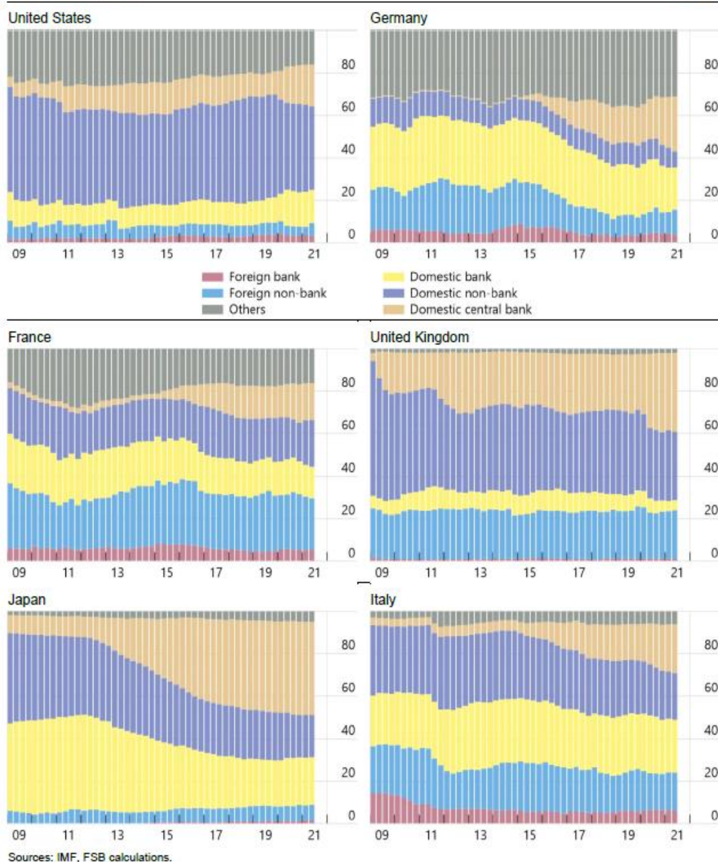
FSB Paper on Liquidity in Core Government Bond Markets; *I recently took a first look at Central Clearing of Bonds and Repos and in that blog I mentioned a Financial Stability Board (FSB) paper on Liquidity in Core Government Bond Markets.*

- This paper analyses the liquidity, structure and resilience of government bond markets, with a focus on the events of March 2020; characterised as "a flight to quality, followed by a dash for cash". In today's blog, I will pick out what I found interesting.
- Stylised Lifecycle of a Government Bond; Let's start with Figure 1 from the paper.



1. Issuance by a Debt Management Office (DMO) to primary dealers
2. Secondary trading of "on the run" bonds in the dealer market
3. Use as collateral in repo markets, general or special
4. Eligible for delivery in bond futures contracts
5. "Off the run" bonds on the balance sheet of investors, held to maturity (HTM)

- Showing the strong linkage between markets, primary to secondary and cash, repo and futures.
- Debt Holders by Type; A graph on the holders of government bonds.



- Domestic Central Bank holdings increasing significantly in each country
    - United States – Domestic non-banks the largest holders
    - Germany – Others, followed by Domestic Central Bank
    - France – Foreign non-banks, then Domestic non-banks
    - United Kingdom – Domestic Central Bank (QE), then Domestic non-banks
    - Japan – Domestic Central Bank (QE), then Domestic banks
    - Italy – the most evenly split by type
- There are also charts on the increase in size of Government Bonds markets, but not the clearest, so I will quote from the paragraph that introduces section 2.
    - *The size of core government debt increased substantially, both in absolute and relative terms.*
    - *In the US, outstanding government debt grew from about $13.6 trillion in 2010 to $25 trillion in 2020 (or from 90% to 131% of GDP).*
    - *In the euro area over the same period, government debt grew from €8.3tn to €12.9tn (87% to 113% of GDP)*
    - *In the UK from £1.3tn to £2.9tn (80% to 137% of GDP)*
    - In *Japan from ¥882tn to ¥1280tn (174% to 238% of GDP)*

- Puts some figures to what we all know; there is a lot more government debt to trade and hold.

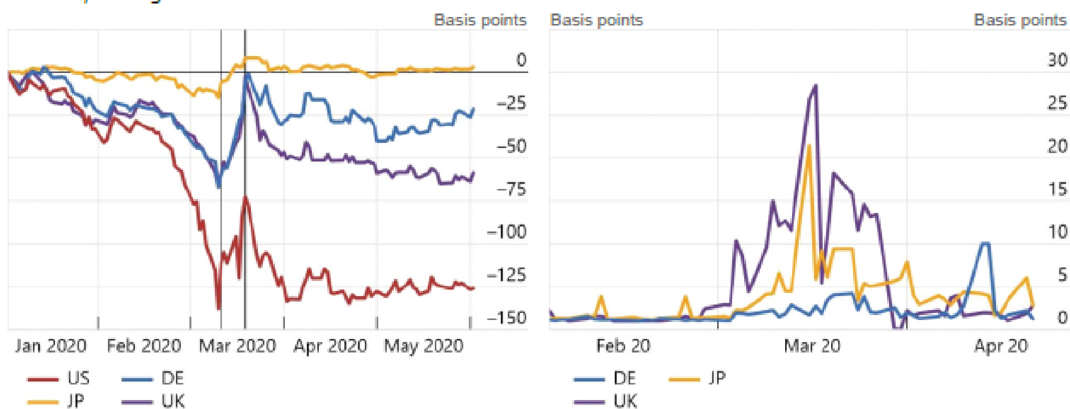
- The same section states that Government bond liquidity in normal market conditions has not deteriorated between 2011 and 2020, using data on bid-ask spreads, trading volumes and turnover ratios adjusted for domestic central bank holdings.
- The paper goes onto cover March 2020.
- Market Dynamics in March 2020; The second paragraph from this section is re-produced below:

> Overall dynamics in March 2020 were fairly similar across government cash and futures markets in terms of rapid changes in yields and market liquidity deterioration. There was initially a 'flight to quality', as investors sold risky assets and bought safe assets due to the elevated uncertainty. During this period, yields on government bonds initially declined across all jurisdictions in response to the evolving trajectory of policy (Graph 3). However, this gave way to a 'dash for cash' in mid-March. Yields suddenly spiked, indicating that a broad range of investors were selling government bonds to raise cash. This was most pronounced in the off-the-run segment, in part due to the need for dealer intermediation of these trades. Liquidity measures deteriorated across cash and futures markets, and to a lesser extent repo markets. Bid-ask spreads widened, order book depth fell, while trading volumes continued to increase.

Market dynamics in March 2020 Graph 3

Cumulative yield changes across sovereign bond markets, starting on 1/1/2020

Government bond futures bid-ask spreads



The vertical lines indicate 10 March 2020 and 18 March 2020 respectively.

Sources: FRB; Refinitiv Tick History; FSB calculations.

- After providing more detail on Futures, Repo, FX Swap Basis and a comparison between jurisdictions, there follows a description of public intervention by central banks (re-formatted into bullet points and shown below):
    - *Such interventions involved significant asset purchases and liquidity support (e.g. reverse repo operations), which led to a US$7 trillion increase in G7 central bank assets in just eight months.*
    - *Specifically in the US, the Federal Reserve alleviated strains in the offshore US dollar market by expanding FX swap lines and establishing a foreign central bank repo facility and in onshore markets by offering a significant amount of repo financing to primary dealers.*
    - *In the euro area, the pandemic-related monetary policy measures included (i) the pandemic emergency (asset) purchase programme (PEPP); (ii) targeted longer-term refinancing operations (TLTRO III) at more favourable terms and conditions; (iii) non-*

targeted pandemic emergency longer-term refinancing operations (PELTROs); and (iv) easing of collateral rules.
  - *In some cases, these measures were also followed by targeted and temporary relaxation of prudential regulations (e.g. exempting banks' government bond and central bank exposures from the leverage ratio requirements).*
  - *DMOs also deployed various tools to address the turmoil in government bond markets.*
  - *Feedback from stakeholder outreach confirms that central bank interventions were crucial to address the challenges in government bond market functioning during March 2020*
- Behaviour of Market Participants; Section 4 looks into the trading behavior of types of market participants in March 2020 and I would briefly summarise these five pages as:
  - Dealers increased their trading activities across cash, repo and futures, did not add to selling pressure, but were not able to meet the higher liquidity demands and focused their market making on a sub-set of government securities.
  - Principal Trading Firms (PTFs), while there is limited information, the evidence suggests PTFs did not sufficiently increase their intermediation during the turmoil
  - Hedge funds contributed to selling pressure in the US and some Euro area governments but were net buyers in the UK.
  - Open-ended funds (OEFs) were net sellers of government bonds, their sales motivated by investor redemption requests, precautionary factors and re-balancing needs.
  - Money-market funds (MMFs), Insurance Companies and Pension funds behaviour differed across jurisdictions.
  - Foreign entities were net sellers of government bonds in all jurisdictions and especially the US, with the role of the US dollar as the global reserve currency the main explanation of larger sales of US treasuries compared to other government bonds.
- Drivers of Behaviour; In section 5 the paper discusses and presents results of a survey the FSB conducted with relevant member authorities and Annex 4 has the findings from FSB outreach meetings. There is a lot to digest in these sections and not simple for me to do it justice; so I would highly recommend you take time to read it in the paper.
- The point that interests me, was not the drivers on which there was broad agreement between dealer participants (uncertainty, one-sided flows, risk limits, operation issues, difficulty in hedging...) but the drivers with the greatest discrepancy in responses:

■ Some respondents highlighted market structure as a relevant driver of behaviour (see Box 3). They stressed how the size of government bond markets has grown significantly relative to dealer balance sheets (see section 2), suggesting that the capacity of dealers to intermediate in stress may be more constrained. They also noted that market functioning issues were only somewhat relevant and cited expanded use of central clearing and of trading platforms as areas to explore. Some other respondents indicated that market structure and functioning were not relevant drivers during the sell-off in March 2020, though they agreed that issues such as central clearing could potentially improve market resilience.

■ Similar views were aired during the outreach sessions. Some participants noted that changes to the structure of cash and repo markets could help in increasing resilience. In particular, they noted that central clearing may result in non-trivial netting efficiencies in the repo market, especially in jurisdictions where sponsored repo is less developed.

- Respondents also ranked factors that motivated the demand for liquidity, and those noted as "highly relevant" were

- MMF and OEFs needing to raise cash to meet investor redemptions
- Hedge Funds needing to unwind positions

- Individual respondents also noted the following as highly relevant:

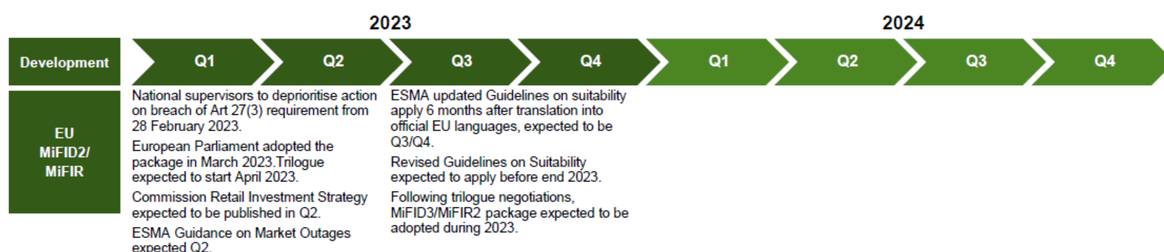
  - margin calls faced by insurance companies and pension funds, who were ill-prepared for them
  - portfolio re-allocations by some investors that rotated from bonds into equities to take advantage of depressed valuations
  - cash needs of non-financial firms (drawing down credit lines)
  - foreign monetary authorities liquidated substantial amounts of US Treasuries

- Policy Implications; *Conclusions and Policy implications are discussed in Section 6 and here I will just present a few of the policy measures under consideration*:

  1. mitigate unexpected and significant spikes in liquidity demand, which may involve selling (or repo) near cash-instruments such as government bonds
  2. enhance the resilience of liquidity supply in stress
  3. enhance markets' oversight, risk monitoring and the preparedness of authorities and participants

- For 2, the suggestion is for additional work on;

  - ways to increase availability and use of central clearing for government bonds and repos
  - the use of all to all trading platforms
  - (The first bringing us back to my recent blog on Central Clearing of Bonds and Repos).
  - There is a lot more content in the FSB paper on Liquidity in Core Government Bond Markets.

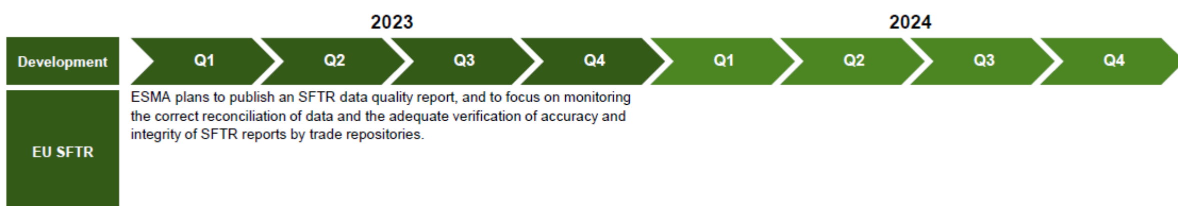


EU MiFID2/MiFIR package; *The extensive legislative package known as MiFID 2 (comprising the MiFID 2 Directive and the MiFIR Regulation) has since 2018 been the cornerstone of EU legislation governing the authorisation and operation of investment firms and the buying, selling and organised trading of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

- The MiFID 2 'Quick Fix' measures in response to Covid-19 have applied since February 2022 and measures to integrate sustainability into the package were introduced in August and November 2022.

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

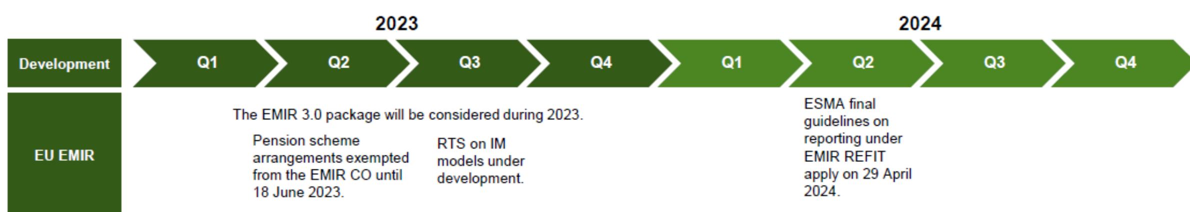
EU SFTR



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

LISTING ACT PACKAGE

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

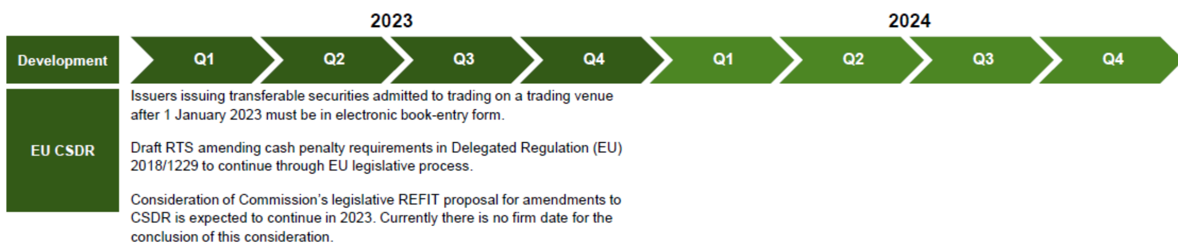


In December 2022, the European Commission adopted proposals for the EMIR 3.0 package, comprising a proposed Regulation and Directive. EMIR 3.0 will amend EU EMIR and other sectoral legislation to mitigate excessive exposures to third country CCPs and improve the efficiency of EU clearing markets, as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

- Recently adopted Level 2 measures have deferred the application of some of EMIR's requirements.
- Commission Delegated Regulation (EU) 2022/1671 exempts pension scheme arrangements from the EMIR Clearing Obligation (CO) until 18 June 2023.

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

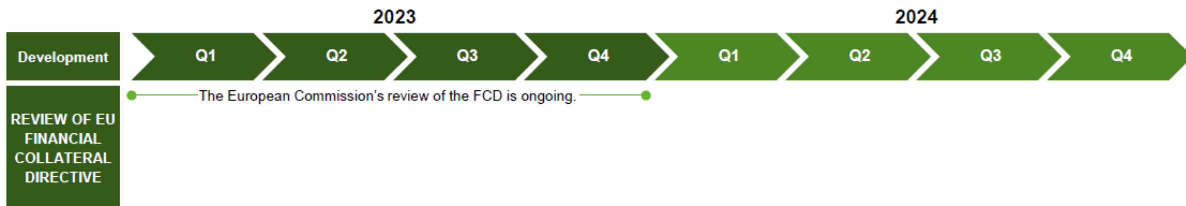
EU CSDR



- The next major phase of implementation, the introduction of a mandatory buy-in regime, was intended to come into effect on 1 February 2022. This, however, has been postponed. In the meantime, in March 2022 the Commission published a legislative REFIT proposal with proposed amendments to the CSDR.
- From 1 January 2023, any EU issuer that issues transferable securities that are admitted to trading or traded on trading venues must arrange for the securities to be represented in electronic book-entry form. From 1 January 2025, this requirement will apply to all remaining transferable securities that are admitted to trading or traded on trading venues.
- •In November 2022, ESMA published a final report and draft RTS amending Article 19 of Commission Delegated Regulation (EU) 2018/1229. The amendments would remove the special distribution and collection process for cash penalties that applies to central counterparties (CCPs) and instead allocate responsibility for the collection and distribution of all cash penalties to central securities depositaries (CSDs). The draft RTS will now proceed through the EU legislative process.
- •In March 2022, the Commission adopted a legislative REFIT proposal to amend the CSDR. The proposal is now continuing through the EU legislative process. As yet, there is no firm date on which this process will conclude. Most recently, in December 2022, the Council of the EU announced that it had agreed its general approach on the proposed draft regulation, and the European Parliament's ECON Committee voted to adopt its report on 1 March 2023.

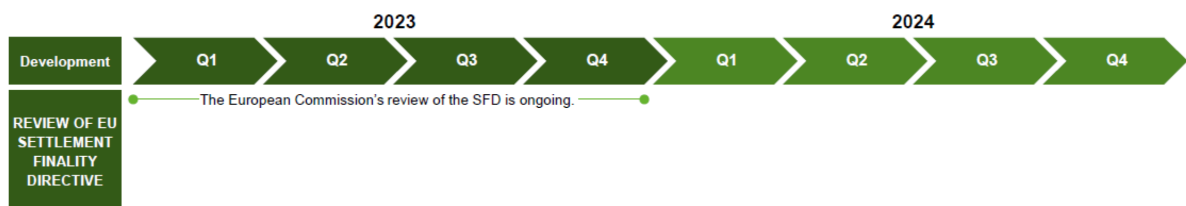
- •The ECON report was adopted by the European Parliament at its March 2023 plenary session. Trilogue negotiations are expected to begin during H1 2023.
- •The CSDR's mandatory buy-in regime was intended to apply from 1 February 2022. The application of the relevant rules has been delayed until 2 November 2025.

FINANCIAL COLLATERAL DIRECTIVE



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

SETTLEMENT FINALITY DIRECTIVE



- The Commission was mandated under Article 12a of the SFD to conduct a review of its functioning and was to have produced a report by 28 June 2021, including proposed legislative amendments where appropriate. Due to the close post-trade interconnection of the SFD with the Financial Collateral Directive (FCD), the Commission launched parallel consultations on the two Directives in February 2021.
- The last consultation closed on 7 May 2021 and the Commission is reviewing responses. As yet there are no firm indications as to when the Commission will conclude its review of the SFD. Matters under consideration for potential legislative amendment include: extending the scope of

the SFD to cover EU institutions participating in third country systems as well as new types of entity;

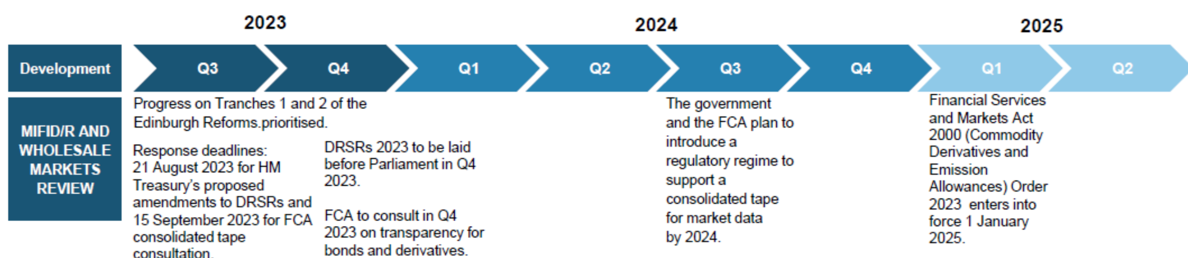
- enabling the SFD to apply in the context of permissionless DLT;
- amending the protections relating to collateral security so that these can apply in the context of client clearing; and
- clarifying and/or revising the concepts of irrevocability and the point in time at which an order enters thesystem.

UK Divergences

In 2023 we are seeing a continuation of the three-pronged approach to regulatory reform that has typified the UK's post-Brexit years.

- The first prong consists of targeted amendments to existing legislation to ensure that it remains suitable for the evolving financial services industry. A programme of current reforms to the UK's financial promotion (marketing) regime to ensure it reflects today's investors and investment products is an example of such amendments.
- The second prong consists of the development of new, post-Brexit initiatives. Some, such as the UK's new Consumer Duty and reform of the ring-fencing regime, reflect domestically-driven initiatives. Others, such as the UK's proposals for a regulatory framework for cryptoassets, reflect the global direction of travel.
- Finally, the third prong consists of a more fundamental restructuring of the UK's post-Brexit regulatory framework. Following a period of review and discussion surrounding the UK regulatory framework, in H1 2023 we saw the enactment of the Financial Services and Markets Act 2023, the Retained EU Law (Revocation and Reform) Act 2023 and the progress of the so-called Edinburgh reforms (supplemented in early July by further 'Mansion House' reforms). Together these will make significant changes to the legislative framework, including enabling the revocation of retained EU law, providing the UK's regulators with additional objectives and reforming many aspects of UK financial regulation. In H2 2023, we will continue to see an ambitious number of consultations and publications aiming to bring forward this post-Brexit reform.

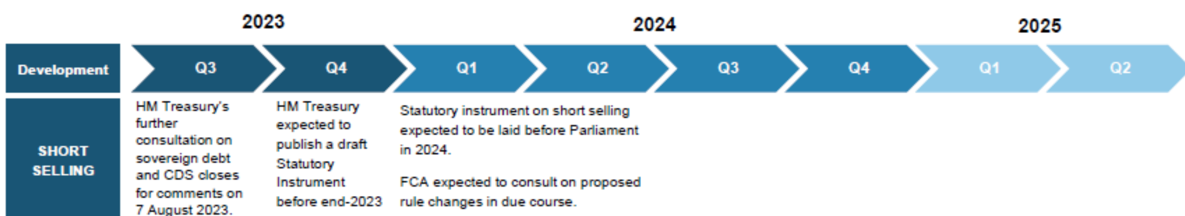
MIFID/R AND WHOLESALE MARKETS REVIEW



- The Financial Services and Markets Act 2023 (FSMA 2023), which was enacted on 29 June 2023, enables the government to reform the UK's prospectus regime, to implement recommendations from Lord Hill's UK Listing Review which aims to widen participation in the ownership of public companies, simplify the UK capital raising process, and make the UK a more attractive destination for initial public offerings.

- HM Treasury has also been working with the Department for Business, Energy & Industrial Strategy to deliver the recommendations made to government as part of the Secondary Capital Raising Review, and more broadly on reforms to corporate governance, aiming to further enhance the attractiveness of UK public markets.
- On the forward horizon
- The UK Prospectus Regulation has been allocated to Tranche 1 of the repeal and reform programme announced in December 2022 as part of the Edinburgh Reforms package.
- HM Treasury published an illustrative draft of the Financial Services and Markets Act 2000 (Public Offers and Admissions to Trading) Regulations 2023 on use of its powers in FSMA 2023 to amend the UK prospectus regime. This was followed by a revised draft in July 2023 on which technical comments are invited by 21 August 2023. Among other things the draft SI would: create a new prohibition on public offers of 'restricted securities' in the UK (subject to exemptions and exclusions);
- give the FCA powers to specify the content requirements for a prospectus for admission to trading of 'transferable securities' on a UK regulated market or UK primary multilateral trading facility;
- Introduce a new regulated activity of operating an electronic system for public offers of relevant securities; and
- Designate certain activities for regulation under the Designated Activities Regime introduced by FSMA 2023.
- HM Treasury expects to lay the Financial Services and Markets Act 2000 (Public Offers and Admissions to Trading) Regulations 2023 before Parliament before the end of 2023.
- The FCA will need to consult on its proposed use of new powers. It plans to formally consult in 2024. The FCA has published 4 pre-consultation engagement papers in May 2023 and two engagement papers in July 2023 on aspects of the regime. Feedback on the engagement papers is invited by 29 September 2023.

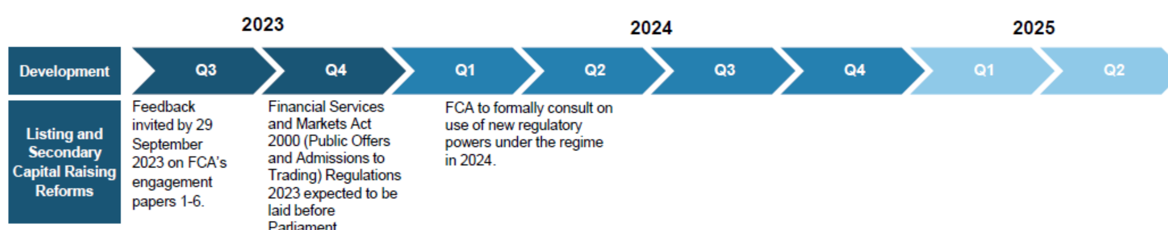
SHORT SELLING



- The Financial Services and Markets Act 2023l (FSMA 2023), enacted on 29 June 2023, will repeal retained EU law on financial services and will give HM Treasury powers to amend, restate and replace that law.
- IHM Treasury is exploring how, on repeal of the UK short Selling Regulation (UK SSR) the UK short selling regime could be reformed to make it work better for UK markets.
- In December 2022, HM Treasury published a call for evidence on replacement of the UK SSR, with the aim of ensuring that the UK's approach to regulating the short selling of shares admitted to trading reflects the specificities of UK markets, continuing to facilitate the benefits of short selling, whilst also protecting market participants and supporting market integrity.
- On the forward horizon
- Reform of the UK SSR has been allocated to Tranche 2 of the repeal and reform programme outlined in the Edinburgh Reform package published on 9 December 2022.

- HM Treasury's call for evidence on the UK SSR closed on 5 March 2023. Responses will inform considerations as to the appropriate framework for the regulation of short selling. HM Treasury published a response document on 11 July 2023 summarising the feedback received.
- The call for evidence did not explore other specific provisions in the UK SSR including the short selling regime for UK sovereign debt and UK sovereign credit default swaps. On 11 July 2023, HM Treasury published a separate consultation document on sovereign debt and CDS aspects of the regime, which summarises views provided in response to the call for evidence. HM Treasury proposes to remove restrictions on uncovered short positions in UK sovereign debt and UK sovereign debt CDS, remove reporting requirements and amend other parts of the short selling regime where necessary, such as the market maker and authorised primary dealer exemptions. The further consultation is open for feedback until 7 August 2023.
- HM Treasury expects to lay a draft statutory instrument (SI) on the replacement short selling regime by the end of 2023, with a view to laying the finalised SI before Parliament in 2024.
- The FCA is expected to consult on relevant rule changes to reflect the short new selling regime in due course.

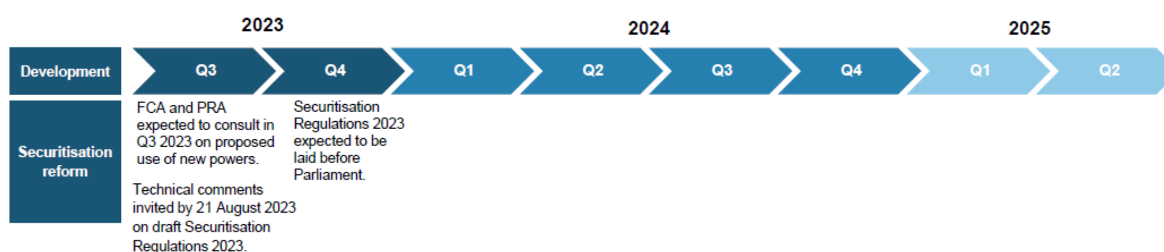
LISTING AND SECONDARY CAPITAL RAISING REFORMS



- FSMA 2023, which was enacted on 29 June 2023, enables the government to reform the UK's prospectus regime, to implement recommendations from Lord Hill's UK Listing Review which aims to widen participation in the ownership of public companies, simplify the UK capital raising process, and make the UK a more attractive destination for initial public offerings.
- HM Treasury has also been working with the Department for Business, Energy & Industrial Strategy to deliver the recommendations made to government as part of the Secondary Capital Raising Review, and more broadly on reforms to corporate governance, aiming to further enhance the attractiveness of UK public markets.
- On the forward horizon
- The UK Prospectus Regulation has been allocated to Tranche 1 of the repeal and reform programme announced in December 2022 as part of the Edinburgh Reforms package.
- HM Treasury published an illustrative draft of the Financial Services and Markets Act 2000 (Public Offers and Admissions to Trading) Regulations 2023 on use of its powers in FSMA 2023 to amend the UK prospectus regime. This was followed by a revised draft in July 2023 on which technical comments are invited by 21 August 2023. Among other things the draft SI would:
    - create a new prohibition on public offers of 'restricted securities' in the UK (subject to exemptions and exclusions);
    - give the FCA powers to specify the content requirements for a prospectus for admission to trading of 'transferable securities' on a UK regulated market or UK primary multilateral trading facility;
    - Introduce a new regulated activity of operating an electronic system for public offers of relevant securities; and
    - Designate certain activities for regulation under the Designated Activities Regime introduced by FSMA 2023.

- HM Treasury expects to lay the Financial Services and Markets Act 2000 (Public Offers and Admissions to Trading) Regulations 2023 before Parliament before the end of 2023.
- The FCA will need to consult on its proposed use of new powers. It plans to formally consult in 2024. The FCA has published 4 pre-consultation engagement papers in May 2023 and two engagement papers in July 2023 on aspects of the regime. Feedback on the engagement papers is invited by 29 September 2023.

SECURITISATION REFORM



FSMA 2023, 2023, enables the government to reform the UK's securitisation regime and deliver the recommendations of the 2021 Securitisation Review with the aim of:

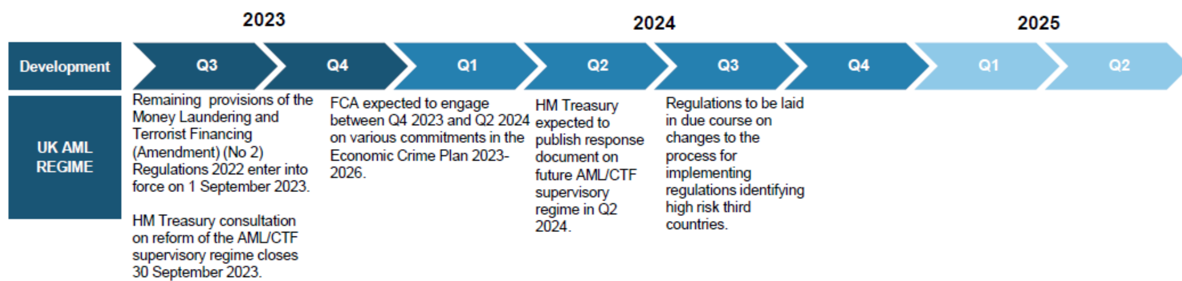
(i)bolstering securitisation standards in the UK, in order to enhance investor protection and promote market transparency; and

(ii)supporting and developing securitisation markets in the UK, including through the increased issuance of STS securitisations, in order to ultimately increase their contribution to the realeconomy.

- On the forward horizon
- The UK Securitisation Regulation has been allocated to Tranche 1 of the repeal and reform programme announced in December 2022 as part of the Edinburgh Reforms package.
- HM Treasury published an illustrative draft of the Securitisation Regulations 2023 on use of its powers in FSMA 2023 to amend the UK securitisation regime. This was followed by a revised draft in July 2023 on which technical comments are invited by 21 August 2023. Among other things the draft SI would:grant powers to the FCA and PRA to make securitisation-related rules –including by designating certain sell-side activities for regulation under the Designated Activities Regime introduced by FSMA 2023;
- give directions to the FCA and PRA about how to regulate securitisation (including both firm and systemic financial stability considerations) and instruct them to have regard to the "coherence of the overall framework for the regulation of securitization" when making rules applicable to firms;
    - grant powers to the FCA to dispense with its rules in some circumstances; and
    - provide detail on the equivalence regime for allowing UK institutional investors to treat non-UK securitisations as simple, transparent and standardised, or "STS".
- HM Treasury expects to lay the Securitisation Regulations 2023 before Parliament before the end of 2023.
- The PRA (in respect of credit institutions and large investment firms) and FCA (in respect of other firms) will write the rules for sell-side firms by moving the relevant rules to the Rulebooks. The FCA and PRA are expected to consult in Q3 2023 on their proposed use of new powers to make rules to replace the relevant firm-facing provisions in the Securitisation Regulation (and related technical standards).

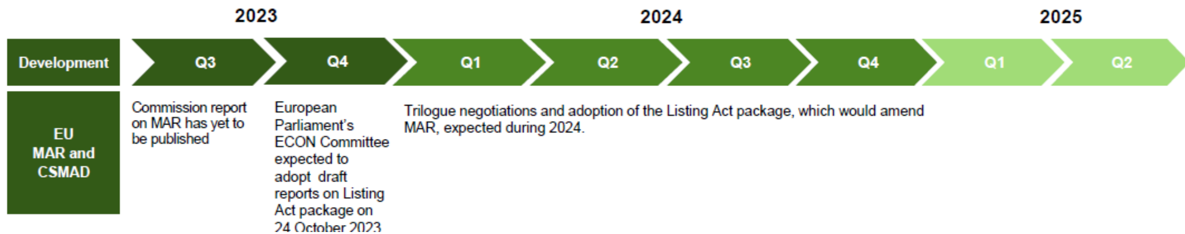
AML & MAR

UK AML REGIME



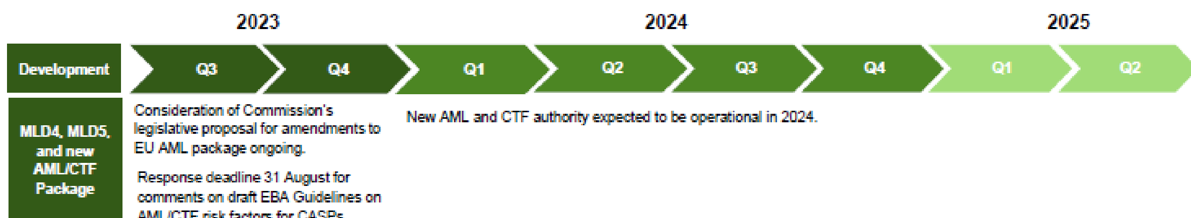
- On 21 July 2022, the UK's Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 were passed. These set out specific amendments to the UK's AML regime, which have now largely been phased in, with the remaining provisions taking effect on 1 September 2023.
- Alongside the consideration of these specific amendments, the UK has been conducting a wider review of its AML regime. A report on this review was published on 24 June 2022. This indicated that further reform to the UK's AML regime is needed and, therefore, further consultations and amendments to the regime should be expected. In March 2023, the Government published its second Economic Crime Plan, covering the period 2023-2026. outlining an ambition for an improved end-to-end response to tackling money laundering, which will require further targeted consultations.
- On the forward horizon
-
- The Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 were made on 21 July 2022. They make various targeted amendments to the UK's Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, including in relation to the reporting of discrepancies and requirements relating to crytpoasset businesses and cryptoasset transfers. Most of the requirements entered into force on 11 August 2022, 1 September 2022 and 1 April 2023 . The remaining provisions relate to [crypto] will enter into force on 1 September 2023.
- On 30 June 2023, HM Treasury published a consultation on reform of the anti-money laundering and counter-terrorism financing supervisory regime, which set out four possible models for a future AML/ CTF supervisory system. The consultation closes for comments on 30 September 2023, with HM Treasury planning to issue a response document in Q2 2024.
- On 20 June 2023, the government published an impact assessment on proposals for a change in the process by which regulations identifying high-risk third countries for money laundering purposes are implemented. Regulations will be laid in due course laid to make the proposed legislative amendments.
- The Economic Crime Plan 2023-2026 sets out a range of commitments aimed at combatting the criminal abuse of cryptoassets. The FCA is expected to engage between Q4 2023 and Q2 2024 on various commitments, including: delivering training to law enforcement and partner agencies to improve understanding of the UK cryptoasset regime; updating its cryptoasset business registration webpages and providing tailored communications where necessary to improve understanding of cryptoasset regulation; and engage with crypotasset businesses and monitoring their compliance with the "travel rule".

EU MAR AND CSMAD



- MAR and CSMAD; framework. MAR extended the scope of the market abuse regime and introduced new requirements including in relation to insider lists, disclosure of inside information and reporting of suspicious orders and transactions.
- CSMAD sets minimum requirements for EU member states' criminal sanctions regimes for market abuse.
- On the forward horizon
- MAR required the Commission to submit a report on MAR and, if the Commission considered this to be appropriate, a proposal for amendments to MAR, by 3 July 2019. In September 2020, ESMA published a report on MAR. The Commission's report has yet to be published.
- In December 2022, the Commission published a package of proposals to simplify EU listing rules, referred to as the Listing Act package (see slide 19). A measure supporting the EU's Capital Markets Union agenda, this will, among other things, amend MAR to:
  - narrow the scope of the obligation to disclose inside information and enhance legal clarity as to what information needs to be disclosed and when;
  - clarify the conditions under which issuers may delay disclosure of inside information; clarify the market sounding procedure; simplify the insider lists regime; and
  - simplify the reporting mechanism for buy-back and stabilisation programmes. The proposals are continuing through the EU legislative process.
- The European Parliament's ECON committee is expected to vote on its draft reports on the Listing Act package on 24 October 2023. Third drafts of the reports were published in June 2023.

EU MLD4, MLD5 AND THE NEW AML AND CTF PACKAGE



- MLD4 contains the EU's anti-money laundering framework. MLD5 made targeted amendments to MLD4 to increase transparency around owners of companies and trusts through the establishment of public beneficial ownership registers, prevent risks associated with the use of virtual currencies for terrorist financing, restrict the anonymous use of pre-paid cards, improve the safeguards for financial transactions to and from high-risk third countries and enhance Financial Intelligence Units' access to information.
- In 2021, the Commission adopted an ambitious new package of legislative proposals, intended to further strengthen and update the AML and CTF framework.

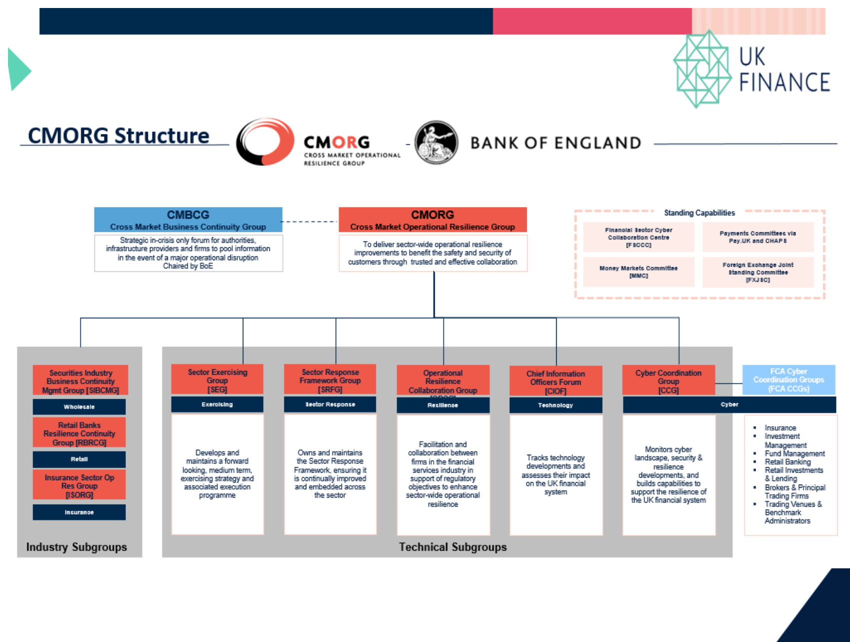
- On the forward horizon
- In July 2021, the Commission adopted a package of legislative proposals: (i) a regulation establishing a new EU AML and CTF authority (AMLA Regulation); (ii) a new regulation on AML and CTF (AML Regulation)'; (iii) a sixth directive on AML and CTF (MLD6); and (iv) a regulation on information accompanying transfers of funds and certain cryptoassets (revised recast Wire Transfer Regulation).
- The package continued its progress through the EU legislative process in 2022, with the Council agreeing its general approach in June and December 2022 and the European Parliament agreeing its negotiating position in April 2023. The revised recast Wire Transfer Regulation was adopted in May 2023 and published in the Official Journal on 9 June 2023. Trilogue negotiations with respect to the remainder of the package are ongoing.
- Following a consultation between December 2022 and February 2023, in March 2023 the EBA published new and revised guidelines on (i) policies and controls for the effective management of money laundering and terrorist financial risks when providing access to financial services; and (ii) customer due diligence.
- On 31 May, EBA launched a consultation on proposals to change the scope of its guidelines on AML and CTF risk factors under MLD4 to include the specific features of cryptoassets and cryptoasset service providers (CASPs). The consultation closes on 31 August 2023 and revised guidelines will be published in due course.
- It was originally expected that the new AML and CTF authority, created under the new AML package, would be operational in early 2024 but this timeline may be extended.

On 1 August 2023, the Joint Money Laundering Steering Group (JMLSG) announced a revision to Part 1 Paragraph 5.3.89 of its guidance. The revision has been submitted to HM Treasury for Ministerial approval. Part 1 Paragraphs 5.3.85 to 5.3.91 cover customer due diligence – private individuals – mitigation of impersonation risk.

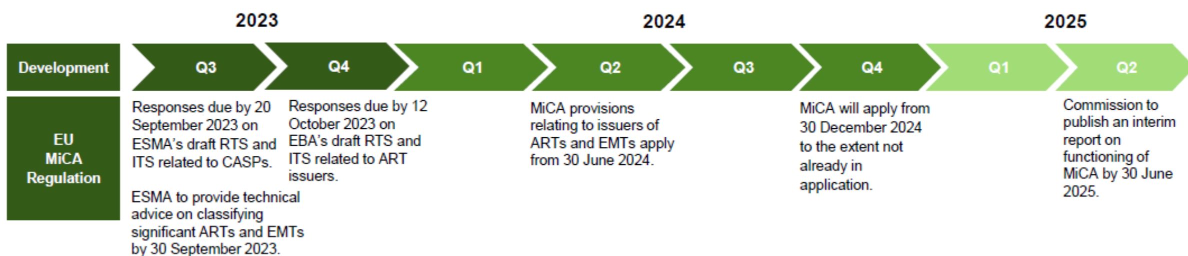
- On 1 August 2023, the Joint Money Laundering Steering Group (JMLSG) announced a revision to Part 1 Paragraph 5.3.89 of its guidance. The revision has been submitted to HM Treasury for Ministerial approval. Part 1 Paragraphs 5.3.85 to 5.3.91 cover customer due diligence – private individuals – mitigation of impersonation risk.

JMLSG; The latest consultation on JMLSG guidance for cryptoasset transfers has been published – return date for comments is 25th August. *The links to the news and consultation page are as follows:*

- https://www.jmlsg.org.uk/latest-news/jmlsg-guidance-consultation-cryptoasset-transfers/
- https://www.jmlsg.org.uk/consultations/consultation-cryptoasset-transfers/



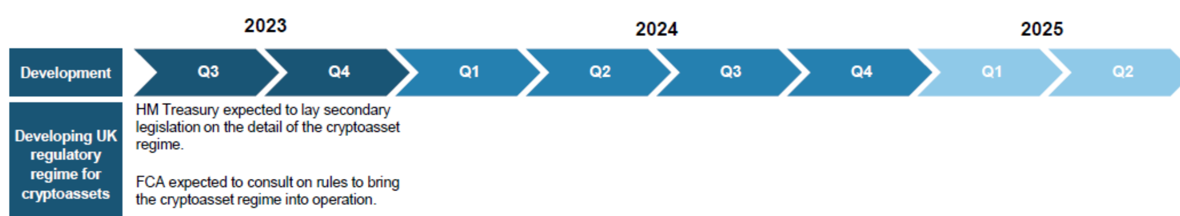
Crypto & DLT



- MiCA applies with respect to cryptoassets that do not qualify as MiFID financial instruments, deposits or structured deposits or traditional e-money under existing EU financial services legislation. In-scope cryptoassets are stablecoins ('Asset Referenced Tokens' (ARTs) and 'e-money Tokens' (EMTs)) and utility tokens ('other cryptoassets').
- As well as placing obligations on those who issue or offer cryptoassets to the public, MiCA provides a framework for service providers ('CASPs'), which will bring in separate authorisation and ongoing requirements for activities such as trading and custody of this asset class. It will ensure among other things that customer assets are properly segregated from a cryptoasset firm's own assets and will ensure the cryptoassets firm has enough liquidity on hand in the form of reserves to meet customer withdrawals. It will also introduce a market abuse regime.
- On the horizon:
- MiCA was published in the Official Journal on 9 June 2023 and entered into force on 29 June 2023.

- MiCA's provisions related to stablecoins (Asset Referenced Tokens and E-Money Tokens) apply from 30 June 2024, with the remainder of its provisions applying from 30 December 2024.
- MiCA will be supported by further 'Level 2' delegated acts, regulatory technical standards (RTS) and implementing technical standards (ITS), and 'Level 3' guidelines:
    - The Commission issued a provisional call for evidence to ESMA in January 2023, requesting technical advice by 30 September 2023 to inform a future Delegated Act on classification of asset-reference tokens and e-money tokens as significant.
    - In July 2023, the EBA launched consultations on draft RTS on changes in control of ART issuers and ART issuers' complaints-handling, and draft RTS and ITS on ART issuer authorisation, for responses by 12 October 2023.
    - In July 2023, ESMA published consultations on draft RTS and ITS related to CASPs' notification and authorisation requirements, conflicts management, complaints handling and change in control, for responses by 20 September 2023.

DEVELOPING UK REGULATORY REGIME FOR CRYPTOASSETS



- On 1 February 2023, HM Treasury published a consultation on the future UK regulatory approach to cryptoassets other than stablecoins. The response deadline for the consultation was 30 April 2023.
- HM Treasury proposes to add cryptoassets to the list of "specified investments" under the Financial Services and Markets Act 2000 (Regulated Activities Order) 2001 (the RAO) and to create various new regulated activities or designated activities (under the new designated activities regime introduced under the Financial Services and Markets Act 2023 (FSMA 2023) relating to cryptoassets. Many of these proposed activities mirror, or closely resemble, regulated activities under the existing FSMA regime. The proposals include an issuance and disclosures regime for cryptoassets, a market abuse regime, and a regime for cryptoasset services such as lending and borrowing, trading, brokerage, platform operation and custody.
- On the horizon:
- The FSMA 2023, which received Royal Assent on 29 June 2023, enables HM Treasury to expand the UK's regulated activities framework to encompass cryptoasset related activities.
- HM Treasury is expected to provide feedback on responses to its February consultation and to lay secondary legislation covering the detail of the regime. No firm timing is currently indicated.
- The FCA is also expected to consult and make the wide range of relevant rules under its general rule making powers to bring the regulatory regime into operation. No firm timing is currently indicated.
- Separate proposals are under development to bring cryptoasset promotions within the scope of the UK financial promotions regime (see slide 60).

The new Markets in Crypto Assets Regulation (MiCA) imposes rules and obligations on firms and service providers that want to engage actively in the offering of cryptoasset services and products in the EU. *However, the novel regulation also encompasses another segment of service providers – the ones in scope of this thesis:*

- *Third-country* entities that do not obtain an authorisation under the regulation but still wish to serve EU individuals on the basis of the principle of reverse solicitation. Under the principle of reverse solicitation, third-country firms may serve EU individuals if the product and service have been requested at the individual's own exclusive initiative. In short, the principle prohibits the third-country firm to market its products and services within the EU. It does, nevertheless, come with various questions and doubts that will be intended answered in this thesis. The overarching question is the principle's scope, range, and frames, and whether third-country firms will have any room of actions towards EU individuals under the application of this concept. Furthermore, the thesis will explore various sides of the legal incorporation of the principle of reverse solicitation under MiCA, national competent authorities' guidance and eventually, a practical assessment of traditional activities and whether these would fall within or outside the framework of the principle of reverse solicitation.

MiCA's Impact on Exchanges Means New Opportunities; *New regulation governing crypto regulation in Europe -- the Markets in Crypto Assets or MiCA -- could provide the opportunity for incumbent exchanges to expand into new markets, given their status as a trusted partner. In this article, Magnus Almqvist, Head of Exchange Development at Exberry, discusses MiCA, which is being phased in, and describes the challenges exchanges face, as well as the opportunities that MiCA presents*

- New regulation governing crypto regulation in Europe -- the Markets in Crypto Assets or MiCA -- could provide the opportunity for incumbent exchanges to expand into new markets, given their status as a trusted partner. In this article, Magnus Almqvist, Head of Exchange Development at Exberry, discusses MiCA, which is being phased in, and describes the challenges exchanges face, as well as the opportunities that MiCA presents.
- Tokenization of financial and real-world assets could reach as much as $5 trillion by 2030, according to a recent report by Citigroup, with another $5 trillion moving into new types of money such as central-bank digital currencies and stablecoins. This forecast is backed up by a recent EY-Partheon survey of institutional investors, which showed that 93% of respondents believed in the long-term value of blockchain technology and/or digital assets, and a further 69% expect to increase their allocations to digital assets and/or related products in the next 2-3 years.
- Yet the same EY-Partheon survey also shows that "regulatory clarity and oversight," and "proven and trusted financial entities to interact with," are two of the most important factors when making a significant investment in digital assets.
- This need for "proven and trusted entities" has prompted many traditional financial industry players, including stock exchanges, to show an interest in launching digital assets and opening into new markets. At the same time, regulators have stepped up – in Europe at least – in an effort to bolster the "regulatory clarity and oversight" shortcoming. How can stock exchanges successfully position themselves in the face of these significant transformations and forthcoming competition?
- **Facing down the competition;** Bloomberg recently reported an increased level of activity relating to digital securities amongst regulated markets: JPMorgan Chase & Co. expanded its blockchain-based payments platform to include euros and potentially its asset tokenization platform; Goldman Sachs Group Inc. plans to increase the issuance of tokenized securities through its digital-asset platform; BlackRock Inc. and Fidelity Investments have both applied for Bitcoin exchange-traded funds; and a cryptocurrency exchange backed by the likes of Citadel Securities, Fidelity, and Charles Schwab Corp. was recently launched.
- In the face of this new competition, stock exchanges need to stay relevant whilst they find themselves in the midst of an interesting inflection point: exchanges are hampered by their often expensive and legacy technology powering their current markets. Introducing the necessary changes to be able to support new markets based on digital securities is often met by high risk, prolonged times to market and extremely costly implementation projects that slow down innovation, giving the competition unintended advantages.

- Nevertheless, these exchanges are usually the dominant marketplace in the region, an advantage they should fully capitalise on. This is resulting in exchanges now rethinking and reevaluating their strategies. They need to try to find ways to reach either retail investors more directly, or those segments of the market which today are typically not members on the main market.
- Introducing MiCA; In June 2023, digital assets in Europe fell under a brand new regulatory regime via the publication of the Markets in Crypto Assets ('MiCA') regulation. A phased implementation period of MiCA is now underway, in which time ESMA will begin publishing implementation guidelines and go through consultation processes over the next 12 months. Rules will start applying for stablecoins (asset-referenced and e-money tokens) in June 2024, and for other tokens and service providers in December 2024.
- MiCA defines a crypto asset as "a digital representation of value or rights which may be transferred and stored electronically, using distributed ledger technology or similar technology." The regulation, therefore, draws a distinction between 'cryptocurrencies' on one hand and 'tokens' on the other. In other words, MiCA covers the full gamut of digitised or tokenized securities, but excludes non-fungible token (NFTs).
- MiCA will require that the provision of services in crypto assets can only be performed by authorised crypto-asset service providers (CASPs), which include the operation of trading platforms for crypto assets. MiCA will also apply additional requirements to a separate category of "significant" CASPs (i.e. providers with at least 15 million active users annually in the EU), which will be obliged to report to ESMA on key supervisory developments. Authorised crypto-asset service providers will be able to passport their services cross-border in all EU jurisdictions.
- CASPs will be subject to market abuse rules around insider dealing, unlawful disclosure of inside information and market manipulation. Investor protection rules will also have an impact: according to analysis by Sygna, for crypto assets with no issuer (such as Bitcoin), trading platforms will need to outline potential risks. Exchanges will not only be liable for misleading content, but for any potential hacks or preventable outages to the platform itself. Moreover, CASPs will be required to make available any data around environmental impacts of assets.
- While the finer details still need to be ironed out in the Regulatory Technical Standards (RTS), entities nevertheless have begun preparations to beat the rush of obtaining a licence authorising the provision of crypto-asset services. What's more, many national competent authorities are offering regulatory sandboxes to support such initiatives. So how can established exchanges capitalise on the possibilities MiCA offers?
- Opportunities of tokenization: a plethora of possibilities; What MiCA introduces is the possibility for exchanges to get engaged in the newly created regulated marketplace around crypto assets. Tokens of private-sector securities and funds could span everything from corporate debt and financing collateral to alternative assets such as real-estate, private equity and venture capital.
- Fractional trading is one example of interesting possibilities that MiCA opens up. There are currently many barriers to access to the main institutional markets, particularly around derivatives and futures; for example, traders traditionally must have an account with the ability to handle initial margins and variation margin of several million USD. There is potential lucrative merit, therefore, in stock exchanges offering fractional shares of existing established securities to open derivatives markets to new entrants wanting to trade with lower risk profiles.
- Similar opportunities also exist around the opening of new markets in collectibles or prediction markets and new types of pre-IPO capital raising platforms. There is also interest in the potential of developing more secure and regulated secondary trading of unlisted shares, options schemes and warrants to provide employees a way to trade out of owned options.
- Overcoming legacy tech constraints; Whilst the potential of opening novel types of markets is promising, traditional stock exchanges lumbered with legacy technology may baulk at the time and expense that transforming internal systems might require. Therefore, exchanges need to keep themselves up to date with the latest technologies to serve these new customer bases. Adding a new type of asset class requires technical changes to support more decimal places or

trading outside of traditional hours, for example, or the provision of new avenues for market access, such as a mobile app.

- Innovative technologies developed with regulated markets in mind are now readily available, which means exchanges are now able to quickly introduce new initiatives to launch supplementary markets at a fraction of the total cost of ownership. By partnering with a technology vendor that allows rapid testing and adaption of new ideas at a fraction of the time, exchanges then have the confidence to migrate existing products onto a new technology ecosystem, and even eventually decommission existing legacy technology.
- First-mover advantage; In terms of launching different types of assets and opening up into new markets, the time to consider the impact of MiCA is now. Focus should be given on how real-world assets can be represented by digital tokens to create trading efficiencies and develop new opportunities that smart contracts and (where beneficial) blockchain offer.
- To take advantage, exchanges need to start designing suitable operating models and checking that their technology is updated to ensure compliance with the regulations' detailed provisions. Those exchanges who can take the initiative and finally take part in a regulated crypto ecosystem now have an incredible opportunity to gain first-mover advantage and propel business growth.

Public Comment on IOSCO's Consultation Report on Policy Recommendations for Crypto and Digital Asset Markets; CCP12

- CCP12 is the international association for central counterparties ("CCPs"), representing 42 members who operate over 60 individual CCPs across the Americas, EMEA, and the Asia-Pacific region.
- commends IOSCO for further engaging in this important topic. Last year's crypto-winter, marked by substantial losses in the value of cryptocurrencies, was due, in part, to events that exemplify the lack of both transparency and appropriate regulation in the crypto-asset market.
- While CCPs are not at the core of this Consultation, as financial market infrastructures, the safety, integrity, and transparency of financial markets and investor protection issues are of the utmost importance to us. Therefore, we would like to share several comments regard ing the Consultation. /jlne.ws/47pqzFU
- The type of instrument should not be a differentiating factor and crypto-asset service providers ("CASPs") should be subject to the same requirements. It is unnecessary and potentially detrimental to the markets for local policy-makers to introduce different sets of rules for entities performing the same type of activity. Not only would this likely result in two disparate regulatory regimes, but it could inadvertently result in a crypto-asset regulatory regime that would be less safe and robust than the regime for entities providing services in more traditional parts of the markets. Therefore, it seems not only efficient, but appropriate to extend the current regime to CASPs where the same services are being provided as those provided for traditional financial markets.
- We firmly believe this would help to achieve a coherent policy framework at the international level and therefore would encourage local policy-makers worldwide to apply such an approach that achieves a level playing field, transparency, and consistency – both in terms of requirements and the achieved degree of market safety and efficiency.
- Along these lines, with reference to Recommendation 1 – Common Standards for Regulatory Outcomes, we are of the view that the existing frameworks should be applied to the highest possible degree and new frameworks should only be established in the context of such services and/or activities where regulations do not currently exist. In terms of the recommendations concerning disclosures (such as Recommendations 3, 4, 5, 6, 14, 17, and 18), CCP12 commends IOSCO for promoting more transparency in the crypto-asset
- markets. The obligation to provide relevant disclosures is crucial to all market stakeholders. The importance of market data is demonstrated by CCPs today, who provide in-depth transparency to their markets which is foundational to a well-functioning, efficient, and sound financial

industry3 . Several historical events have demonstrated that a lack of proper visibility, such as the opaque nature of over-the-counter markets leading to the financial crisis of 2008, can present risks to the financial industry and potentially undermine the ability of market participants to appropriately assess their risks.
- Disclosures are of particular importance given the propensity for crypto-markets to be deployed to work around Anti-Money Laundering / Know Your Customer rules and related compliance. Therefore, we strongly urge regulators to introduce high standards of mandatory reporting, with a special emphasis on publicly available disclosures, consistent with the reporting provided by traditional financial markets today, into the cryptoasset world as soon as practicable.
- Further, we would like to emphasise that to the degree activities engaged in by CASPs are covered by other standard setting bodies' work and resultant standards and guidelines, these should apply with the same diligence and vigour. Examples of such other areas would be capital and liquidity standards or a sound legal basis within a clearly specified jurisdiction. The latter especially is a prerequisite for an effective oversight and certainty for investors and creditors as to which legal regime applies (e.g., in times of bankruptcy or other court proceedings due to committed crimes).

FIA Supports IOSCO Recommendations on Crypto Regulation; *FIA supported IOSCO's recommendations to member jurisdictions on regulating crypto-asset activities under the fundamental principle "same business, same risks, same rules."*

- In its public comment, FIA responded to IOSCO's policy recommendations to "support jurisdictions seeking to establish compliant markets for the trading of crypto or 'digital' or 'virtual' assets." The recommendations are intended to promote international consistency in regulatory frameworks "given the cross-border nature of the markets, the risks of regulatory arbitrage and the significant risk of harm to which retail investors continue to be exposed."

- FIA supported IOSCO's proposed recommendations to:
  - address risks arising from vertically integrated crypto-asset trading platform business models and posited that if vertically integrated market structures are to be allowed, regulators should ensure that the "consolidated structure protects customers and market integrity";
  - require crypto-asset service providers ("CASPs") to (i) ensure adequate protection of client assets, (ii) segregate client assets from the CASP's proprietary assets, such as in a trust, (iii) disclose how client assets are being safeguarded and (iv) implement procedures and policies to conduct regular reconciliations of client assets; and
  - address cross-border risks and prevent money laundering by encouraging regulators to "adopt best practices in international cooperation."
- FIA urged IOSCO to take care that specific recommendations do not "unduly prevent or hinder innovation."
- FIA Comment Letter: Public Comment on IOSCO' Consultation Report on Policy Recommendations for Crypto and Digital Asset Markets

MAS bolsters integrity of crypto markets; *CP proposes regulatory measures & prohibitions against unfair trading practices.*

- The MAS has issued a consultation paper proposing regulatory measures and prohibitions against unfair trading practices to address market integrity risks in digital payment token services. *The proposed measures focus on handling and execution of customers' orders in a fair, orderly, and timely manner, prevention and detection of unfair trading practices (surveillance), management of non-public information, and operation of platforms. MAS also intends to adopt the*

market conduct prohibitions set out in the Securities and Futures Act for digital payment token services.

- This consultation paper titled '[Proposed Measures on Market Integrity in Digital Payment Token Services]', follows from the responses MAS received for its previous consultation paper titled '[Proposed Regulatory Measures for Digital Payment Token Services]', issued in October 2022.
- Since then, regulators have further recognised the need for international consensus to address market integrity concerns. In May 2023, IOSCO published draft policy recommendations to address market integrity and investor protection issues in crypto-asset markets. A few jurisdictions have also taken steps to address market integrity risks in Digital Payment Token (DPT) markets, such as the European Union which has introduced prohibitions against unfair trading practices under its Regulation on Markets in Crypto Assets. In line with global developments, MAS is proposing regulatory measures for licensed and exempt payment service providers that carry on a business of providing a DPT service under the Payment Services Act (collectively known as "DPT service providers" or DPTSPs) to address market integrity risks and prohibitions against unfair trading practices.
- Regulatory measures for DPTSPs; To address market integrity risks, all DPTSPs will be required to maintain adequate systems, processes, controls, human resources, and governance arrangements, in a manner that is commensurate with their business, to handle and execute customers' orders properly and to prevent and detect unfair trading practices.
- Handling and executing customers' orders in a fair, orderly and timely manner; DPTSPs will need to maintain policies and procedures that cover several areas, which are similar to the dealing of traditional capital markets products. These include:
  - Best execution
  - Prohibition on payment for order flow
  - Execution in order of receipt (priority of customer's order)
  - Correction or cancellation of error trades
  - Pre-trade risk controls
  - Disclosure of policies and procedures to customers
- Preventing and detecting unfair trading practices; DPTSPs will need to detect and deter unfair trading practices through:
  - Trade Surveillance
  - Implementing and disclosing to customers, procedures for investigating and addressing unfair trading practices
  - Record keeping of orders and transactions
  - Maintaining controlled list of persons with access to material non-public information (privy persons list) and information barriers to restrict access to this list
  - Implementing policies and procedures in relation to personal trading by officers and employees, including pre and post dealing procedures, and black-out periods
- Regulatory measures for DPTSPs that operate a trading platform; Furthermore, to address market integrity risks, DPTSPs that operate a trading platform should maintain business rules that make satisfactory provision for the DPT trading platform to be operated in a fair, orderly, and transparent manner.
  - Fair. Rules that set out fair access criteria and execution protocols, and prohibit unfair trading practices.
  - Order. Rules regarding cancellation or correction of trades, controls to prevent potential disorderly trading, and corrective action to avoid or rectify disorderly trading conditions.
  - Transparency. Rules on the dissemination of pre-trade information and post-trade information, and the dissemination of alerts on unusual trading activity to customers.
- Statutory prohibitions on unfair trading practices; To bring to task wrongdoers and deter market participants from engaging in misconduct, MAS looks to implement statutory prohibitions on unfair trading practices in DPT markets, similar to the prohibitions in Part 12 of the Securities and Futures Act that apply for capital markets.

- The prohibitions, with the necessary modifications, will cover:
    - False trading and market rigging
    - Market manipulation
    - False or misleading statements
    - Fraudulently inducing persons to deal
    - Employment of manipulative and deceptive devices
    - Bucketing
    - Cornering
    - Dissemination of information about illegal transactions
    - Insider trading
- Furthermore, MAS looks to introduce to the DPT markets provisions for civil penalty actions, civil remedies, attribution of liability and other related areas.
- Implementation and next steps; To address market integrity risks: MAS intends to issue Guidelines to set out the expectations for DPTSPs as regards market integrity risks, as a first step to implementing the proposals. Thereafter, details on the regulatory requirements and subsidiary legislation will be separately published for consultation in due course.
- To address unfair trading practices: MAS will amend the Payment Services Act or other Acts administered by MAS, as appropriate. The Act amendments will be separately published for consultation in due course

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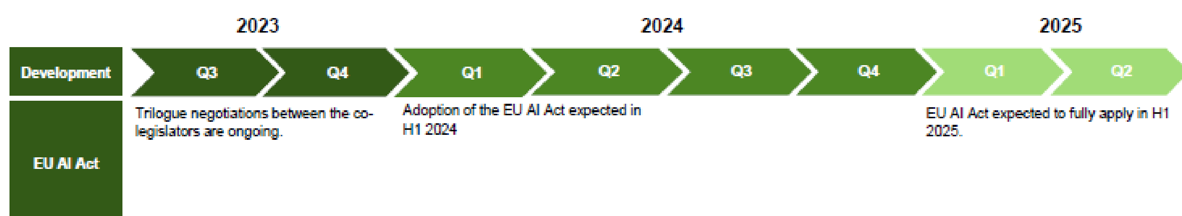
Digital finance, SupTech, RegTech & FinTech

EU AI ACT



Tokenization in financial services; July 2023 CFTC Global Markets Advisory Committee meeting

1. Digital assets have demonstrated resilience through a period of extreme volatility, with emergence of non-crypto applications
2. Blockchain based representation of real-world assets (i. tokenization) is growing as a key application of blockchain technology across traditional and new asset classes
3. Tokenization demonstrates qualities across value chain participants inherited from three tenants of the underlying technology: 24/7 operations, atomic settlement and programmability
4. A combination of challenges across technology, market readiness, economics and regulation have impacted the ability of the industry to scale
5. Accelerated adoption across certain asset classes point to a potential inflection point where these challenges could change or disappear
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Stablecoins Offering Less Stability for Coinbase; Declining interest revenue from stablecoins is one of many headwinds for the crypto exchange; Even the easy part is getting harder for Coinbase COIN 1.04%increase; green up pointing triangle Global. Given the company's brewing battle with the Securities and Exchange Commission following the regulator's lawsuit earlier this year, and the broader role of Washington in the future of digital assets, quarterly earnings might seem somewhat beside the point for Coinbase. That is especially the case during the current crypto winter, when little is expected from trading activity. /jlne.ws/43RRSWd

Japan's Financial Services Agency sets out expectations on operational resilience

- The Japanese Financial Services Agency (FSA) has published a discussion paper setting out the importance of operational resilience as financial institutions increasingly rely on cloud services and FinTech services. Firms are expected to develop a framework to ensure early recovery and impact mitigation when disruptions occur.
- The paper sets out expectations regarding the identification of critical operations, setting tolerances for disruption and understanding interconnection between management resources. Japan's FSA will look to promote best practice, engage with stakeholders and contribute to international discussion on this topic.

SEC proposes rule on conflicts of interest and predictive data analytics

- On July 26th, the SEC released a rule proposal aimed at addressing potential conflicts of interest arising from the use of predictive data analytics (PDA) by broker-dealers and investment advisers in investor interactions. The Commission refers to the use of what it defines as "PDA-like" technologies and includes artificial intelligence (AI) and machine learning in this category.
- Key considerations include what constitutes "covered technology", which the proposal defines in fairly broad terms as: "an analytical, technological, or computational function, algorithm, model, correlation matrix, or similar method or process that optimizes for, predicts, guides, forecasts, or directs investment-related behaviors or outcomes in an investor interaction."
- The rule would require a firm to mitigate the effects of conflicts of interest stemming from the use of "covered technologies" when interacting with investors which place the firm or an associated persons interest ahead of those of the investor. Additionally, the rule would require a firm using PDA in such a way to maintain written policies and procedures designed to prevent rule violations once the final version is implemented.
- Comments are due 60 days after publication in the Federal Register. During the same open meeting, the Commission announced proposals to enhance and standardize disclosures regarding cybersecurity risk management, strategy, governance, and incidents by public companies that are subject to the reporting requirements; and proposed amendments to the

exemption for internet advisers from the prohibition against registration under the Investment Advisers Act of 1940.

UK FCA chief sets out UK regulatory approach to AI in financial services

- The head of the UK Financial Conduct Authority (FCA) Nikhil Rathi outlined in a speech the FCA's regulatory approach to the rise of artificial intelligence (AI) in financial services. Rathi highlighted the competition implications of firms having access to unique and comprehensive data sets and stressed that the forthcoming UK Critical Third Parties regime will set standards for service providers, including AI service providers.
- He also underlined that the FCA will take a robust line on the need for fraud prevention and operational resilience and that the FCA is examining how financial services firms should be able to explain their AI models or prove that they behaved in a way as expected, particularly when things go wrong.
- Rathi reflected on the FCA's innovation efforts through its tech horizon scanning and synthetic data capabilities and the establishment of their Digital Sandbox. The FCA has also developed its supervision technology by using AI techniques for firm segmentation, portfolio monitoring and risky behavior identification. Looking ahead, the FCA will publish a feedback statement to its discussion paper on AI in financial services later this year.

Indian regulator consults on consolidated cyber resilience framework

- The Securities and Exchange Board of India (SEBI) has issued proposals for consultation on a Consolidated Cybersecurity and Cyber Resilience Framework (CSCRF) to assist firms in mitigating cyber risks. SEBI notes that the use of information technology has grown rapidly in the financial markets industry and has become a critical component of business operations. As such, the protection of technological infrastructure and data through cyber security measures has become a key priority for SEBI and the firms it oversees.
- The proposed CSCRF is designed to enhance the scope of the existing framework for cyber resilience as well as address the need for uniformity in the cyber security guidelines and strengthen the mechanisms for dealing with cyber risks, threats and incidents.

US FTC opens investigation into OpenAI

- The Federal Trade Commission (FTC) is investigating whether OpenAI's ChatGPT has harmed people by publishing false information about them. The new FTC investigation under Chair Lina Khan marks a significant escalation of the federal government's role in policing the emerging technology. In a civil subpoena to the company, the FTC says its investigation of ChatGPT focuses on whether OpenAI has "engaged in unfair or deceptive practices relating to risks of harm to consumers, including reputational harm."
- The company is asked to describe in detail the extent to which they have taken steps to address or mitigate risks that their large language model products could generate statements about real individuals that are false, misleading or disparaging. Khan, who appeared before the House Judiciary Committee, said the agency is concerned that ChatGPT and other AI-driven apps have no checks on the data they can mine. The FTC also asked the company detailed questions about its data-security practices as well as its marketing efforts, practices for training AI models, and handling of users' personal information.

European legislators strike agreement on Data Act and announce EU-US Data Privacy Framework

- European legislators have reached a political agreement on the European Data Act that aims to establish harmonized rules on fair access to and use of industrial data. The EU considers machine- and device-generated data to be an untapped resource for European technological innovation efforts. The rules aim to boost the EU's data economy by unlocking industrial data, optimizing data accessibility and use, and fostering a competitive and reliable European cloud market. The Data Act will specify who can access and use data generated across different economic sectors and is designed to ease the switching of data processing service providers. This provisional agreement now needs to be endorsed by the Council and the European Parliament and then adopted following the technical review.
- In parallel, the European Commission adopted its adequacy decision for the EU-US Data Privacy Framework, concluding that the US ensures an adequate level of protection for personal data transferred from the EU to US companies. On the basis of the new adequacy decision, personal data can flow safely from the EU to US companies participating in the Framework, without having to put in place additional data protection safeguards. There is no time limitation, but the Commission will continuously monitor relevant developments in the US and regularly review the adequacy decision.

Singapore industry consortium releases toolkit for responsible use of AI in the financial sector

- Singapore's Monetary Authority (MAS) announced the release of an open-source toolkit to enable the responsible use of AI in the financial industry. The Veritas Toolkit version 2.0 is intended to help financial institutions embed the Fairness, Ethics, Accountability and Transparency (FEAT) principles that provide guidance to firms offering financial products and services on the responsible use of AI and data analytics.
- The Veritas Toolkit is the first responsible AI toolkit developed specifically for the financial industry. Lessons from the pilot integration of the Veritas methodology include the importance of having a consistent and robust responsible AI framework that spans geographies, a risk-based approach to AI governance, and responsible AI practices and training for the new generation of AI professionals in the financial sector.
- In parallel, the MAS has also worked with some AI solution providers to integrate the Veritas Toolkit with their AI solutions so that they can better serve their financial sector customers.

Singapore regulator proposes framework for digital asset networks

- The MAS has published proposals for an open, interoperable network for digital assets framework. These proposals have been jointly developed with the Bank for International Settlements' (BIS) Committee on Payments and Market Infrastructure (CPMI), with contributions from participating financial institutions. The report also considers how the CPMI-IOSCO principles for financial market infrastructures apply to evolving models of digital asset networks.
- The reports reference the industry pilots launched under Project Guardian, an initiative to test the feasibility of applications in asset tokenization and Decentralized Finance. MAS has announced an expansion of Project Guardian to test the potential of asset tokenization across more financial asset classes and that Japan's FSA will become the first overseas financial regulator to join the initiative. The report is part of MAS' effort to ensure that emerging digital asset networks are underpinned by international standards that promote safe and efficient financial market infrastructure.

US Judge issues landmark ruling on the Ripple Case

- U.S. District Judge for the Southern District of New York Analisa Torres issued her decision in the SEC v. Ripple case, a decision that many have been anticipating as an inflection point for the

digital asset industry. Judge Torres ruled that Ripple's XRP token is a security when sold to institutional investors, but not when sold to the general public. Judge Torres wrote that the institutional sale of the XRP token met the test for an investment contract under federal securities laws because institutional buyers are more sophisticated and "would have understood that Ripple was pitching a speculative value proposition for XRP with potential profits." The ruling did not apply that logic to the sale of XRP to programmatic investors, with the judge arguing that there was no evidence that programmatic investors could figure out the many statements made by Ripple about XRP to determine the risk.

- Many in the crypto space have hailed this decision as a victory, while the SEC will likely appeal the decision, with Chair Gary Gensler saying he was "disappointed" by the ruling. One indication the Commission is likely to appeal is that the U.S. Second Circuit Court of Appeals is currently hearing a case centered on whether or not a leveraged loan that is sold to an investor should be considered a security and thereby subject to securities laws. The Court asked the SEC to weigh in and submit an amicus brief explaining their position on whether or not these types of loans are securities or not. After asking for an extension of time to respond, the SEC finally responded: with a one page letter which said in part "…the staff is unfortunately not in a position to file a brief on behalf of the Commission on this matter."

South Korea passes legislation to regulate the crypto sector

- The Korean National Assembly passed the Virtual Asset User Protection Bill, the country's first standalone piece of legislation for the crypto sector. The law focuses on user protection and regulation of unfair trade practices. The legislation gives Korea's Financial Services Commission the power to oversee crypto operators as well as asset custodians, and the Bank of Korea would also be able to probe these platforms. The new law requires insurance coverage, reserve funds and necessary record keeping.

Thai and Singapore regulators introduce consumer protection measures on crypto firms

- Thailand's Securities and Exchange Commission (SEC) has announced new guidelines that require crypto firms to disclose warnings about risks to investors. This includes a mandatory warning message about the high risks associated with trading cryptocurrencies. The new regulation also prohibits crypto firms from providing or supporting deposit-taking and lending services from August 30, 2023.
- Relatedly, the MAS has announced new requirements for Digital Payment Token (DPT) service providers to hold customer assets under a statutory trust before the end of the year. This is designed to mitigate the risk of loss or misuse of customers' assets, and facilitate the recovery of customers' assets in the event of a DPT service provider's insolvency. The MAS will also restrict DPT service providers from facilitating lending and staking of DPT tokens by their retail customers. Guidelines will be published in due course to support consistent implementation.

New Zealand increases monitoring but postpones regulation for crypto assets and stablecoins

- The Reserve Bank of New Zealand (RBNZ) announced that it will not introduce a regulatory framework for crypto assets but will enhance its monitoring capabilities of the sector instead. While the RBNZ consider there to be both significant risks and opportunities associated with stablecoins and other private money innovations, the uncertainty about how the sector will develop has prompted the decision to ramp up monitoring.
- The RBNZ plans to work with other regulatory agencies to develop data and monitoring capabilities and address issues such as investor protection and barriers to entry. The RBNZ expects to reassess its regulatory response in eighteen months' time.

New Zealand consults on operational resilience

- New Zealand's Financial Markets Authority (FMA) has published proposals to ensure that market service providers are prepared to respond to business continuity and cyber risks when they emerge. The proposed standard requires licensed firms to have and maintain a business continuity plan to ensure that critical technology systems are operationally resilient and to notify the FMA in the event of any disruptions. The proposals are open for consultation until September 1, 2023.

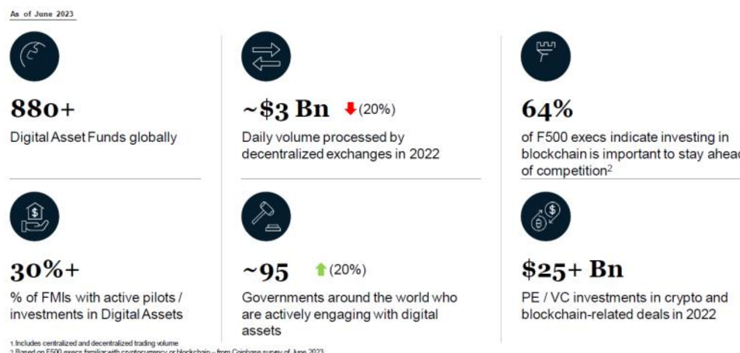
Australian prudential regulator finalizes standard on operational risk

- The Australian Prudential Regulatory Authority (APRA) has released its final cross-industry prudential standard for operational risk management. The new standard is designed to strengthen the management of operational risk, respond to business disruptions and manage the risks from the use of service providers for all APRA-regulated entities. The new standard will commence from July 1, 2025.

EU publishes draft legislation to establish a digital euro

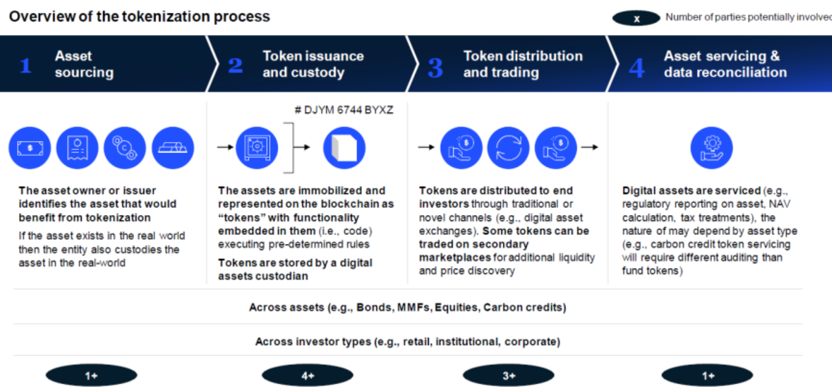
- The European Commission has published a draft framework for a potential future digital euro that may be issued by the European Central Bank (ECB) as a complement to cash. In response to the growing digitization of European economies and the growing global interest in central bank digital currencies (CBDCs), the EU is exploring how to give individuals and businesses the choice to pay digitally with a widely accepted and secure form of public money in the euro area to complement the existing private solutions that exist today.
- The EU intends for a digital euro to be available for both online and offline payments to ensure a high degree of privacy and data protection. Further, the proposal envisions a system whereby banks and other payment service providers distribute the digital euro and that basic digital euro services are provided free of charge to individuals. Individuals without a bank account would be able to open and hold an account with a post office or another public entity.
- While the proposal once amended by the European Parliament and Council will establish the legal framework for the digital euro, it will ultimately be for the ECB to decide if and when to issue any such digital euro.

Digital assets have demonstrated resilience through a period of extreme volatility

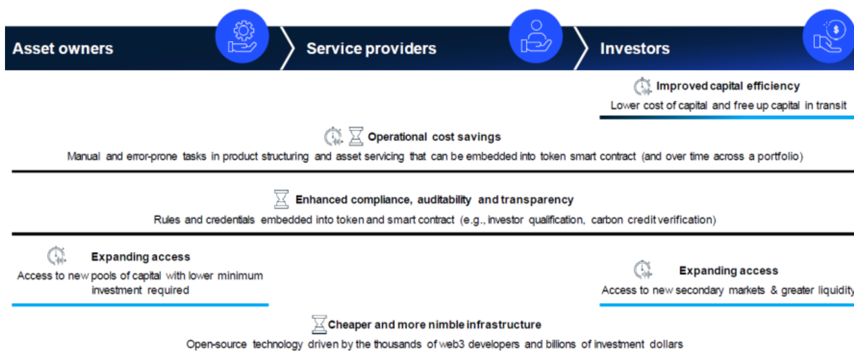


Web3 Applications and use cases are built on top of 3 technology primitives: Blockchain, Smart Contracts Digital Assets

Tokenization is the process of issuing a digital representation of a traditional asset on the blockchain



Tokenization could create unique outcomes for participants across the financial services value chain



GFMA *Impact of DLT In Global Capital Markets;* CFTC Global Markets Advisory Committee Meeting;17July2023

- Harmonization of global regulatory and legal frameworks
    - *Adaptations to existing legal and regulatory structures is fundamental in promoting transparent, disciplined, risk focused, and effective market infrastructure.*
    - *Different jurisdictions are facing individual and global challenges and as such, legislation is at different levels of maturity*

- *Demonstrates need for harmonized and risk consistent policy positions across different jurisdictions to benefit both the market and governments regulators*
- Enablement of interoperability with existing market infrastructure
    - *Interoperability is an important enabler to network effects, providing the basis for real world, diverse use cases*
    - *Build on existing initiatives and broaden alignment on a framework of standards to guide market level compatibility This entails initiatives that cover public networks with appropriate risk mitigation, as well as private permissioned networks*
    - *Key areas include technology architecture design, smart contract standards and governance, linkages with traditional infrastructure alongside risk identification, mitigation, and management and specific roles and responsibilities.*
- Development of viable Primary Secondary Markets
    - *Cross industry initiatives to focus the pooling of liquidity in a few, high potential asset classes (e. fixed income, OTC derivatives) across the security lifecycle could help increase the formation of viable markets for DLT based securities.*
    - *Market participants could focus on assets where the inefficiencies are well documented and the cost of conversion is less onerous*
- Advancement of open technical challenges posed by DLT
    - *DLT is not yet a fully formed infrastructure solution, with demanding requirements around scalability, cybersecurity, and regulatory compliance.*
    - *Industry practitioners and developer communities collaborating on research and development of DLT specific solutions that address these issues.•*
    - *Cross industry participation can maximize the strength of participating talent pools, distributes costs and accelerates the timeline to key outcomes*
- DLT based Payment Instruments to achieve true DvP settlement
    - *DLT based payments are a critical enabler for the settlement of DLT based Securities; integration with legacy payment tools significantly reduces the scope of benefits, such as programmability.*
    - *DLT based commercial bank deposits represent deposit account balances on a distributed ledger to support settlement, which can support more efficient and effective payment tools.*
- *Tokenized securities in capital markets could deliver game changing efficiency and innovation*

'Tokenization of securities' means...

...the digital representation of **traditional financial instruments on a distributed ledger,** reflecting an ownership right of the underlying asset

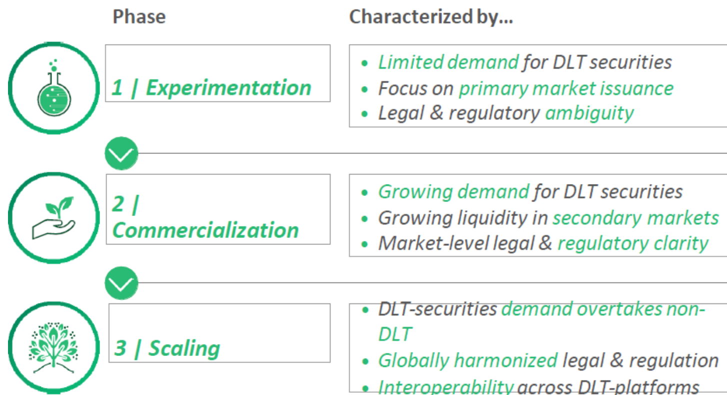
Transformative efficiency & innovation

~$2B[1] Est. Global back-office Opex saves	'Golden-source' data **reduces post-trade reconciliations**
~$20B[2] Global clearing & settlement Opex saves	Smart contracts **automate clearing & settlement**
~$19T[3] Addressable global collateral in 2022	Faster settlement frees **trapped collateral for redeployment**
>$16T[4] Value of global tokenized illiquid assets by 2031	Tokenization forms **new liquidity pools for illiquid asset classes**

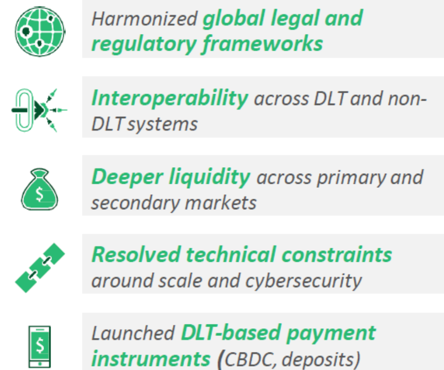
Note: Benefits shown are hypothetical, assuming DLT is adopted at scale in capital markets; 1. Goldman Sachs, extrapolated to global benefit case; 2. Santander InnoVentures; 3. BCG analysis (original); 4. BCG x ADDX paper; commodities and FX are out of scope for this paper. 1

- *End game: DLT based capital markets is emerging, but critical barriers must be overcome*

DLT-based markets is emerging in phases[1]



Critical barriers to be overcome

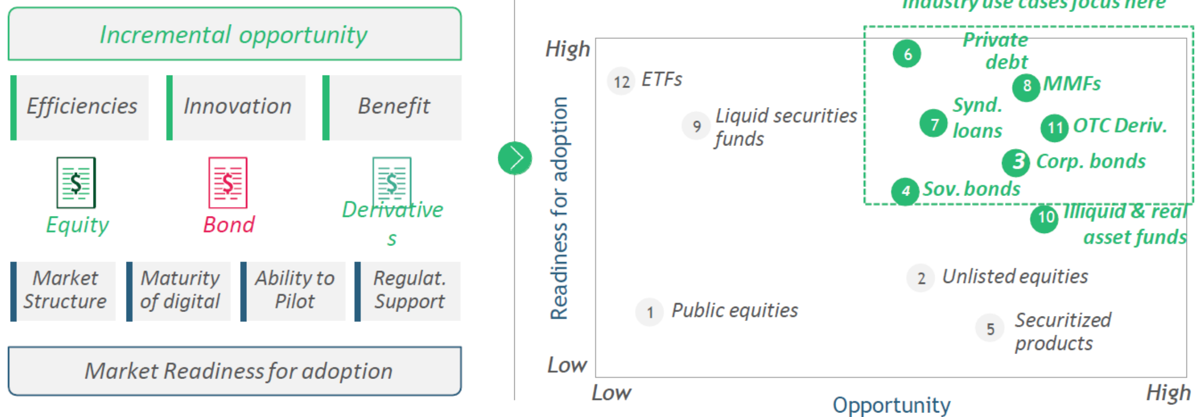


1. Phases will not always occur in a linear order and often occur in parallel; asset classes and transaction types (e.g., intra-day repos) are already reaching institutional scale

2

- Deaveraging adoption: Varying incremental opportunity and market readiness will drive adoption

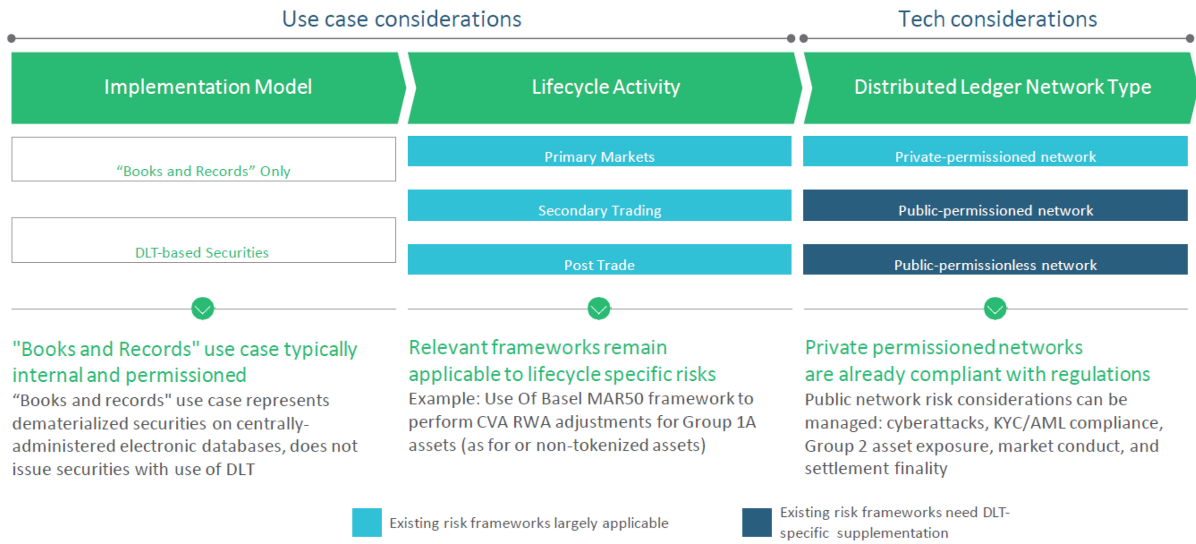
Interplay of opportunity size and market readiness... …suggests illiquid assets, bonds and debt well-placed for early adoption



Source: Adapted from JP Morgan and BCG, "The Future of Distributed Ledger Technology in Capital Markets"; GFMA member inputs; BCG analysis

3

- DLT Networks: Use case considerations drive decisions around network type

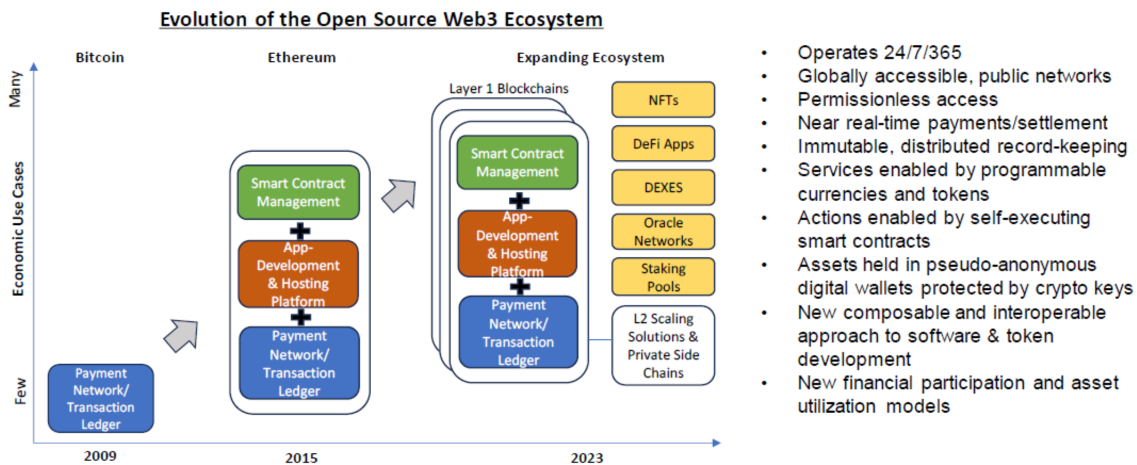


- *Impact assessment: Three dimensions assessed cross the securities lifecycle*

Dimensions assessed	Primary Markets	Secondary Trading	Clearing & Settlement	Custody	Asset Servicing
Overall DLT Impact	Medium	Medium	High	High	High
Workflow Efficiency	Medium	Low	High	High	High
Financial Opportunity & Value Creation	High	High	High	High	High
Incremental Risk Mitigation	Low	Low	High	Medium	Medium

Why the Digital Asset Ecosystem Matters

Innovations in the enabling infrastructure of Web3 and digital assets continue to progress despite the onset of "crypto winter", but projects in the space often underweigh safety, soundness and controls



- Operates 24/7/365
- Globally accessible, public networks
- Permissionless access
- Near real-time payments/settlement
- Immutable, distributed record-keeping
- Services enabled by programmable currencies and tokens
- Actions enabled by self-executing smart contracts
- Assets held in pseudo-anonymous digital wallets protected by crypto keys
- New composable and interoperable approach to software & token development
- New financial participation and asset utilization models

As of June 2023, there were 21,300 active developers making code commitments monthly to open source Web3 ecosystem—a larger total than were active in the space in November 2021 when crypto prices hit an all-time high[1]

Cross-Over of Digital Asset/Market Innovations

Increasingly, innovations that originate in the crypto space are crossing over—recent reports suggest that the potential for tokenization of financial and real world assets may reach $4.6 trillion by 2030[1]

Tokenization of Physical & Digital Assets

- **Gold**: Tokenized gold assets surpassed $1.0 billion in combined market capitalization in April 2023[2]
- **Real Estate**: Tokenized real estate made up 40% of the digital securities market accounting for nearly $200 million as of September 2022[3]
- **Art**: Prints of 4 of Andy Warhol's most famous works are being tokenized and offered as security tokens that can be used in DeFi transactions[4]
- **Music Royalties**: The Chainsmokers[5] issued a limited number of NFTs with the release of their new album and Diplo[6] released NFTs for his new song with both offerings allowing to fans to share in the artists' future royalties; Rihanna's producer released a limited set of NFTs offering a portion of his royalties for one of her top songs[7]

Tokenization of Registered Investment Vehicles

- **40 Act Funds**: Franklin Templeton offers U.S. government money market fund (MMF) tokens[8]; Wisdom Tree has filed to offer 9 tokenized mutual funds via their Prime wallet[9]; Ondo is backing their stablecoin offering with shares in a U.S. government MMF[10]; Blackrock is tokenizing shares of their MMFs to use as collateral within JPM's Onyx platform[11]
- **Private Funds**: KKR, Apollo, Hamilton Lane, and Partners Group tokenized shares of their private funds offerings[12]
- **Securities**: Societe Generale, Deutsche Bank, and BNP Paribas each issued a tokenized bond using public blockchain[13]; the European Investment Bank (EIB) issued digital bonds using Goldman Sachs' Digital Tokenization Platform[14]
- **Structured Loans**: Santander issued a tokenized loan backed by agricultural commodities [15]

Exploration of Regulated, Digital Asset Use Cases

- **Collateral Management & Financing**: J.P. Morgan's private Onyx chain enables participants to transfer tokenized MMF shares as collateral & to perform on-chain repo[16]
- **Liquidity Pools, Trade Receivables & Structured Notes**: Monetary Authority of Singapore's Project Guardian has explored 1) trading in a permissioned liquidity pool; 2) tokenizing trade receivables; 3) issuing & servicing tokenized OTC structured notes [17]
- **Cash Payments**: The RLN network looks to facilitate the transfer of tokenized deposits between financial institutions [18]
- **Settlement**: Fnality, Canton Network, and DTCC's Project Ion are each building DLT solutions that link asset registries with digital currencies for settlement [19]

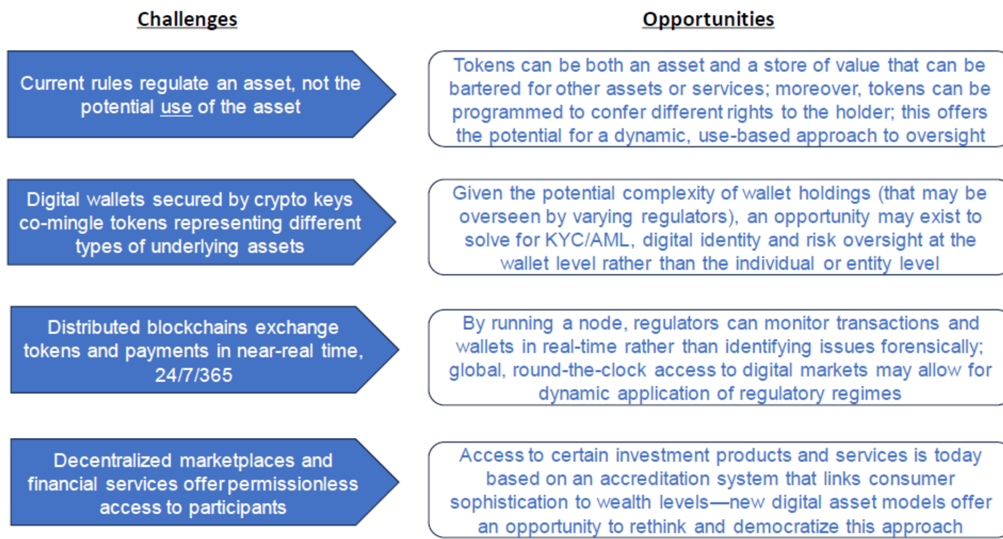
Footnotes in appendix

EVIA European Venues & Intermediaries Association

LEBA London Energy Brokers' Association

Challenges & Opportunities with Digital Assets/Markets

Digital assets and markets and their enabling infrastructure offer both challenges and opportunities



Rallying together as a global industry can help harness the potential of new technology and define guidelines for a 21st century financial ecosystem; Failure to address challenges and seize opportunities may result in loss of talent, regulatory arbitrage, and fragmented or siloed solutions

High Level Principles & Plan

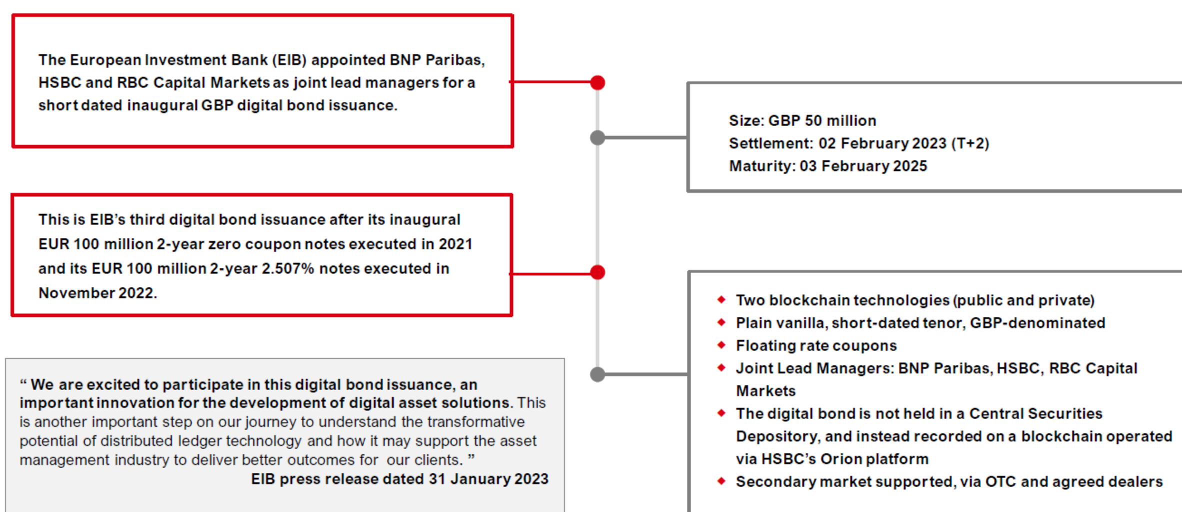
Guiding Principles:

- Stay true to the potential of the technology infrastructure and its ability to support new approaches to financial markets
- Base considerations on the optimal use of the new infrastructure, not on whether delivery will occur on private or public blockchains
- Think broadly about the optimal outcomes for the industry and do not limit recommendations to matters that currently sit within the CFTC mandate
- Envision opportunities independent of a participant's existing role and entity and think about how roles and entities may evolve
- Allow workstream leads the freedom to shape and define the scope of their mandates and output

Sub-Committee Workstreams:

- **Tokenization Infrastructure**: Set forth principles that might guide the use of blockchains, tokens, smart contracts, digital wallets, oracle networks and other innovations in a regulated investment ecosystem
- **Tokenized Asset Markets: Nomenclature**: Define a common taxonomy and set of definitions that can be agreed upon to help level-set discussions about elements of the new ecosystem, differentiate the various token types, and provide a common language for developing standards
- **Tokenized Asset Markets: Pre-Trade, Execution & Post-Trade Requirements**: Assess what changes might be required to existing practices and/or suggest new processes that might be enabled across the digital market lifecycle and assess how this alters, expands or redefines the roles of existing providers
- **Tokenized Asset Markets: Governance, Risk & Control Frameworks**: Develop a framework on how financial system participants might harmonize their activities, obligations, input, and suggestions across both centralized and decentralized participants, existing and emerging utilities, and potential new entrants to maintain coordinated and effective communication and guide the industry to positive outcomes
- **NFTs/Utility Tokens**: Explore how utility tokens and NFTs that can blend financial, commercial, and social terms might impact investment portfolios, particularly the ease with which new types of assets might be issued and made both investible and tradable, putting forward suggestions on how to adapt regulations to this new type of offering

1. Citigroup Predicts 80X Explosion in Tokenization, Forecasts Timeline for Mass Adoption of Digital Assets -The Daily Hodlv
2. Tokenized Gold Surpasses $1B in Market Cap as Physical Asset Nears All-Time Price High (coindesk.com)
3. Dentons -The tokenization of real estate: An introduction to fractional real estate investment
4. Andy Warhol Artworks to Be Offered as Tokenized Investments on Ethereum (coindesk.com)
5. Chainsmokers to Release NFTs That Offer a Cut of Music Royalties - Bloomberg
6. Diplo Joins NasWith NFT Drop on Tokenized Royalties Platform Royal (coindesk.com)
7. Biggest Music NFTs in February: Rihanna, Snoop Dogg, Tycho, KINGSHIP –Billboard
8. Franklin OnChainU.S. Government Money Fund -FOBXX (franklintempleton.com)
9. WisdomTree Announces Nine New Blockchain-Enabled Funds are Effective with the SEC :: WisdomTree, Inc. (WT)
10. Ondo Finance Announces New Token, OMMF, Providing Tokenized Exposure to US Money Market Funds, Targeting $100 Billion StablecoinMarket (prnewswire.com)
11. JPMorgan Wants to Bring Trillions of Dollars of Tokenized Assets to DeFi (coindesk.com)
12. Private-Equity Firms Push Blockchain-Based Funds Despite Crypto Collapse –WSJ
13. State of Security Tokens 2023 -Real World Usage: Public Bonds & Institutional Adoption -Securities.io
14. Goldman Sachs unveils digital asset platform with EIB €100m blockchain bond -Ledger Insights - blockchain for enterprise
15. State of Security Tokens 2023 -Real World Usage: Public Bonds & Institutional Adoption -Securities.io
16. JPMorgan Wants to Bring Trillions of Dollars of Tokenized Assets to DeFi (coindesk.com)
17. MAS partners the industry to pilot use cases in digital assets —Marketnode—Digital Markets Infrastructure
18. Facilitating Wholesale Digital Asset Settlement -FEDERAL RESERVE BANK of NEW YORK (newyorkfed.org)
19. Incumbents embrace tokenization and alliances take shape | by Jonny Fry | Coinmonks| May, 2023 | Medium
20. HSBC Orion EIB 'Mars' Issuance; The EIB has issued the first ever GBP denominated digital bond using blockchain on HSBC Orion



- *HSBC Orion –Platform overview and getting involved with the EIB issuance*

What is the platform?

1. HSBC's strategic platform for asset tokenisation.
2. A secure, private, permissioned blockchain acting as the legal registry, and a public blockchain acting as a memorandum of holdings.
3. Platform located in Luxembourg.
4. The European Investment Bank (EIB) issued its first ever GBP 50 million digital bond on HSBC Orion.

   https://grp.hsbc/6045MQ1fV

   https://www.eib.org/en/press/all/2023-030-eib-issues-its-first-ever-digital-bond-in-british-pounds

How can investors get involved?

1. Transact the bond post-issuance via existing OTC approaches;
2. Work with platform custodian for the bond. Current platform custodians are HSBC, RBC and BNPP (more to be added soon).
3. No need to create any digital wallets, or use stablecoins or cryptocurrencies.
   - Money movements for the bond and coupon will be in fiat sterling, and use a 'settlement token' approach.

Why should investors get involved?

1. Prepare your firm for the growing number of digital bond issuances.
   - Get involved in holding and selling a digital bond.
2. Review and understand the legal structure and term sheet supporting a digital bond.
3. Minimal technology and operational change is required to access the bond.
   - A tokenised bond is similar to an analogue bond, but not held in a traditional CSD.
   - The bond has an ISIN - LU2557886475

- *HSBC Orion –Platform Architecture*

A secure HSBC environment . . . . . . Connected to a public blockchain

HSBC Luxembourg
Issuer
Custodian/ Investor
Private blockchain
Bond token
Settlement token
DvP
Payment rails
Custody platform(s)

Ethereum
Investor 1
Investor 2
Public blockchain
1
2
Memo

- Fiat cash is transferred using a settlement token connected to payment rails
- Manages issuance, coupon payment, trading and redemption
- The private blockchain is the legal register
- Access to the environment is controlled by HSBC

- Memorandum of holdings
- Not the legal register of holdings
- Anonymous

Key features

- Primary Issuance
- HSBC's on-chain payments solution
- Asset Servicing
- Payment infrastructure connectivity
- Secondary Market (via OTC/agreed dealers)
- External distribution platforms connectivity
- Public blockchain connectivity

- *HSBC Orion Account and Token Approach*

Account Structure	Tokens Four token types are used to create and record the digital bonds on the Securities Issuance Account and the Securities Accounts.	
	On the Private Blockchain	**On the Public Blockchain**
◆ The Orion Platform is designed and built to reflect the two-tier account structure under the Luxembourg DLT regime. ◆ One **central account keeper** (the "**CAK**") for the initial issue of the digital bonds (the "Securities Issuance Account"), this is HSBC ◆ Securities accounts kept by **secondary account keepers** ("**SAK**") for distribution of the digital bonds, these are HSBC, BNP Paribas and RBC for the EIB issuance.	1. **Issuance Token:** indicates the primary issue details recorded on the securities issuance account. Created and held by the CAK (HSBC) only. 2. **Digital Bond Tokens:** the bond tokens that are issued, registered, held, transferred and cancelled in segregated securities accounts on the DLT platform. Each securities account on Orion are mirrored in the SAKs' existing custody systems. 3. **Settlement Tokens:** used solely to settle cash transactions relating to the digital bonds on-chain. These Settlement Tokens are records of deposits held by HSBC and will be ephemeral whilst on-chain, existing intra-day only.	4. **Digital Bond Information Tokens:** mirrors the 'Digital Bonds' information on the private chain onto a public chain. An optional information source for investors to see transactions in the Digital Bonds that has no legal status – the legal entitlement to bonds is evidenced on the private blockchain only. https://etherscan.io/token/0x46a0d81204149327ae56bcb5887f007a41d46f2c

- *HSBC Orion; More Features to Come*

New Participants

- **New custodians:** bringing more Security Account Keepers (SAKs) onto the platform. SAKs can be existing Global Custodians or ICSDs.
- **New markets and currencies:** further expansion across new currencies, geographies and other products

New Features

- **Collateral & Repo:** collateralisation of bonds will be possible pending the passing of Luxembourg law (Q3-4 2023); also working to introduce repo facilities
- **Trading venue connectivity:** trading of Digital Bonds on electronic platforms is being explored (subject to law / regulation)
- **Token interoperability:** exploring arrangements where a token on one network can have meaning on another

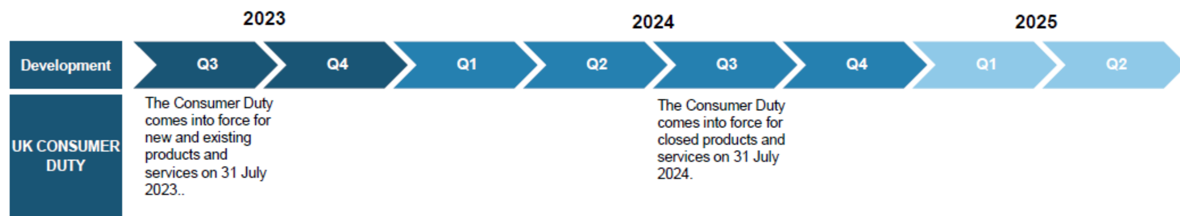
Infrastructure development

- **Connectivity:** currently fund managers and custodians need to instruct one of the Direct Participants via SWIFT with a place of settlement of BBDALULX (HSBC CE's BIC Code) for Direct Participants to enter trades onto the Platform; end-to-end SWIFT connectivity will be added in 2023
- **More distributed architecture:** increased component dispersion and node hosting from more SAKs

Sanctions

Conduct / Enforcement / Reporting

UK CONSUMER DUTY



- The FCA is introducing a new 'Consumer Duty', the purpose of which is to create a higher level of consumer protection in retail financial markets. The Consumer Duty comprises a package of measures, comprised of a new Principle 12 (the 'Consumer Principle') of the FCA's Principles for Businesses, supported by detailed rules and guidance.
- The Consumer Duty will apply to products and services sold to retail clients and will extend to firms that are involved in the manufacture or supply of products and services to retail clients even if they do not have a direct relationship with the end retail customer where the firm's role in the manufacture and distribution chain of the product or service allow it to exercise a material influence over, or determine, retail customer outcomes.
- On the horizon:
- The Consumer Duty comes into force for new and existing products and services on 31 July 2023.
- The Consumer Duty comes into force for closed products and services on 31 July 2024.
- The FCA has carried out a range of engagement and outreach work in advance of the entry into force of the Consumer Duty, to assist firms in achieving compliance. This includes a range of portfolio and sector letters addressed to different types of firm. Detailed information is available on the FCA's website.

UPI – Unique Product Identifier; *The Unique Product Identifier (UPI) is the long-awaited new taxonomy for better describing OTC derivative products and the various characteristics of how each derivative is structured. At its simplest level the UPI replaces the current simplistic OTC derivative taxonomy values such as "FX Forward" or ISDA's "ForeignExchange:Forward" with an identifier mapped to far more granular attributes in a centralised database.*

- UPI is certainly a better solution on which to base the identification of OTC derivatives.
    - The OTC ISIN problem was indeed too much granularity, though that was not because ISIN was market specific. ISIN is not assigned for anything at a market level as is implied in this article.
    - Instead multiple ISINs are assigned for essentially the same product, due to the inclusion of data elements like maturity date in the data fields required for the issuance of an OTC ISIN for such products as IRS.
    - This problem is avoided with UPI, such that many OTC ISINs will all roll up to just one UPI. This is far more manageable and meaningful from a reporting perspective. Clearly the removal of the OTC ISIN overhead is now possible.
- OTC ISINs are not "specific to … trading venues". The misconception may arise from ESMA's association of a venue MIC with ISINs in the FIRDS database. This does not imply that the ISIN is traded exclusively on the identified venue, nor that the venue identifier is a component of the ISIN reference data (it is not).
- That database is run by ANNA-DSB and much like ISIN codes, will mean that various parties can be sure they are talking about the same OTC derivative because they can look up that UPI in the database and all see the same attributes.
- DSB-Introduction-to-the-UPI-Service-Webinar; Tuesday 8th April 2023.pdf

- ROCking out with ANNA; Alphabet spaghetti time for the acronyms. The ROC gave the mandate to ANNA to establish and run the DSB for UPI.
    - Clear?
    - No?
- Ok. The Regulatory Oversight Committee (a supranational group of financial market regulators and authorities that amongst other duties oversees the LEI framework) is leading the global rollout of UPI. As well as helping to establish the UPI protocols and taxonomy, the ROC has mandated the Association of National Numbering Agencies (ANNA) with establishing and operating a facility for obtaining and maintaining UPIs. This facility is called the Derivatives Service Bureau (DSB) and is essentially a paid-for service where users can obtain an existing UPI if one already exists or have a new UPI generated if it doesn't. Think of it as a big, centralised Excel spreadsheet that debits your credit card every time you glance in its direction.
- Taxonomies? Attributes? What? - This stuff is admittedly hard to visualise so let's break it down with examples.
- Let's take good old Credit Default Swaps (CDS). Because had they not crashed the world's economy in 2008 we wouldn't be here today discussing UPI as part of the remedy for that misadventure.
- A firm has a CDS in its systems with various product attributes that describe things like what the underlying asset the CDS is based on, and it wants to obtain the UPI for that CDS.
- The firm submits a query to ANNA-DSB with various inputs describing the CDS.
- The UPI query inputs for a CDS on a corporate bond are shown below:

Attribute		Example Value
Asset Class		Credit
Instrument Type		Swap
Product		Corporate
Level		UPI
Underlier Type		Fixed Income Security
	Underlier ID Source	ISIN
	Underlier ID	GB2093849381
Underlier Type		Legal Entity
	Underlier ID Source	LEI
	Underlier ID	39120071DMHXS09CI766
Debt Seniority		SNDB
Contract Specification		StandardEuropeanCorporate
Delivery Type		PHYS

- ANNA-DSB searches the UPI database to see if a UPI already exists for a CDS matching these various inputs. If no UPI exists, the DSB will assign a new UPI and create a new record in the database for subsequent users to see.
- The DSB then responds to the query with the resulting UPI (highlighted) and additional characteristics as shown below.

Attribute	Example Value
Asset Class	Credit
Instrument Type	Swap
Product	Corporate
Level	UPI
Template Version	1
Instrument LEI	39120071DMHXS09CI766
Instrument ISIN	GB2093849381
Debt Seniority	SNDB
Contract Specification	StandardEuropeanCorporate
Delivery Type	PHYS
Identifier	QZ2093849381
Status	New
Status Reason	<null>
Last Update Date Time	2020-11-30T00:00:13
Classification Type	SCUCCA
Short Name	NA/Swap CDS Corp SN Sr
Underlying Asset type	Single Name
Return or Payout Trigger	Credit Default
Underlying Issuer Type	Corporate
CFI Delivery Type	[Cash, Physical, Auction]

- Now whenever the firm communicates with another firm, regulator or party they can all use DSB data to know that UPI QZ2093849381 refers to a Credit Default Swap on a European corporate bond with ISIN GB2093849381, with CFI code SCUCCA and issued by LEI 39120071DMHXS09CI766.
- So similarly to the LEI where the database maintained by GLEIF means that firms can use an LEI code to ensure that they are talking about the exact same legal entity, the rationale behind UPI is that a central database of products provides clarity that firms are talking about the exact same OTC derivative product.
- FX Example; The UPI query inputs and outputs vary based on the asset class and product type.
- If we consider Foreign Exchange then, if a firm has an FX Option in its systems and it wants to obtain the UPI for that FX Option.
- The firm submits the below query to ANNA-DSB with various inputs describing the various characteristics of the FX Option.

Attribute	Example Value
Asset Class	Foreign_Exchange
Instrument Type	Option
Product	Vanilla_Option
Level	UPI
Underlier ID	USD
Underlier ID Source	CCY
Other Underlier ID	EUR
Other Underlier ID Source	CCY
Option Type	PUTO
Option Exercise Style	EURO
Delivery Type	PHYS

- DSB then responds to the query with the resulting UPI (highlighted) and additional characteristics as shown below.

Attribute	Example Value
Asset Class	Foreign_Exchange
Instrument Type	Option
Product	Vanilla_Option
Level	UPI
Template Version	1
Notional Currency	EUR
Other Notional Currency	USD
Option Type	CALL
Option Exercise Style	EURO
Delivery Type	PHYS
UPI	QZV9SHRJ8KZG
Status	New
Status Reason	<null>
Last Update Date Time	2021-05-04T07:25:02
Classification Type	HFTAVP
Short Name	NA/O Van Call EUR USD
Underlying Asset Type	Spot
Valuation Method or Trigger	Vanilla
CFI Option Style and Type	European-Call
CFI Delivery Type	Physical

- Now all parties can use DSB data to know that UPI QZV9SHRJ8KZG refers to an FX Option on a EUR vs USD, with CFI code HFTAVP, that's a European-style physically settled call option.
- Interest Rates Example

- Next if we look at interest rates if a firm has a cross-currency fixed-float swap and it wants to obtain the UPI for that swap.
- The firm submits the below query to ANNA-DSB describing the rates swap.

Attribute	Example Value
Asset Class	Rates
Instrument Type	Swap
Product	Cross_Currency_Fixed_Float
Level	UPI
Underlier ID	USD-LIBOR-BBA
Underlier ID source	FPML
Reference Rate Term Value	6
Reference Rate Term Unit	MNTH
Notional Currency	USD
Other Notional Currency	JPY
Notional Schedule	Constant
Delivery Type	PHYS

- DSB then responds to the query with the resulting UPI (highlighted) and additional characteristics as shown below.

Attribute	Example Value
Asset Class	Rates
Instrument Type	Swap
Product	Cross_Currency_Fixed_Float
Level	UPI
Template Version	1
Reference Rate	USD-LIBOR-BBA
Reference Rate Term Value	6
Reference Rate Term Unit	MNTH
Notional Currency	JPY
Other Notional Currency	USD
Notional Schedule	Constant
Delivery Type	PHYS
UPI	QZ7M47SKZL15
Status	New
Status Reason	<null>
Last Update Date Time	2021-03-15T06:18:45
Classification Type	SRCCCP
Short Name	NA/Swap Fxd Flt JPY USD
Underlying Asset Type	Fixed - Floating
Single or Multi Currency	Cross Currency
CFI Delivery Type	Physical

- Now all parties can use DSB data to know that UPI QZ7M47SKZL15 refers to an cross-currency fixed-float swap on USD vs JPY, with CFI code SRCCCP that's physically settled.
- So UPI is like an ISIN then?
- UPI essentially sits between a CFI code and an ISIN in terms of how granular or specific it gets.
- The CFI code describes the basic attributes but does not get as far as underlying assets, currencies etc.

- Taking the CFI from the previous rates example, we see that SRCCCP is the CFI code for a physically settled, cross-currency, fixed-floating, rates swap.
- Diagram below generated using ISDA's CFI Code Generator:

Char # 1	Char # 2	Char # 3	Char # 4	Char # 5	Char # 6	
Category	**Group**	**1st Attribute**	**2nd Attribute**	**3rd Attribute**	**4th Attribute**	**CFI CODE**
S.Swaps	R.Rates	C.Fixed_-_Floating	C.Constant	C.Cross_currency	P.Physical	**SRCCCP**

- The UPI takes it to the next level of granularity by telling us this rates swap is also based on USD vs JPY, uses the USD-LIBOR-BBA floating rate and has a six-month period for that reference rate. So the UPI is far more specific than the CFI which just outlines the broad characteristics.
- ISIN would take it even further in terms of granularity because ISIN also tends to reference the trading venue where it traded and any venue specific characteristics such as the currency it's traded/priced in.
- Why not just use ISIN? - Two main reasons…

1. The more forgiving reason is that since ISINs are often specific to the trading venues this means that using ISINs makes it more difficult to aggregate products with the same characteristics that are traded on different venues. Given the whole OTC derivative reporting framework is geared

towards systemic risk, the regulators want the ability to aggregate transactions at product level, rather than venue level, when examining counterparty exposure. So UPI being venue agnostic is beneficial for this surveillance.

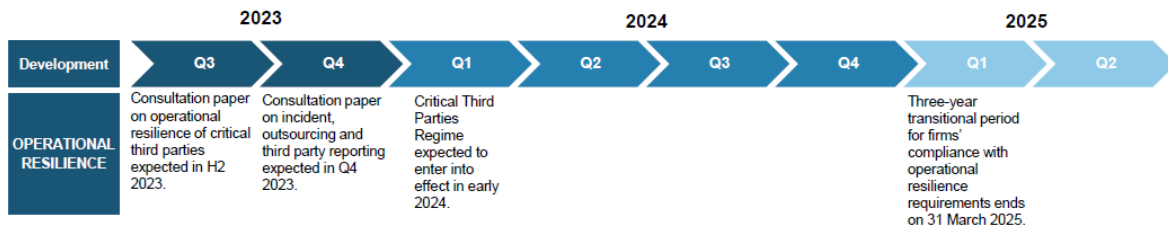
2. The less forgiving answer is that outside of EMIR (EU & UK versions) no other regulators use ISINs for OTC derivatives. EU and UK reporting is therefore the outlier and much like the reporting of Exchange Traded Derivatives (ETDs) that underpins it, the use of ISINs for OTC was widely considered crazy but nonetheless made it into the rulebooks.

- So whilst ESMA and the FCA pushed ahead with ISINs for OTC derivatives the remainder of the regulators globally have patiently waited for UPI to be ready as a global solution much like the LEI.

- UPI Pay to Play; Unlike LEIs (where the legal entity obtaining an LEI has to pay an annual fee for that LEI, but the database and data is essentially free to all), ANNA-DSB will charge users for creating UPIs and accessing the UPI data in general. This is a little more controversial as UPI's adoption across many of the OTC derivative reporting regimes amongst other use-cases means that many firms will have no alternative other to register with ANNA-DSB and pay for the privilege.
    - ANNA-DSB Indicative UPI User Fees; 10Mar2023 .pdf
    - UPI FEE MODEL - access available per UPI User Type; 20April2023.xlsx
- Time will tell whether other cottage industries and resources pop up around UPI data in much the same way as you see a plethora of LEI websites and utilities whenever you search for an LEI these days. I personally hope so because ANNA-DSB needs remuneration for creating and maintaining the UPI services, that much is reasonable. But everyone having to repeatedly pay to access the same data seems a lot less reasonable in the long run.
- Similarly to the LEI rollout, we'd expect an explosion of new UPIs at the start (when the CFTC goes live with UPI in January) and another explosion when EMIR Refit [ISDA-commentary-EMIR-3; Feb2023.pdf & esma74-362-2281_final_report_guidelines_emir_refit.pdf] follows in April next year. But that growth in new UPI population will theoretically tail off and eventually slow right down where only exotic edge-case UPIs are requested, or UPIs on newly created credit or equity underlying instruments.
- Conclusion – The Big Short rerun; The UPI is a good concept in general and, after what seems like a very long time in the making, it is finally becoming a reality. It should help to improve clarity and consistency across the industry and for regulatory reporting in general. However we see a great deal of confusion around what UPI really means and with six months to go until the CFTC UPI go live, this is concerning.
- If the UPI allows various regulators to aggregate similar derivative contracts together to better assess the systemic risk then that can only be a good thing. I'll happily watch the excellent The Big Short film again but I don't need to relive the crisis itself. There is clearly a great deal of work ahead to get UPI up and running and fully integrated across many firms and many systems.

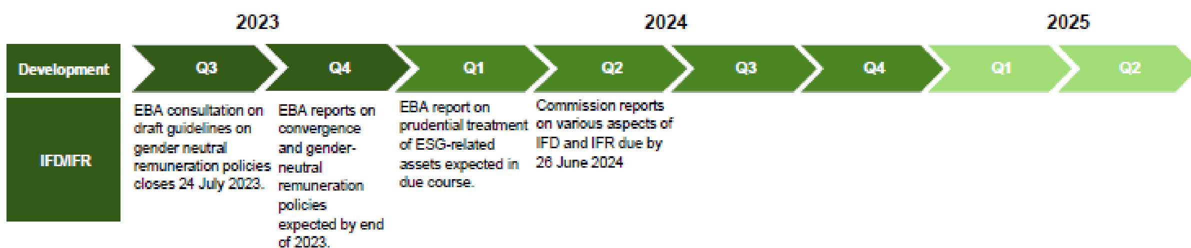
Financial Stability, Operational Resilience

UK new operational resilience regime in 2021



- The FCA and PRA introduced a new operational resilience regime in 2021. The regime included an implementation period, under which firms needed to complete certain actions before 31 March 2022. The implementation period is now followed by a transitional period, ending on 31 March 2025. Firms should use the transitional period to implement strategies, processes and systems that enable them to address risks to their ability to remain within their impact tolerance for each important business service in the event of a severe but plausible disruption.
- On the horizon:
- The Financial Services and Markets Act 2023 (FSMA 2023) received Royal Assent on 29 June 2023. FSMA 2023 includes proposals to regulate cloud service providers and other designated 'critical third parties' providing services to UK regulated firms.
- In July 2022, the FCA, PRA and Bank of England published a joint discussion paper (DP22/3) on the operational resilience of critical third parties and how the regulators could use their new powers under the FSMA 2023. The consultation closed in December 2022 and feedback and a consultation paper are expected in H2 2023.
- Firms have until31 March 2025to implement strategies, processes, and systems that enable them to address risks to their ability to remain within their impact tolerance for each important business service in the event of a severe but plausible disruption.
- In Q4 2023, the Bank of England, PRA and FCA expect to publish a joint consultation paper on incident, outsourcing and third party reporting. The purpose of this initiative would be to: (i) introduce clarity regarding the information that firms should submit when operational incidents occur; and (ii) collect certain information on firms' outsourcing and third party arrangements in order to manage the risks that they may present to the FCA's and PRA's objectives, including resilience, concentration and competition risks.

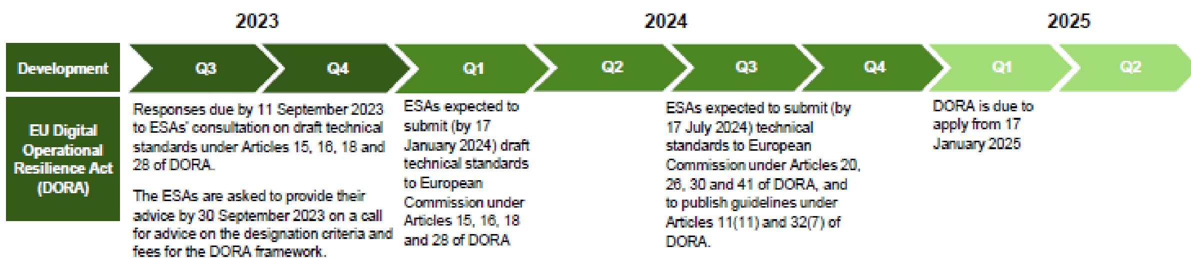
EU IFD/IFR



- While certain larger investment firms remain treated as credit institutions and subject to the capital regime under CRDIV, firms that are not subject to CRDIV are subject to the new IFD and IFR prudential regime. The IFD/IFR regime includes requirements on capital, consolidation, reporting, governance and remuneration. The IFD and IFR are supported by a number of 'Level 2' implementing and regulatory technical standards (ITS and RTS) and 'Level 3' guidelines, not all of which have been finalised.
- An EBA report on the application of gender-neutral remuneration policies is expected in Q4 2023.

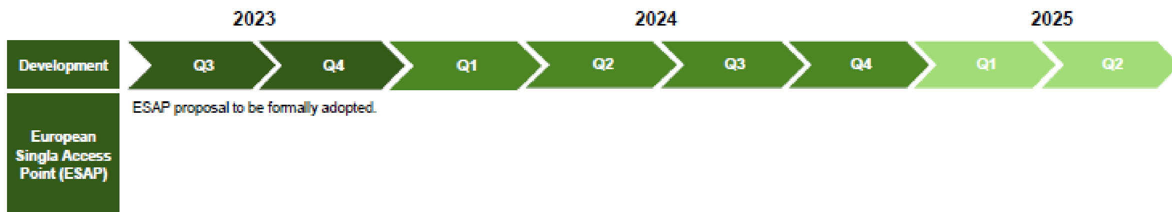
- The EBA was required to report by 26 December 2021 on whether dedicated prudential treatment of assets exposed to activities associated substantially with environmental or social objectives, in the form of adjusted K-factors or adjusted K-factor coefficients, would be justified from a prudential perspective. The report has not been published. The EBA published a discussion paper on the topic in May 2022 and a report is expected in due course.
- The EBA consulted in April 2023 on draft Guidelines on the benchmarking of diversity practices including diversity policies and gender pay gap under on the IFR and IFD. The consultation closes on 24 July 2023 and finalised guidelines are expected in due course.
- An EBA report on the degree of convergence of the application of the Chapter 2 of the IFD (*Review process*) among member states is expected by the end of 2023.
- The Commission is required to report on the IFD and IFR, with legislative proposals to amend the package if it considers this to be necessary, by 26 June 2024.

EU DORA



- DORA puts in place a detailed and comprehensive framework on digital operational resilience for EU financial entities. EU entities must ensure they have the capacity to build, assure and review their operational integrity to ensure that they can withstand all types of disruptions and threats relating to information and communication technologies (ICT). DORA introduces an EU-level oversight framework to identify and oversee ICT third party service providers deemed "critical" for financial entities.
- DORA will be supported by 'Level 2' technical standards and 'Level 3' guidelines, which are under development.
- DORA will apply from 17 January 2025.
- The DORA package includes the Fintech Amending Directive (see slide 18), which amends operational resilience requirements in a number of existing EU directives, including the UCITS Directive, the AIFMD and MiFID II.
- The European Commission has issued a provisional call for advice to the ESAs on the designation criteria (under which a third-party ICT service provider is designated as 'critical') and fees for the DORA oversight framework. The ESAs are asked to provide their advice by 30 September 2023.
- The ESAs are mandated to develop draft implementing and regulatory technical standards (ITS and RTS), which will set out detail supporting various aspects of the DORA framework. Draft technical standards are due to be submitted to the European Commission by January and July 2024. The joint committee of the ESA's published consultation papers on draft ITS and RTS under Articles 15, 16, 18 and 28 of DORA on 19 June 2023, for responses by 11 September 2023. The RTS relate to ICT risk management frameworks, the criteria for the classification of ICT related incidents, materiality thresholds for major incidents and significant cyber threats, and ICT third-party arrangements management.

EUROPEAN SINGLE ACCESS POINT (ESAP)



- The Commission is proposing a new Regulation enabling ESMA to create and maintain a single access point to financial and non-financial company data for investors. This data is currently fragmented across EU member states, in many access points, in different languages and in various digital formats. The ESAP will instead provide free and non-discriminatory information about EU companies and investment products, regardless of where in the EU they are located or originated.
- The ESAP is part of the Commission's second Action Plan on Capital Markets Union (CMU). It is designed to facilitate access to funding for EU companies and contribute to achieving the CMU objective of making it easier and safer for citizens to invest.
- The ESAP Regulation is accompanied by an Omnibus Directive and an Omnibus Regulation, which amend a range of the relevant EU legislation to specify the information to be made accessible in the ESAP, as well as certain characteristics of that information in relation to formats.
- Inter-institutional negotiations on the ESAP proposal have taken place and a draft overall compromise package was agreed on 28 June 2023. The European Parliament is scheduled to vote on the proposal at a future plenary session, following which the ESAP proposal can be formally adopted.
- From a timing perspective, under the provisional agreement, the ESAP platform is expected to be available from summer 2027 and gradually phased in.
    - Phase I will include in ESAP's scope information relating to the Short Selling Regulation, Prospectus Regulation and Transparency Directive.
    - Six months after the ESAP has been made public (i.e., 48 months after its entry into force), Phase II will begin –scope will include among other things information relating to SFDR, Credit Rating Agencies Regulation and the EU Benchmarks Regulation.
    - Phase III (the final phase) will include relevant information from around 20 additional pieces of legislation, including MiFIR, CRR and the EU Green Bonds Regulation.

US Federal Banking Regulators outline Basel III proposal, Fed concludes banking stress test

- The Federal Reserve, FDIC and OCC have released the long awaited Basel III endgame proposal. The proposal would increase the amount of capital that banks with at least $100 billion in assets must hold by approximately 16%, with the eight largest banks facing an increase of about 19%. Lenders with between $100 and $250 billion may ultimately see as little as a 5% increase in required capital holdings.
- In addition to increases in capital requirements, the proposal would require mid-sized banks to include unrealized gains and losses from certain securities in their capital ratios and implement changes to modeling approaches for measuring credit and operational risk. Under the current proposal, large banks would begin to transition to the new framework on July 1, 2025, with full compliance set for July 1, 2028. Comments are due by November 30, 2023.
- Separately, the Federal Reserve Board's stress test demonstrated that large banks are well positioned to weather a severe recession and continue to lend to households and businesses

even during a severe recession. All 23 banks tested remained above their minimum capital requirements during the hypothetical recession.

Australian central bank examines financial stability risks in the non-bank sector

- The Reserve Bank of Australia (RBA) has issued a paper that considers the risks that Non-Bank Financial Institutions (NBFIs), including superannuation funds, can pose to financial stability due to their size, complexity and global interconnectedness. The paper considers the vulnerabilities in some NBFIs such as high levels of leverage, liquidity mismatches and weaknesses in risk management practices which have inflicted losses on some NBFI counterparties. While recent episodes of dysfunction such as the 'dash for cash' (March 2020), the Archegos collapse (March 2021), the liquidity stress in commodities (March 2022), and UK gilt market stress (September 2022) did not particularly affect Australian markets and institutions, Australian regulators remain focused on the potential future risks posed by the sector.

Turkish Central Bank begins simplification of prudential regime

- Turkey's Central Bank, under new Governor Hafize Gaye Erkan, is easing its security maintenance regulations as its first step to simplifying policies designed to boost Turkish lira savings. The securities maintenance ratio has been lowered to five per cent from ten per cent with immediate effect and has been streamlined to increase the functionality of market mechanisms and strengthen macro financial stability. The easing comes after Turkey's Treasury and Finance Minister Mehmet Simsek promised a return to "rational" policies.

European legislators reach political agreements on Basel III implementation, central securities depositories and investment funds

- European legislators from the Parliament and Council have reached a provisional political agreement on legislation to implement the remaining Basel III banking standards in the European Union (EU). This so-called 'banking package' represents a series of wide-ranging amendments to the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD). Among other issues, this will cover important changes to the areas of credit risk, operational risk, credit valuation adjustment risk and market risk. As part of the reforms, lawmakers have also agreed on a transitional prudential regime for crypto-assets and amendments to improve banks' management of environmental, social and governance (ESG) risks. The regulation (CRR III) is expected to apply from January 1, 2025, with certain elements of the regulation phasing in over the coming years, and Member States are expected to have until June 30, 2026 to transpose the directive (CRD VI).
- In parallel, European legislators have also reached an agreement on reforms to the rules governing central securities depositories under the Central Securities Depositories Regulation (CSDR). CSDs manage the settlement of securities and as such play a key role in Europe's capital markets ecosystem. The changes are intended to lessen the financial and regulatory burden on CSDs and improve their ability to operate across borders. Specifically, the reforms will simplify the passporting regime, improve cooperation between supervisors, and update the settlement efficiency regime by including preconditions for mandatory buy-ins so that they are only introduced as a last resort.
- Finally, European legislators reached a provisional agreement on revisions to the regulatory framework applicable to EU investment funds, the Alternative Investment Fund Managers Directive (AIFMD). The AIFMD review aims to enhance the availability of liquidity management tools, increase transparency on delegation rules and establish a framework for funds that provide credit to companies ('fund originating loans').

- The three provisional agreements all still need to be confirmed by the Council and the Parliament before becoming final legislation later this year.

South Africa Reserve Bank publishes proposed implementation dates for Basel III; The South Africa Reserve Bank has published proposed implementation dates of selected components of the Basel III banking reforms. The Prudential Authority has proposed July 1, 2025 as the implementation date for the revisions to the internal ratings based approaches for credit risk, operational risk, minimum capital requirements for market risk, and credit valuation adjustment framework.

Indian Central Bank sets capital requirements for operational risk under Basel III; The Reserve Bank of India (RBI) has issued rules on minimum capital requirements under Basel III for operational risk after considering feedback from stakeholders. This will require all specified commercial banks to hold sufficient regulatory capital against their operational risk exposures. The central bank will communicate its effective date of implementation separately.

Hong Kong regulator consults on banking regulation reform

- The Hong Kong Monetary Authority (HKMA) has published a public consultation to review the current three-tier structure of the banking system that classifies banks into licensed banks, restricted license banks, deposit-taking companies. Under the HKMA's proposals, the current three-tier system would become two-tiers with restricted licensed banks and deposit-taking companies becoming second-tier institutions. There will be a five year transition period for existing deposit-taking companies to conform. The consultation runs until September 25, 2023.

US SEC adopts money market fund reforms and amendments to Form PF reporting requirements for large liquidity fund advisers.

- The amendments adopted by the SEC will increase minimum liquidity requirements for money market funds to provide a more substantial liquidity buffer in the event of rapid redemptions. The amendments will also remove provisions in the current rule that permit a money market fund to suspend redemptions temporarily through a gate and allow money market funds to impose liquidity fees if their weekly liquid assets fall below a certain threshold. These changes are designed to reduce the risk of investor runs on money market funds during periods of market stress. The rule amendments will become effective 60 days after publication in the Federal Register with a tiered transition period for funds to comply with the amendments. The reporting form amendments will become effective June 11, 2024.

UK FCA sets out results of liquidity management multi-firm review

- The UK Financial Conduct Authority (FCA) has published the results of its review into liquidity management within the asset management sector and has concluded that firms need to increase their focus on liquidity risk to avoid potential investor harm. Following its multi-firm review, the FCA has found that:
    - The building blocks for effective liquidity management are usually in place but that they often lack coherence and are not always embedded into daily activities;
    - Regarding governance, the FCA found that many firms do not sufficiently account for liquidity risk management in their governance oversight arrangements;
    - Firms were seen to adopt a wide range of approaches to liquidity stress testing and the assumptions used are not always sufficiently conservative;
    - Firms typically had governance and organizational arrangements in place to meet large one-off redemptions but did not have sufficient arrangements in place to oversee

cumulative or market-wide redemptions that could have a significant impact on a fund; and
  - Wide variations in the application of anti-dilution tools such as swing pricing, which could affect the price investors receive when redeeming.
- Alongside the findings, the FCA also published a Dear CEO letter that underlines the regulator's expectation that chief executives will review their firm's liquidity management arrangements and make any necessary enhancements. The review comes as the FCA looks to promote competition and enhance liquidity risk practices to strengthen UK wholesale markets and encourage growth in the UK.

UK prudential regulator sketches out a new regulatory regime for insurance firms

- The UK Prudential Regulation Authority (PRA) has published for consultation a major set of reforms to the UK Solvency II ('Solvency UK') rules to create a new regulatory regime for insurance firms in the UK. Under the proposals, reporting requirements for all firms will be streamlined, internal model assessments will be simplified, and new entry requirements will be eased. The PRA considers the existing requirements to be overly onerous and insufficiently flexible, and is seeking to increase the size threshold above which Solvency UK will apply to firms. The consultation closed on July 31, 2023 for Chapter 11 and September 1, 2023 for Chapters 2-10. The PRA expects to consult on reforms to life insurers in September this year.

Hong Kong insurance industry prepares for implementation of risk-based capital regime

- Legislation has been passed in Hong Kong to implement the Risk-based Capital (RBC) regime for the Hong Kong insurance industry. The Insurance Authority plans to begin the work on drafting implementing rules for consultation ahead of the expected implementation in 2024.

Saudi Central Bank issues financial stability report

- The Saudi Central Bank (SAMA) issued its Financial Stability Report for 2023, which highlights key local and global economic developments and associated risks as well as the latest developments in the Saudi financial sector. The report covers SAMA's initiatives to support technological innovations and emerging issues in the financial sector. Despite the global economic challenges in 2022, the Saudi financial sector saw an increase in bank assets and credit. Alongside this, the Saudi banking sector remained well capitalized in 2022, with prudential liquidity ratios well above regulatory requirements. The report also recorded the strong performance of non-financial institutions, with a rebound in insurance companies' gross written premiums in line with non-oil growth and an increase in finance companies' total assets in 2022.

US CFTC extends temporary no-action letter regarding certain financial reporting requirements for bank swap dealers

- US Commodity Futures Trading Commission's (CFTC) Market Participants Division (MPD) announced it issued a temporary no-action letter extending CFTC Staff Letter No. 21-18 concerning financial reporting obligations for swap dealers (SDs) subject to capital requirements of a prudential regulator (bank SDs) under the CFTC's SD financial reporting rules.
- Through CFTC Staff Letter 23-11, MPD is extending a no-action position to bank SDs that report utilizing certain alternative forms, filing deadlines, and/or reporting standards otherwise applicable to them by their prudential or home country regulators, in lieu of complying with the

CFTC's financial reporting requirements and subject to certain specified conditions. MPD determined that extending the no-action position temporarily would not adversely impact its ability to monitor the capital position of bank SDs under the Commodity Exchange Act and CFTC regulations.

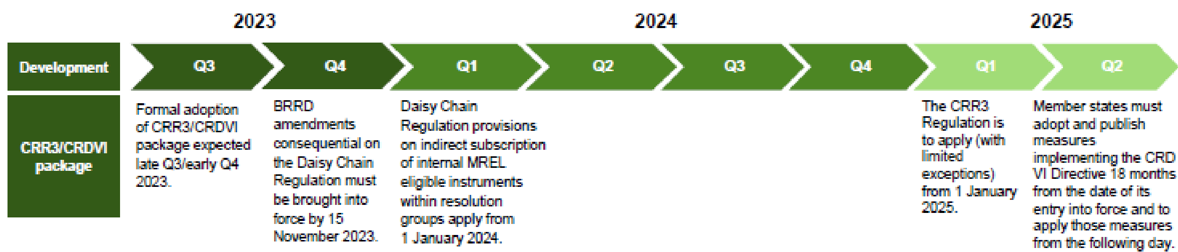
US SEC Chair Gensler testifies before the Senate

- US Securities and Exchange Commission (SEC) Chair Gary Gensler testified in a hearing on the SEC's FY24 budget before the Financial Services and General Government Subcommittee of the Senate Appropriations Committee, where he discussed topics including: (1) cryptocurrency; (2) artificial intelligence; (3) SEC rulemaking process and the climate disclosure proposal; (4) Rule 10b-1; (5) swing pricing; and (6) proxy advisors.

- competition risks.

Prudential & Risk

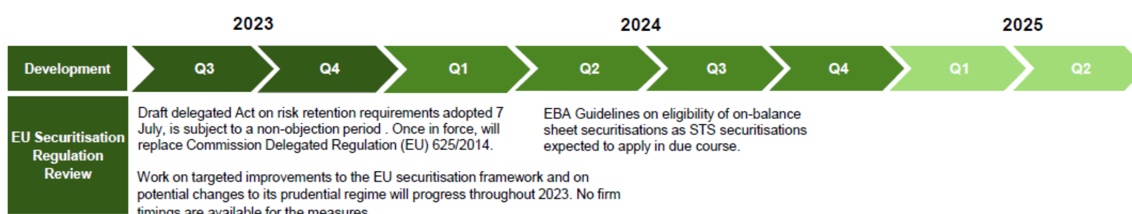
CRR3/CRDVI



- Revisions to the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRDIV) known as the **CRR3/CRDVI package** are being made to implement in the EU the final reforms agreed by the Basel Committee on Banking Supervision in December 2017 (known as Basel 3.1). Other revisions introduce some EU-specific measures, including on the proportionate application of the prudential regime, the fitness and propriety of senior staff, the incorporation of ESG risks within the regime, and measures on supervisory powers (including prudential supervision of third-country branches).
- The so-called Daisy Chain Regulation has also made further revisions to the CRR to improve banks' resolvability, including clarifying the treatment of indirect subscription of internal MREL eligible instruments within a resolution group with a multiple point of entry resolution strategy.
- Most provisions of the Daisy Chain Regulation have applied from 14 November 2022, apart from: (i) provisions relating to the indirect subscription of internal MREL eligible instruments within resolution groups, which will apply from 1 January 2024; (ii) Consequential amendments to the Bank Recovery and Resolution Directive (BRRD), which must be brought into force by member states by 15 November 2023.
- Provisional agreement on the draft texts of CRR3 and CRDVI was reached in June 2023.
- The provisional agreement for the CRDVI proposal includes agreement that third country credit institutions will be required establish a branch in the EU and apply for authorisation unless they fall within an exemption. The scope of the exemptions from this requirement and any transitional arrangements will not be known until the final text is made availably publicly.

- Under the current proposals, Member states must adopt and publish measures implementing the CRD VI Directive 18 months from the date of its entry into force and to apply those measures from the following day. The CRR3 Regulation is to apply (with limited exceptions) from 1 January 2025.

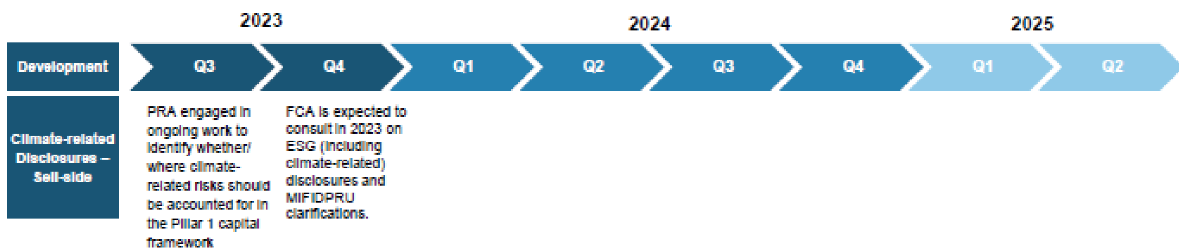
EU SECURITISATION REGULATION REVIEW



- As part of the capital markets union (CMU) action plan the Commission is currently engaged in a process of reviewing the EU securitisation framework. Fulfilling its mandate under Article 46 of the Securitisation Regulation (SR), the Commission published a report in October 2022, which set out the results of the Commission's stocktake on the SR's functioning. The Commission has highlighted some targeted improvements to the framework, which will be made without legislative revisions.
- Separately, the Commission is mandated under Article 519a of the Capital Requirements Regulation (CRR) to review the securitisation capital and liquidity frameworks. The Commission is currently considering the advice of the European Supervisory Authorities' Joint Committee, which was published in a report in December 2022.
- On the horizon:
- The Commission does not propose amending the Securitisation Regulation at this stage, but it has committed to the non-legislative improvements to the framework set out below.
  - ESMA should revisit the disclosure templates for the information originators, sponsors, SSPEs must make available under Article 7 of the SR, to reduce prescription and to simplify them where appropriate.
  - ESMA should develop a dedicated template for private securitisations.
  - The Commission will clarify in a future revision of the SR the provisions of Article 2(12) of the SR, which have caused problems for AIFMs.
  - The Commission will not establish a dedicated framework for green securitisation, and instead contribute to work on specifying the details of securitisation within the incoming EU Green Bond Standard framework (see slide 29). Green Bonds will include those issued by a special purpose vehicle in the context of a securitisation transaction.
  - A common EU guide should be developed on best practices for national supervisors.
  - In relation to the prudential regime for securitisation, the Commission is considering recommendations from the Joint Committee, which include a potential relaxation of capital requirements in the significant risk transfer market and a set of fixes designed to clarify existing requirements, remove some inconsistencies and improve risk sensitivity in the framework.
- The Commission adopted a draft delegated act on 7 July 2023, which sets out further detail on the SR's risk retention requirements for originators, sponsors, original lenders and servicers. Once in force, this delegated regulation will replace Commission Delegated Regulation (EU) 625/2014.

- The EBA ran a consultation between 21 April 2023 and 7 July 2023 on guidelines on the criteria for on-balance-sheet securitisations to be eligible as STS securitisations. As yet, there is no indication of when the guidelines may enter into application.

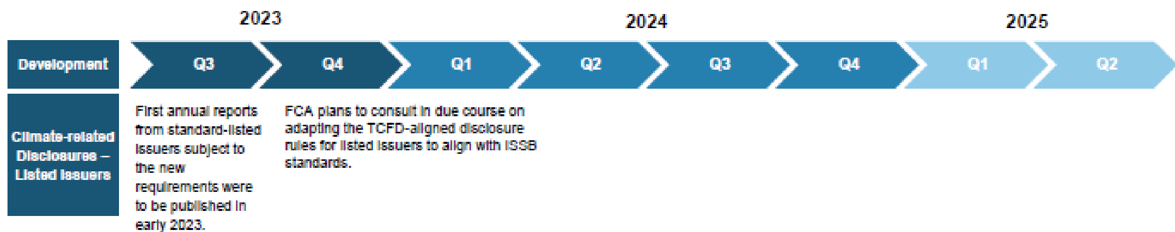
Carbon Emissions, Green finance, ESG & Disclosures



- The UK formally committed in 2017 to using the recommended disclosures from the Task Force on Climate-related Financial Disclosures (TCFD) as a basis for mandatory climate related financial disclosures in the UK.
- Sell side firms are subject to an expanding range of climate-related disclosures obligations. For banks and PRA regulated investment firms, this includes Pillar III disclosures under the prudential framework, obligations arising under the PRA's expectations as set out in SS3/19, the Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 and the Listing Rules. FCA-only regulated MiFID investment firms are not currently required to make specific disclosures under the FCA's MIFIDPRU rules, but the FCA is expected to consult in 2023 on ESG (including climate-related) disclosures and MIFIDPRU clarifications.
- On the forward horizon
- FCA is expected to consult during 2023 on ESG disclosures under the Investment Firms Prudential Regime (IFPR). This will affect firms subject to MIFIDPRU.
- The PRA is continuing in 2023 with active supervision of PRA-regulated firms' compliance with its expectations under SS3/19, including its to expectations for disclosures (qualitative and quantitative) against the TCFD framework. The PRA will continue to support international and domestic efforts to promote the implementation of consistent and comparable disclosure standards for climate risks, including by the International Sustainability Standards Board (ISSB). The ISSB issued its first IFRS Sustainability Disclosure Standards in June 2023: (i) IFRS S1 (General requirements for disclosure of sustainability related financial information); and (ii) IFRS S2 (Climate related disclosures).
- The UK's revised Green Finance Strategy was published on 30 March 2023. Developments arising from the UK's Green Strategy are likely to have a bearing on disclosure obligations, for example one impact of the proposed code of practice for ESG data and ratings providers (see Slide 54) is that it may help address some of the data gaps which impair firms' ability to make quantitative disclosures.
- In a March 2023 report on climate related risks and the regulatory capital framework, the PRA explained it is engaged in ongoing work to establish if there are 'regime gaps' in the capital

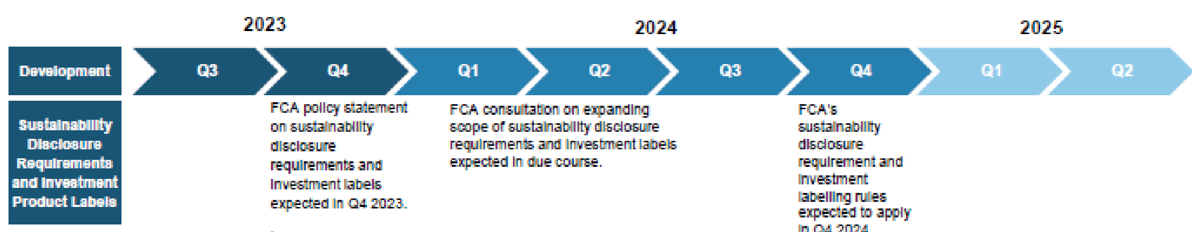
framework, including with the Basel Committee on Banking Supervision (BCBS) to establish whether climate related risks should be accounted for in banks' Pillar 1 capital framework.

CLIMATE-RELATED DISCLOSURES – LISTED ISSUERS



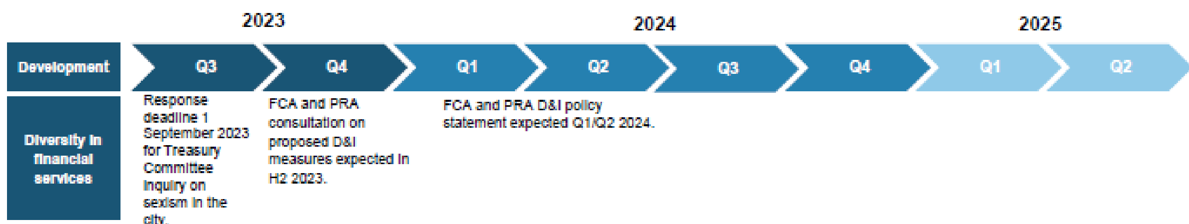
- On 17 December 2021, the FCA published its final rules on extending the application of its climate-related disclosure requirements from equity issuers with a premium listing to issuers of standard listed shares and standard listed issuers of (GDRs), in each case excluding standard listed investment entities and shell companies.
- On the forward horizon
- In line with the UK Government's commitment to introduce mandatory TCFD-aligned disclosure requirements across the UK economy by 2025, the FCA first introduced climate-related disclosure rules for listed issuers with a premium listing in 2020, followed by extension of the requirement to standard listed issuers in 2021.
- For issuers with a premium listing, the new rules took effect for accounting periods beginning on or after 1 January 2021, with the result that the first annual financial reports subject to the new rule were to be published in early 2022.
- For issuers with a standard listing, the new rules took effect for accounting periods beginning on or after 1 January 2022, with the result that the first annual financial reports subject to the new rule were to be published in early 2023.
- The International Sustainability Standards Board (ISSB) launched the first of its IFRS Sustainability Disclosure Standards in June 2023: (i) IFRS S1 (General requirements for disclosure of sustainability related financial information); and (ii) IFRS S2 (Climate related disclosures).
- In its response to exposure drafts of IFRS S1 and IFRS S2, and again in its October 2022 consultation on the UK's future Sustainability Disclosure Reporting (SDR) Framework (CP22/20), the FCA confirmed that it intends to consult on adapting the TCFD-aligned disclosure rules for listed issuers to reference the ISSB's standards, once finalised and made available for use in the UK. This is consistent with the UK Government's expectation that the ISSB standards will form the 'backbone' of the corporate reporting element of SDR.

SUSTAINABILITY DISCLOSURES AND INVESTMENT PRODUCT LABELS



- In November 2021, the FCA published a discussion paper (DP21/4) on sustainability disclosure requirements and investment product labels. In the discussion paper, the FCA sought views on the introduction of a standardised product classification and labelling system to help consumers understand the sustainability characteristics of different financial products. In October 2022, of the FCA's published its consultation paper on these requirements (CP22/20).
- On the forward horizon
- The FCA has indicated that it expects to publish its policy statement, containing its final rules on sustainability disclosure requirements and investment labels, in Q4 2023. The FCA is currently proposing that a new anti-greenwashing rule would come into effect immediately upon publication of this policy statement.
- In its consultation paper on sustainability disclosure requirements and investment labels (CP22/20), the FCA indicates that it intends in future to expand the scope of investment products captured under the regime to include, for example, overseas products. Consultation on this expansion is expected in due course.
- The FCA has indicated that rules for labelling, consumer-facing disclosures, pre-contractual disclosures and naming and marketing rules would apply one year after publication of the policy statement referred to in the bullet point above (i.e., by the end of Q4 2024).

DIVERSITY IN FINANCIAL SERVICES

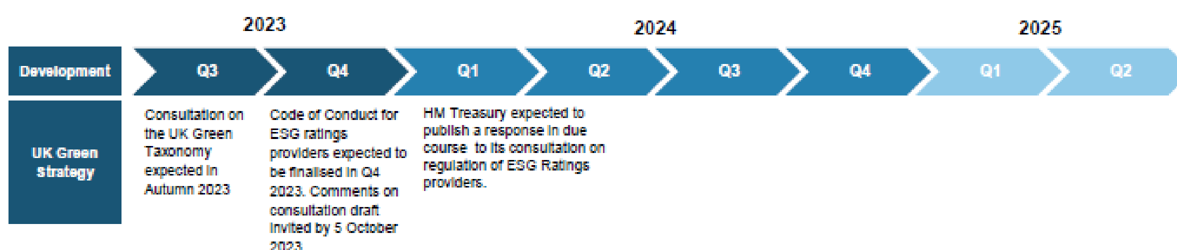


- On 7 July 2021, the FCA, PRA and Bank of England published a joint discussion paper (DP21/2) on diversity and inclusion in the financial services sector. The discussion paper sought views on how to accelerate the rate of change in diversity and inclusion in the financial services sector. It set out the roles of the regulators in this context, steps that the regulators have taken to promote diversity and inclusion, the regulators' existing requirements and expectations, and a series of questions intended to seek views on ways of improving diversity and inclusion measures.
- On the forward horizon
-
- The FCA and PRA are continuing their focus on culture and diversity & inclusion (D&I). For financial years starting on or after 1 April 2022, FCA rules for public company boards and executive committees require firms to meet 'comply or explain' targets on gender and ethnic diversity and make annual disclosures.
- As a follow-up to the 2021 joint discussion paper, ajoint FCA-PRA consultation on draft measures to support diversity and inclusion in the financial sector was expected in H1 2023, with a Policy Statement to follow in Q4 2023/Q1 2024. This follows the FCA's publication of feedback in December 2022 on its study of how financial services firms are designing and embedding D&I strategies. The joint consultation was not published in H1 2023 and is now expected in H2 2023.
- Measures to drive change that the regulators may include in the forthcoming joint D&I consultation include: greater collection and monitoring of D&I data; making senior leaders directly accountable for D&I in their firms; linking remuneration to D&I metrics; measures to

achieve diversity at board level; and embedding non-financial misconduct into fitness and propriety assessments to support an inclusive culture across the sector.

- In July 2023 the House of Commons Treasury Committee launched an inquiry into Sexism in the City, looking at the barriers faced by women in finance. The Inquiry is accompanied by a call for evidence inviting responses by 1 September 2023.

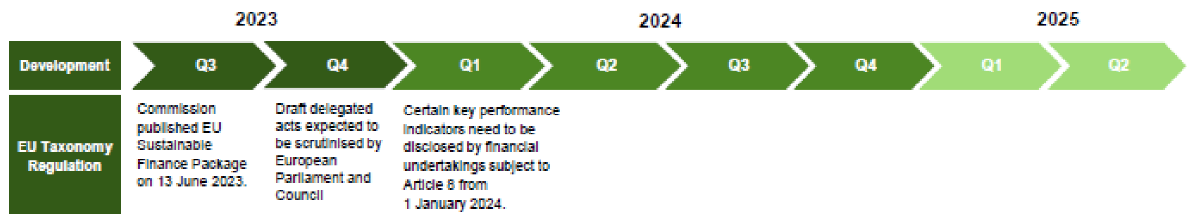
UK GREEN STRATEGY



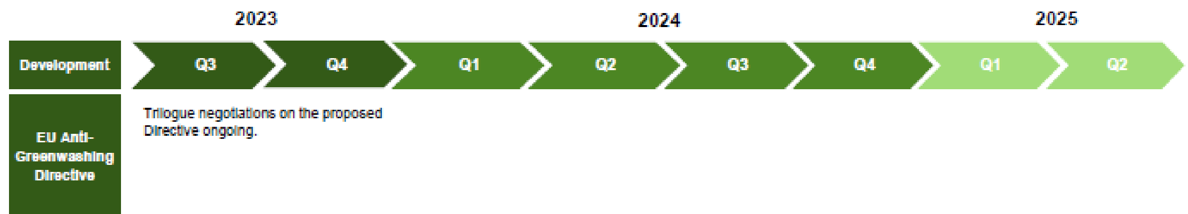
- The UK is reforming its financial services regulation outside the EU and working towards a 'Smarter Regulatory Framework' for UK financial services.
- The three key elements for the reforms are: (i) the Financial Services and Markets Act 2023 (FSMA 2023), which will revoke EU-derived financial services and markets legislation; (ii) the Retained EU Law (Revocation and Reform) Act 2023, which will revoke other EU-derived legislation; and (iii) the December 2022 Edinburgh reforms, a package of reforms that aim to modernise and improve UK financial services regulation. The Edinburgh Reforms have been further supplemented by the Mansion House Reforms published in July 2023.
- This slide tracks the key ESG-related developments that form part of these workstreams.
- On the forward horizon
- In February 2023, the FCA published a discussion paper (DP23/1) on 'Finance for positive sustainable change: governance, incentives and competence in regulated firms'. DP23/1 aims to encourage dialogue on firms' sustainability-related governance, incentives and competencies. The feedback will be used by the FCA to consider the direction for evolution of its future regulatory approach. DP23/1 closed for feedback in May 2023.
- The government published a revised UK Green Finance Strategy on 30 March 2023, which included an update on the production of a UK Green Taxonomy. A consultation will be launched in Autumn 2023. As announced in the UK Spring Budget, the UK green taxonomy is expected to include nuclear energy.
- HM Treasury launched a consultation on 30 March 2023 on bringing ESG ratings providers within the scope of regulation. The consultation sets out proposals for the scope of a regulatory regime for ESG ratings providers with the aim of improving transparency on providers' methodologies and objectives and improving conduct in the ESG market. This is likely to need changes to the Regulated Activities Order and –for a subset of firms – legislation under the Designated Activities Regime introduced under FSMA 2023. The consultation closed on 30 June 2023 and HM Treasury is expected to provide feedback in due course.
- A draft Code of Conduct for ESG ratings providers was published for consultation in July 2023. Responses are invited by 5 October 2023, with the aim of finalising the Code of Conduct to be finalised in Q4 2023.

EU SUSTAINABLE FINANCE DISCLOSURE REGULATION (SFDR)

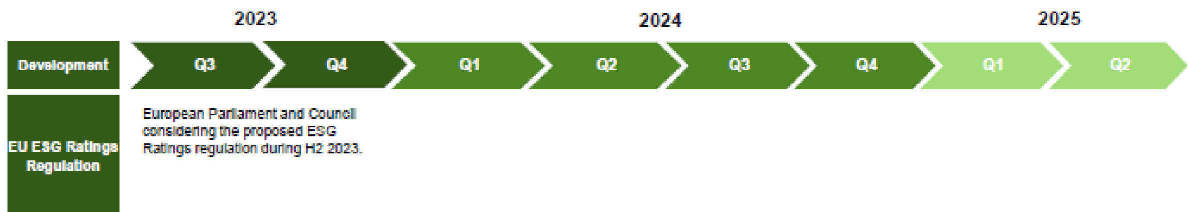
EU TAXONOMY REGULATION



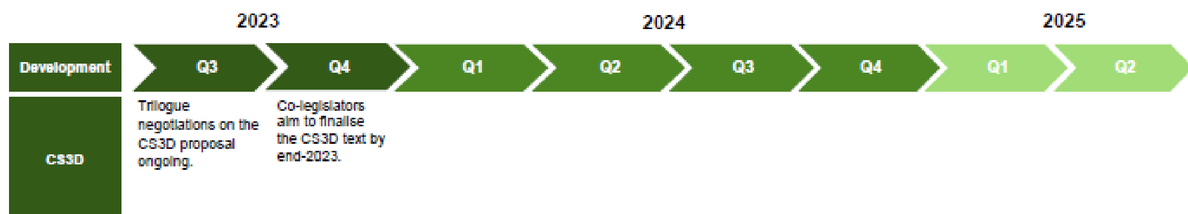
EU ANTI-GREENWASHING DIRECTIVE: AMENDMENTS TO UCPD

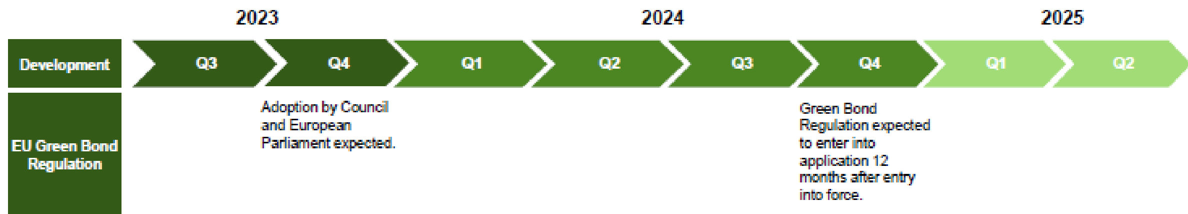


EU REGULATION OF ESG DATA AND RATINGS PROVIDERS



CORPORATE SUSTAINABILITY DUE DILIGENCE DIRECTIVE (CS3D)





ISSB publishes first two sets of sustainability disclosure standards

- The International Sustainability Standards Board (ISSB) publishes the first two sets of international sustainability disclosure standards. These set out an internationally consistent approach to managing sustainability and climate disclosures. The intention is that these standards will improve the trust and confidence that can be placed in making sustainably informed financial decisions. The new standards are expected to be effective from January 1, 2024 and the ISSB will create a transition implementation group to support companies adopting the new standards.

Abu Dhabi implements sustainable finance regulatory framework

- Abu Dhabi Global Market (ADGM) has announced the implementation of its sustainable finance regulatory framework with immediate effect, following significant support received through public consultation.
- The new framework is intended to reinforce its position as a leading sustainable financial hub.
- The framework encompasses rules on sustainability-oriented investment funds, managed portfolios and bonds as well as requirements for environmental, social and governance (ESG) disclosures by ADGM companies. It is designed to accelerate the transition of the UAE to net zero greenhouse gas emissions and complement existing regulation relating to carbon offsets.

Singapore proposes industry code for ESG Data Providers and consults on coal phaseout

- The Monetary Authority of Singapore (MAS) has launched a public consultation on an industry code of conduct for providers of Environmental, Social and Governance (ESG) ratings and data products.
- As the use of ESG ratings and data products grows, the MAS proposes to elevate standards and disclosures of ESG ratings and data products in Singapore via a phased and proportionate regulatory approach, starting with a voluntary industry code of conduct for the providers.
- The industry code will cover best practices on governance, management of conflicts of interest, and transparency of methodologies and data sources, including disclosure on how forward-looking elements are taken into account in the products. The intent is to enable users to better consider transition risks and opportunities when making decisions on capital allocation.
- The consultation is open for comments until August 22, 2023.
- In parallel, MAS is consulting on including coal phaseout in the Singapore-Asia Taxonomy. This fourth and final consultation sets out detailed thresholds and criteria for financing the early phase-out of coal-fired power plants.
- The consultation proposes to set technical screening criteria in the Singapore-Asia Taxonomy applicable to coal plant facilities as well as their owner entities – taking into consideration other

guidance including the ASEAN Taxonomy, and the 'The Managed Phaseout of High-Emitting Assets' report by GFANZ (Glasgow Financial Alliance for Net Zero). The consultation paper closed for comments on July 28, 2023.

India introduces ESG ratings framework

- The Securities and Exchange Board of India (SEBI) published final amendments to its credit ratings agencies regulations, formally introducing a new chapter for ESG ratings providers and subsequent regulatory and supervisory framework for ESG ratings providers operating in India.

European Union further specifies criteria for the green taxonomy

- The European Union (EU) Commission has further specified the criteria for meeting the environmental objectives under the EU Taxonomy Regulation through the adoption of two implementing laws. For context, the EU Taxonomy Regulation provides definitions of economic activities that can be considered to be environmentally sustainable and aims to help direct investments in economic sectors where they are most needed for the green transition.
- The Taxonomy Environmental Delegated Act sets the criteria for economic activities that make a substantial contribution to one or more of the non-climate environmental objectives. The Taxonomy Climate Delegated Act brings in additional economic activities that qualify as making a substantial contribution to the climate environmental objectives of climate change mitigation and adaptation. The new laws will start to apply from January 2024.

European regulators investigate sustainability disclosures and risks in the investment fund sector

- The European Securities and Markets Authority (ESMA) and the European national competent authorities (NCAs) have launched a common supervisory action on sustainability-related disclosures and the integration of sustainability risks. The aim of the exercise is to assess the compliance of supervised asset managers with the relevant provisions in the Sustainable Finance Disclosure Regulation (SFDR), the Taxonomy Regulation and relevant provisions from other asset management regulations. The regulators want to assess whether market participants adhere to the relevant rules and standards and gain a better understanding on greenwashing risks. The results of the exercise will help inform whether further relevant intervention is necessary. The common supervisory action will run until Q3 2024.

US CFTC holds voluntary carbon markets convening and seeks tips relating to carbon markets misconduct

- At the July 19, 2023 convening, the US Commodity Futures Trading Commission (CFTC) heard from panelists representing the US federal government, private sector standards, initiatives, and credit ratings, spot and derivatives exchanges, and market participants. In addition, CFTC Chair Rostin Behnam announced that the CFTC's Climate Risk Unit is drafting a guidance on standards for carbon markets, which will be released for public comments.
- In late June, the CFTC's Whistleblower Office in the Division of Enforcement issued an alert notifying the public on how to identify and report potential violations connected to fraud or manipulation in the carbon markets. As described in the alert, the CFTC's Whistleblower Office will work with market participants that report information related to potential fraud in the carbon markets including, but not limited to, manipulative and wash trading, "ghost" credits, double counting, fraudulent statements relating to material terms of the carbon credits, and potential manipulation of tokenized carbon markets.

Thai regulators publish first phase of Sustainable Finance Taxonomy

- The Bank of Thailand (BOT) and Securities and Exchange Commission (SEC) published the Thailand Taxonomy Phase I on sustainable finance following consultation earlier this year. The Taxonomy is intended to be a reference tool for making policy or strategy, access to green funding, and managing the opportunity and risk relating to the environment and climate change scenarios. It employs a so-called traffic light system that distinguishes between green, amber (transitional), and red activities, and compliance with the Do No Significant Harm and Minimum Social Safeguards.
- The Thailand Taxonomy Phase II will be focused on manufacturing, agriculture, real estate, construction, and waste management.

Australian Treasury consults on climate-related financial disclosures

- The Australian Government is seeking feedback on proposals to implement disclosures of climate-related financial risks and opportunities in Australia. The Government proposes mandatory reporting requirements beginning on July 1, 2024 for Australia's largest listed and unlisted companies and financial institutions, with other businesses subject to the requirements over time.
- A three-phased approach is proposed, starting with a relatively limited group of very large entities that expands over two years to apply to progressively smaller entities. Allowing smaller entities more lead time before they are subject to the mandatory requirements is thought to enable them to build the capability and skills required to meet their obligations. The Treasury seeks views on the workability of the proposed positions relating to coverage, content, framework and liability and will organize information sessions for stakeholders.
- In parallel, the Australian Competition and Consumer Commission has set out draft guidance for firms to comply with when making environmental and sustainability claims. This comes as the regulatory focus on 'greenwashing' intensifies.

New Zealand publishes scenario analysis information sheet for climate related disclosures

  - New Zealand's Financial Markets Authority (FMA) has released its scenario analysis information sheet to help climate reporting entities meet their obligations under the Climate-Related Disclosures (CRD) regime. Under the regime, firms are required to undertake scenario analysis and disclose how the process was conducted in their annual climate statements.
  - The information sheet explains the FMA's expectations for the scenario analysis disclosures set out in the External Reporting Board's Aotearoa New Zealand Climate Standards. With climate-related scenario analysis being a new concept for most entities in New Zealand, this information sheet is intended to enable entities to better understand the inter-related dynamics of climate change, prepare for an uncertain future, and ultimately consider how to improve their long-term resilience. Scenario analysis forms part of the requirements under the strategy pillar of the CRD reporting regime. The other three pillars are risk management, governance, and metrics and data.

US House Financial Services Committee holds a series of ESG hearings

- July is "ESG Month" in the House Financial Services Committee (HFSC), which held several hearings on ESG-related topics, including:
  - (1) "Reforming the Proxy Process of Safeguard Investor Interests" (Capital Markets Subcommittee);

- (2) "Oversight of the Proxy Advisory Industry" (Oversight and Investigations Subcommittee); and
- (3) "How Mandates Like ESG Distort Markets and Drive Up Costs for Insurance and Housing" (Housing and Insurance Subcommittee);
- (4) "Climate-Risk: Are Financial Regulators Politically Independent?" (Financial Institutions and Monetary Policy Subcommittee; and
- (5) "Oversight of the SEC's Division of Corporation Finance" (Capital Markets Subcommittee). Additional hearings are scheduled to take place throughout the month and several bills related to ESG are to be introduced.

- In addition, as part of the Republican lawmakers' focus on the proxy process and how shares are voted on behalf of beneficial owners, HFSC Oversight Subcommittee Chair Bill Huizenga sent letters to major asset managers asking how they can "balance [ESG] initiatives with sound decisions on behalf of investors."
- This follows an interim report released by the Republican ESG Working Group last month that identified key priorities such as: (1) proxy voting system; (2) proxy advisory system; (3) shareholder voting; (4) oversight of the large asset managers; (5) ESG ratings agency accountability; (6) oversight of and investigations into federal regulatory efforts on climate; (7) statutory limits of financial and consumer regulatory agencies; and (8) protection of US companies from EU regulations.
- Republicans in the House Judiciary Committee also called on companies such as BlackRock and Vanguard to explain corporate ESG efforts that could potentially violate antitrust laws. Two Republican lawmakers also requested interviews with current and former officials at the US Securities and Exchange Commission about the Commission's activities taken in connection or coordination with the European Union on ESG and climate-related measures that may circumvent the US regulatory process.

Energy & Commodities

Ends. 02 Sep 2023