EVIA European Venues & Intermediaries Association

LEBA London Energy Brokers' Association

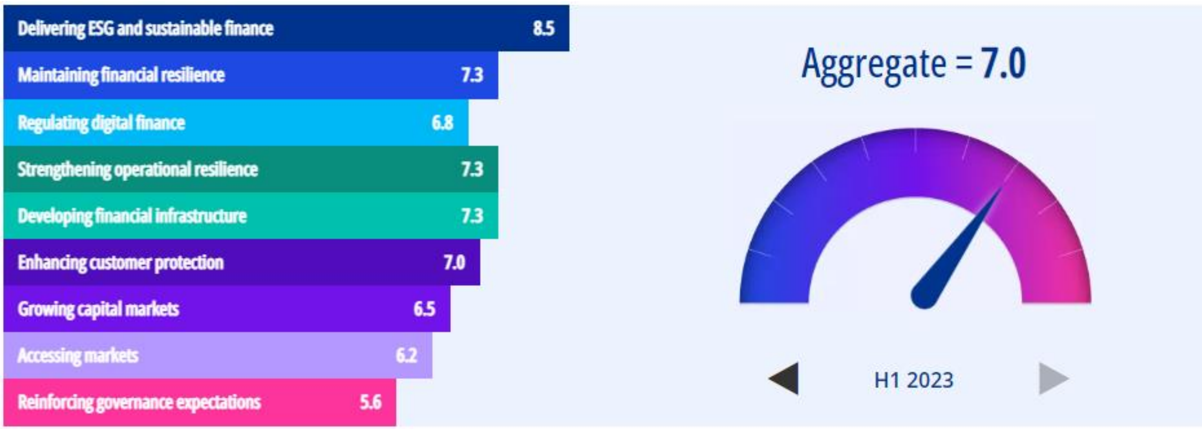
EVIA & LEBA Compliance reference sheet

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

Wednesday 07th June 2023

KPMG Regulatory Barometer aims to help firms identify the key areas of pressure across the evolving UK and EU regulatory landscape and measure the impact of the likely change.

- Financial services firms need to handle frequent regulatory updates from multiple sources, and it can be difficult to distil the volume and complexity of regulatory change into a single view.
- The pandemic brought lasting impacts which provided regulators with new perspectives, and the ongoing conflict in Ukraine has added further uncertainty.
- Alongside geopolitical concerns, worsening economic conditions with financial stability and cost of living implications, changing customer demands and behaviours, sustainability concerns and use of new technologies are all influencing regulatory agendas.



- Regulatory intensity persists and is reflected in an aggregate score of 7.0 for this edition. There continue to be significant impacts on firms across the financial sector in terms of requirements to digest, implement and plan for regulatory change. As well as proactively driving their key priorities, regulators have to had to respond to economic conditions, including the cost of living crisis and market volatility. While some of the key regulatory themes have seen a slight drop-off in score, for others complexity and implementation challenges are rising.
- ESG and Sustainable Finance again has the highest regulatory impact score across our key themes. We expect the pressure on firms to persist as disclosure requirements are implemented, supervisors increase their expectations around climate risk and initiatives around ESG data and ratings, product labels and carbon markets ramp up.
- Financial Resilience also continues to score highly as banks and insurers await final rules for Basel 4 and Solvency 2 and face significant implementation challenges in the short to medium term. EU and UK approaches are starting to diverge.
- The scores for Operational Resilience and Financial Market Infrastructure (FMIs) have both ticked up. This reflects new regulatory requirements for digital resilience and critical third parties, and increasing regulatory and supervisory scrutiny of FMIs.
- Digital Finance has dropped in the rankings relative to other regulatory themes, but there is little change in the overall score. There has been a great deal of focus in this area, however regulation is still very much in the developing phase making it difficult for firms to mobilise to implement.

EU and UK regulatory frameworks - alignment or divergence?

- More than two years since the end of the Brexit transition period, the debate has shifted from the UK considering alignment and seeking equivalence, to more systematically reviewing where different approaches could be beneficial, in particular in ensuring the competitiveness of the UK financial sector. Meanwhile, the EU is pushing forward with its own agenda.

- As part of the Edinburgh Reforms, HMT has published the plan for repealing and reforming 43 'core files' of retained EU law in a way that is 'thoughtfully planned and sequenced to minimise unnecessary disruption while taking the opportunity to maximise the potential for the greatest economic impact.' Work will be split into tranches with significant progress on the first two tranches planned by the end of 2023. This divergence will increase complexity for cross-border firms.
- Across the nine themes identified in the Barometer, the EU and the UK remain aligned to different extents and started from different places due to previous UK and EU Member State 'gold-plating' and national rules.

Maintaining financial Resilience; *With continuing economic uncertainty – including inflationary and liquidity pressures and the potential for recession – regulators and supervisors are focused on maintaining robust levels of financial resilience and looking ahead to emerging and escalating risks. Firms are expected to maintain appropriate levels of capital and liquidity in the face of deteriorating economic conditions, and to prioritise high quality data, risk management and governance.*

- Implementation timelines and requirements for remaining (e.g. Basel) or revised (e.g. Solvency II) framework elements are being clarified. A new global framework has been agreed for the prudential treatment of crypto-assets by banks, and further frameworks are being developed, including resolution for insurers and a prudential regime for smaller UK banks. Stress testing remains a vital tool to monitor banks' and insurers' vulnerabilities.

- Climate-related financial risk is now a key part of business-as-usual supervisory activity for banks and insurers in the EU and UK, while regulators and standard setters continue to debate how best to integrate climate-related risk into capital frameworks.
- As well as evolving requirements and supervisory expectations for wealth and asset managers, the FCA is setting specific expectations for wider sectors. For example, in its recent portfolio letter addressed to wholesale brokers, the FCA noted that firms should have sufficient competence and expertise and should review the level of liquidity they hold to ensure it is commensurate with the risks.
- The score remains relatively high reflecting significant pressures relating to Basel 4 and Solvency II for banks and insurers and the need to upskill on climate-related financial risk. Evolving regulatory initiatives (including model risk management for banks, resolution for insurers, and the Simpler Regime) ensure a continuing pipeline of significant change.

Regulating digital finance; *There continues to be accelerated adoption of digital innovation within the financial services sector. This innovation is providing enormous benefit to customers and service providers alike – but it is also introducing novel risks which could pose a threat to consumer protection and, on a wider scale, financial stability. Regulators are becoming attuned to these new risks and are beginning to account for them within regulatory frameworks.*

- Digitalisation is changing the ecosystem. The automation and streamlining of processes within the trade lifecycle could potentially disintermediate incumbent institutions. The line between retail and wholesale services is blurring with the adoption of trading apps which allow consumers to access financial products directly, without the need for middlemen or other gate-keepers. There are concerns that this ease of access is also leading to the gamification of financial services.
- The uptake of crypto-assets as 'a new form of money' is requiring regulators to determine whether they can be accounted for within existing regulatory frameworks, or require the development of entirely new ones. Crypto-assets are also compelling central banks to investigate the development of their own Central Bank Digital Currencies (CBDCs) to safeguard the traditional role of currency.
- Underpinning all technologies and digitalisation are the fundamental building blocks of infrastructure and data. Firms need to ensure the integrity of databases (including protecting customers and market confidential data), to have the expertise to analyse them, and to have in place good governance and controls. To be able to deliver services more efficiently, data needs to be shared across borders. This raises legal challenges, which regulators continue to debate.
- The score for Digital Finance is lower than in the last edition, reflecting the fact that, whilst there has been a lot of noise, relatively little actual regulation is yet to emerge.
- There has been no real change in the pressure resulting from digital finance regulation. Although there has been a great deal of focus on the area – the actual regulation is still very much in developing phase and so difficult yet for firms mobilise to implement.

Strengthening operational resilience; *Regulators have long expected firms to manage operational risks and have in place business continuity and disaster recovery plans. However, operational resilience is now much broader than this and is recognised as a key driver of investment and business strategy. Financial regulators view operational resilience for firms on an* *equal footing with financial resilience and recognise that poor resilience has the potential to impact not only individual firms and wider financial stability, but also to cause significant customer detriment.*

- Regulators require firms to demonstrate end-to-end operational resilience (including cyber resilience) in their key business activities, to prevent severe disruption and maintain financial stability. Strong governance and accountability is expected, as is robust testing of disruption scenarios. Firms must consider the possibility of multiple concurrent disruptions and the emergence of new threats and vulnerabilities. Extreme events arising from climate change, from floods to wildfires to unexpected snowstorms, could impact physical operations and geopolitical events could challenge operating models. Regulatory authorities have realised that a broader approach to operational resilience — incorporating equally important components such as people, processes, technology and information — is needed. Underpinning all the regulatory initiatives is the common desire to create a financial services sector that is more resilient to disruption, hence reducing the potential for wider contagion, financial instability and harm to end-customers.
- The EU and UK have set out clear expectations for regulated firms. However, resilience expectations are now extending to a wider range of participants operating in the financial sector. For more on the operational resilience of FMIs see Delivering Financial Infrastructure. Cloud service providers and critical third parties are under scrutiny.
- The score for operational resilience has ticked up slightly, due in large part to the shift to implementation for DORA – firms now have a clear deadline, although technical standards are still to be issued. Focus on critical third parties also contributes to the increase.

Developing financial infrastructure; *Financial Market Infrastructures (FMIs) are going through a period of significant change as their importance across the financial services ecosystem grows. They have a critical role to play not only in managing risk, but also in increasing transaction efficiency. As a result, the need for scale and effectiveness in the FMI space could lead to consolidation opportunities.*

- FMIs themselves are also assessing the potential of new technologies – such as distributed ledger technology and cloud computing – to optimise IT processes and their integration into the wider market infrastructure.
- However, against this backdrop of innovation, regulatory and supervisory scrutiny is increasing. This is a result of the growing complexity and interconnectedness of markets as well as FMIs' key role in supporting these markets to function smoothly. Regulators are likely to want FMIs to consider the operational and cyber resilience impacts of new technologies, including oversight of critical third parties. In fact, certain frameworks that have been implemented in more mature sectors such as banking and insurance – for example operational resilience obligations and the UK Senior Manager and Certification Regime – are now being considered seriously (or even implemented) for FMIs.
- There has been an increase in the regulatory pressure on FMIs since the last issue of Barometer. Concerns around the impact of market volatility on FMI processes and the resulting impacts on the wider market has increased supervisory oversight. Measures

such as stress testing and operational resilience requirements are fully in implementation phases at firms.

Growing capital markets; *The capital markets in both the EU and the UK are undergoing a period of significant change. The UK leaving the EU has changed the structure and concentration of the market as firms have needed to move operations into the EU.*

- The EU is now undertaking mandatory reviews of the mass of regulation that was implemented post-financial crisis, such as MiFID II/MiFIR, and the UK is reviewing on-shored EU regulation to adapt it to the UK market. Both jurisdictions are looking to raise their attractiveness as destinations to raise capital for new and growing companies, by reviewing listings and prospectus regulation. New fund structures are also being introduced or existing structures adjusted, as European jurisdictions compete for share of market growth and cater for private investment in long-term assets to aid economic recovery and grow national capital markets.
- Concerns linger from the market events of March 2020 and regulators remain determined that lessons should be learned. Work to analyse vulnerabilities and develop policy solutions across the non-bank sector has continued, with a particular international focus on liquidity management in open-ended funds. In the meantime, market volatility and challenges for liability-driven investment strategies have heightened regulatory scrutiny.
- The only major stage of the LIBOR transition left to complete is the cessation of USD LIBOR in mid-2023. Wholesale market participants are also looking ahead to see how technology can assist the markets in moving towards T+1 settlement, tokenisation, digitisation of data, and greater retail participation.
- While reviews of capital markets regulation continued, regulators were forced to act regarding LDI strategies. Reviews of fund liquidity management practices have concluded but triggered further, more detailed work. As LIBOR transition concludes, settlement is becoming a new area of focus. Combined, these have led to an increase in score.

Accessing markets; *More than two years since the end of the post-Brexit transition period, the commercial and operational implications of the EU-UK border continue to evolve for financial services firms.*

- Regulatory developments since the UK left the EU underline that firms working in the EU, the UK and elsewhere need to continue to monitor regulatory change and market access arrangements in order to pre-empt disruption to their business.
- On the whole, as bilateral equivalence determinations still appear to be off the table, firms will need to focus on ensuring they have sufficient substance and remain compliant with local access arrangements.
- In the UK, the Temporary Permissions Regime is coming to an end, requiring EU firms in the regime either to become authorised or to run off their regulated activities in the UK.
- The UK also announced plans in 2022 to negotiate a Mutual Recognition Agreement (MRA) for financial services with Switzerland to allow both countries to defer to each other in the regulation and supervision of firms undertaking cross-border financial

services. However, there have been no signs of progress to date. The UK Financial Services and Markets Bill will legislate to allow an MRA framework, as the UK hopes to enter into MRAs with other jurisdictions in the future.

- The score has dropped slightly to reflect a lack of new, significant regulatory activity. Previous themes remain in focus (for example, ESMA's attention to substance requirements). While the end of the TPR has drawn nearer, the TRR for CCPs has been extended.
- Regulated markets and clearing; EU firms' ability to access services in third countries and the corresponding regulatory treatment continues to evolve. Although the Commission previously extended equivalence for UK CCPs until June 2025, it has now put forward proposals to make clearing in the EU more attractive. Meanwhile, the BoE is taking steps to advise on CCP equivalence decisions and to recognise non-UK CCPs.
    - The European Commission has extended equivalence for UK central counterparties (CCPs) until June 2025. However, in December 2022, in reaction to the continued dominance of UK CCPs in European clearing, the Commission proposed to amend EMIR (via EMIR 3.0) to require all EU market participants to hold active accounts at EU CCPs for clearing at least a portion of certain systemic derivatives contracts.
    - ESMA will be tasked with specifying the level of clearing to be done through EU accounts. The proposal also simplifies the procedures in EMIR for EU CCPs to follow when launching new products and changing risk models, aiming to make EU CCPs more attractive. Clearing members are concerned that the proposal to have mandatory EU CCP active accounts will cause splitting of books that will lead to a loss of netting benefits and efficiencies which will generate additional costs for market participants.
    - The BoE has confirmed its approach (under on-shored EMIR) to 'tiering' non-UK CCPs based on the level of risk they could pose to UK financial stability, with Tier 2 CCPs subject to direct UK supervision and regulation. However, even Tier 2 CCPs can apply for specific regulatory provisions to be granted 'comparable compliance', with the UK then deferring its supervision in these areas to the CCPs' home authorities.
    - The BoE is currently working with HMT to provide advice on granting equivalence decisions to the relevant jurisdictions and has also begun discussions with overseas authorities on the necessary Memorandums of Understanding (MoUs) to support recognition.
- Cross-border services; In the absence of equivalence determinations, cross-border access to professional clients remains largely the responsibility of national regulators. For the banking industry this may change under proposed amendments. More broadly, EU authorities continue to focus on reverse solicitation and 'substance' in EU entities. In the UK, regulators are working through applications from firms in the Temporary Permissions Regime (TPR). The overseas market access framework in the UK is also being reviewed by HMT.
    - Proposals to reform the EU banking prudential framework (under CRR and CRD) could potentially impact non-EU firms doing business in the EU. In a bid to harmonise national requirements at EU level, the new framework under CRD6 would tier third country branches (TCBs) based on their size and impose new obligations for authorisation, minimum regulatory and reporting requirements and supervision. All existing TCBs would require reauthorisation – a 12 month

transitional period following the 18 month transposition period for CRD6 is proposed.
  - More broadly, in the absence of equivalence, firms remain reliant on national regulators' individual cross-border access regimes for professional clients. This requires firms having a detailed understanding of arrangements in specific member states. Authorities are looking to understand better the role of certain practices (such as reverse solicitation in the EU), and EU supervisors continue to review whether EU entities have sufficient "substance" (see "Delegation of Portfolio Management" regarding the findings of ESMA's assessment of the Brexit relocation process).
  - For EU firms providing services in the UK, the Temporary Permissions Regime will close at the end of 2023 and all firms should have submitted applications for authorisation by the end of 2022. Firms that did not submit an application for authorisation or subsequently withdrew their application will have entered the Financial Services Contracts Regime, allowing them up to 15 years to run-off existing contracts of insurance and five years for all other contracts. In the case of CCPs, the BoE Temporary Recognition Regime has now been extended until 31 December 2024.
- Have we reviewed what "substance" we have in each jurisdiction and whether it is sufficient to meet evolving supervisory expectations?
- Are we monitoring regulatory developments regarding market access arrangements and their potential impact on our business?

Reinforcing governance expectations; *Supervisors continue to reinforce the need for good corporate governance. This is particularly heightened since the widespread move to hybrid and remote working, which changed firms' practices and introduced new challenges to both governance frameworks and operations.*

- Good governance enables the clear identification of fit and proper senior managers, supports the performance of their roles and responsibilities and allows them to be held accountable. Regulators are therefore re-asserting the importance of robust governance arrangements in the interests of both market stability and investor protection.
- Regulators are increasingly recognising that good diversity, equity and inclusion (DEI) practices reduce risk for regulated firms by reducing groupthink, creating a stronger alignment between the firm's employees (at all levels) and the customers they serve. Regulators are calling out pay gaps and lack of diversity among firms' boards and senior management. They are also focused on helping firms recognise the interconnectedness of accountability, culture, DEI and, when coupled with effective corporate governance, the transformative effect it can have.
- The significant volume of new ESG requirements and developments in digital finance will require boards to implement and oversee robust regulatory transformation programs with clear designation of accountability across all three lines of defence.
- Most governance arrangements are well established. The incremental change is attributable to the increase in volume of communications relating to diversity, equity and inclusion. New purpose rules are expected in the short to medium term – which are anticipated to drive significant change.

- Culture; There is a growing recognition of the powerful roles that culture can play in a firm. Regulators are identifying that, in many instances of poor conduct, deep-set cultural issues have been present and that firms with healthy cultures are less prone to misconduct. An assessment of culture, coupled with other regulatory initiatives can give deeper insights into whether firms operate and are governed in line with regulatory and wider societal expectations.
    - Although regulators do not prescribe what a firm's culture should be exactly, supervisors view poor culture as a driver of harm. In response, they are aiming to address poor conduct and culture through day-to-day supervision (as seen in some of the FCA's portfolio letters) as well as through newer, broader proposals. In the UK, the FCA's proposed Consumer Duty seeks to bring about a more consumer-focused approach with outcomes that set expectations for firms' cultures and behaviours. The culture and ethics within firms also continue to feature in the work programmes of EIOPA, EBA and ESMA.
    - The proposed EU Corporate Sustainability Due Diligence Directive will establish a duty to identify, bring to an end, prevent, mitigate and account for negative human rights and environmental impacts in a company's own operations, its subsidiaries and its value chains. It will also introduce duties for directors of in-scope EU companies, including setting up and overseeing the implementation of due diligence processes and integrating due diligence into corporate strategy.
- Accountability; Initially driven by a response to the 2008/2009 financial crisis, a number of regulators, starting in the banking sector, implemented regimes that required firms to allocate accountability for senior management functions to specific individuals. The rationale was two-fold: to drive up standards within firms as individuals take greater ownership and to simplify supervisory/enforcement action by regulators where individuals are dishonest and/or negligent. These regimes are now expanding in scope across financial services and being introduced in more jurisdictions.
    - As part of the Edinburgh Reforms the UK Government is calling for evidence on the Senior Management and Certification Regime effectiveness, scope, proportionality and potential improvements. This is alongside a PRA and FCA review of the framework. Meanwhile, HMT and regulators are expanding the scope of the SM&CR to CCPs and CSDs and considering whether to expand it further to credit rating agencies and exchanges. The regulators consistently assign relevant senior managers to be responsible for remediation work in their Dear CEO letters and have called out the SM&CR as a way of possibly regulating the use of AI – showing their continued focus on full implementation and use of the regime.
    - In the EU, the ECB is showing an increased focus on 'fit and proper' assessments of senior managers and the EBA and ESMA have updated their joint guidelines on the assessment of the suitability of members of the management body and key function holders.
    - Other jurisdictions are taking forward the implementation of their accountability regimes with developments in Ireland, Singapore, Australia and Hong Kong, SAR (China). Firms working across these jurisdictions face challenges in mapping the interaction and overlaps in their governance structures.
- Oversight, including AML/CFT controls; Oversight of a firm's business and regulated activities by its Board remains a key regulatory theme, particularly since the widespread shift to hybrid and remote working. As noted in Strengthening Operational Resilience,

third-party risk management remains important. In the WAM sector, supervisors are also scrutinising fund governance arrangements and associated oversight capabilities. Focus is needed to ensure adequate oversight of AML controls especially as supervision and regulation in this area continues to be strengthen.

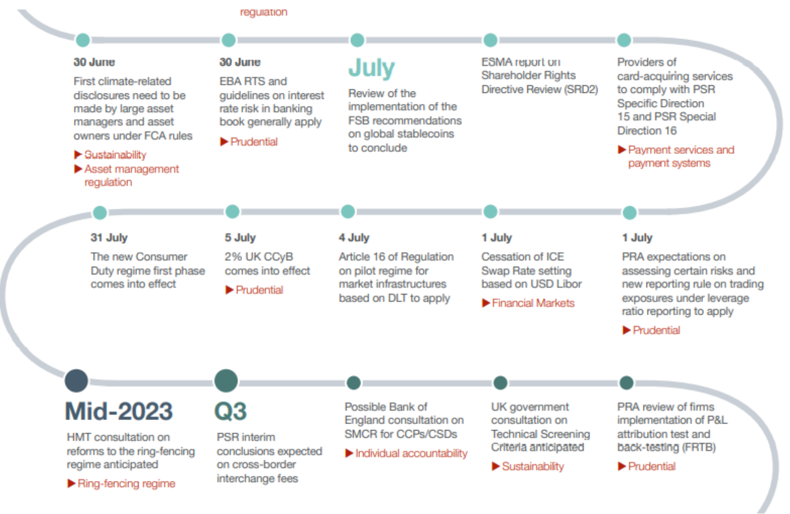
- Remote and hybrid working continues to offer opportunities and challenges for firms. Similarly, supervisors' expectations are also evolving in this context. The FCA has published general expectations for how firms should operate their business and engage with the FCA and for notification requirements in the context of hybrid working. More specifically, the regulator has set out explicit expectations regarding market abuse controls. In the WAM sector, regulators continue to scrutinise fund governance and oversight. For example, in both the UK and the EU, regulators have reviewed the capabilities of third-party fund management companies and investment managers.
- There continue to be a number of fines against firms that have failed to have adequate oversight of anti-money laundering (AML) systems and controls, indicating that some firms have more to do to fully embed internal controls. However, regulations also continue to develop.
- In the EU, negotiations have reached trilogue stage on the AML/CFT Regulation and the sixth AML directive. This package of rules will establish a new AML Authority and enlarge and strengthen the existing framework. This will include extending AML/CFT rules to the crypto-asset sector, in particular implementing the FATF 'travel rule' which brings the transparency required in crypto-asset transfers in line with wire transfers.
- In the UK, changes to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs) took effect. These included the requirement to report 'material' discrepancies in beneficial ownership information at all stages of the customer lifecycle and the UK's implementation of the FATF travel rule. The introduction of the Economic Crime and Corporate Transparency Bill to Parliament means further regulatory reforms are coming too.

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

		with environmentally sustainable investment as defined by the EU taxonomy.
Q2 2023	EU	The European Commission shall present a report to the co-legislators on the impact of an 'ESG benchmark', taking into account the evolving nature of sustainability indicators and the methods used to measure them. The report shall be accompanied, where appropriate by a legislative proposal
Q2 2023	EU	The European Commission (EC) to adopt a Delegated Act (DA) to further extend the suspension of the third-country benchmark regime until end of 2025 under the EU Benchmarks Regulation (BMR).
Q3 2023	Japan	Once the amended Comprehensive Guidelines for the Supervision of Agricultural Cooperative Financial Institutions (Guidelines) becomes effective, the Norinchukin Bank and its group entities will be required to incorporate contractual recognition of temporary stay under the Agricultural and Fishery Cooperatives Saving Insurance Act into existing and new non-Japanese law governed master agreements (the public consultation for the amendment to the Guidelines has launched on May 12, 2023 and the deadline for comments is June 12, and the implementation date is not fixed).
Q3 2023	Hong Kong	Consultation of Hong Kong's reporting rules on adoption of UPI and CDE.
June 2023	UK	Deadline for ending reliance on US dollar LIBOR following the Removal of clearing obligation for swaps referencing LIBOR.
June 1, 2023	US	Three-month calculation period begins under US prudential regulations to determine whether the material swaps exposure, or daily average aggregate notional amount, of swaps, security-based swaps, FX swaps and FX forwards for an entity and its affiliates that trade with a prudentially regulated swap dealer exceeds $8 billion for the application of initial margin requirements as of January 1, 2024
June 13, 2023	EU	The European Commission (EC) shall adopt 4 Delegated Acts (DAs) to specify the technical screening criteria with respect to the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems. The EC is also expected to adopt a DA amending the taxonomy climate change adaptation and mitigation DA alongside a proposal for a framework for environmental, social, and governance ratings and data providers.
June 15, 2023	EU	The European Commission shall adopt a Delegated Acts (DA) to designate exempted FX spot rates from the scope of the EU BMR.
June 15, 2023	EU	The European Commission (EC) shall submit a report to the European Parliament and to the Council on the scope of the BMR, in particular with respect to the use of third country benchmarks. If appropriate, the EC shall accompany the report with a legislative proposal.
June 18, 2023	UK	End of the temporary exemption for pension scheme arrangements from clearing and margining under UK EMIR. This will change subject to HM Treasury passing a statutory instrument to extend the instrument to 18 June 2025

June 18, 2023	EU	End of the temporary exemption for pension scheme arrangements from clearing and margining under EU EMIR.
June 28, 2023	EU	As part of CRR II, the European Banking Authority is to report on the calibration of the Standardised Approach for Counterparty Credit Risk (SA-CCR) which will potentially inform a future review by the European Commission.
June 28, 2023	EU	As part of CRR II, the European Banking Authority is to report on the treatment of repos and reverse repos as well as securities hedging in the context of the Net Stable Funding Ratio (NSFR).
Q3 2023	EU	The European Commission (EC) has published the 3rd Capital Requirements Regulation (CRR III) proposal on October 27, 2021, which will implement the Basel 3 framework in Europe. The CRR III will transpose the market risk standards (FRTB) as a binding capital constraint, the output floor, the revised credit valuation adjustment framework, alongside operational and credit risk framework, amongst others. The proposal will also take into consideration the impact of the COVID-19 crisis on the EU banking sector. Member States reached their General Approach on November 8, 2022, and the European Parliament is expected to adopt its position on January 24, 2023. Trilogues have now started under the Swedish Presidency and it is expected the CRR 3 process will be finalized by the summer depending on the negotiation process. From the EC's original proposal, most of the requirements are set to apply from January 1, 2025. As a result of the trilogue negotiations, the implementation date of January 1, 2025, may still be subject to change.
July 1, 2023	US	CFTC Effective Date for the Clearing Rules to Account for the Transition from LIBOR (See 87 Fed. Reg. 52182 (August 24, 2022)). The portion of the rule effective on this date removes the requirement to clear interest rate swaps referencing US dollar LIBOR and the Singapore Dollar Swap Offer Rate in each of the fixed-to-floating swap, basis swap and FRA classes, as applicable.
July 31, 2023	US	Expiration of a second extension of relief to Shanghai Clearing House permitting it to clear swaps subject to mandatory clearing in the People's Republic of China for the proprietary trades of clearing members that are US persons or affiliates of US persons (CFTC Letter No. 22-07).
Q3/ Q4 2023	EU	Earliest expected start date for the Internal Model Approach (IM) reporting requirements under the CRR II market risk standard.
September 1, 2023	US EU Australia Canada	Under CFTC rules only, initial margin requirements apply to covered swap entities with material swaps exposure (average aggregate daily notional amount exceeding USD 8 billion). Initial margin requirements apply to Phase 6 APRA covered entities with an aggregate notional amount exceeding AUD 12 billion.

	Hong Kong Korea Switzerland Singapore Japan Brazil Saudi Arabia	Canada: Under both OSFI and AMF guidelines, initial margin requirements apply to Phase 6 covered entities with aggregate month-end average notional amount exceeding CAD 12 billion. Hong Kong: Initial margin and risk mitigation requirements apply to HKMA AIs and SFC LCs with an aggregate notional amount exceeding HKD 60 billion. Korea: Initial margin requirements apply to financial institutions with derivatives exceeding more than KRW 10 trillion. Singapore: Initial margin requirements apply to MAS covered entities with an aggregate notional amount exceeding SGD 13 billion. Japan: Initial margin requirements apply to JFSA covered entities with an aggregate notional amount 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 aggregate notional amount exceeding BRL 25 billion.
September 1, 2023	South Africa	Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding ZAR 8 trillion. South Africa; Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding either ZAR 15 trillion or ZAR 8 trillion.
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 aggregate daily notional amount exceeding USD 8 billion). EU: Initial margin requirements apply to counterparties with an aggregate average notional amount exceeding EUR 8 billion. Switzerland: Initial margin requirements apply to counterparties whose aggregate month-end average position exceeds CHF 8 billion. UK: Initial margin requirements apply to counterparties with an aggregate average notional amount exceeding EUR 8 billion.
January 1, 2024	Australia	Basel III: Expected implementation of FRTB framework.
January 1, 2024	EU	Application of the Delegated Acts (DAs) with respect to the four remaining environmental objectives on the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystem.
January 1, 2024	EU	Disclosure of Article 8 Taxonomy reporting KPIs and accompanying information for financial undertakings.
January 1, 2024	Hong Kong	Basel III: Locally incorporated AIs required to report under revised FRTB and CVA frameworks.
January 1, 2024	Hong Kong	Basel III: Expected implementation of revised credit risk, operational risk, output floor, and leverage ratio frameworks
January 2024	Australia	Expected effective date of APRA prudential standard for IRRBB (APS 117).

January 4, 2024	EU	The three-year derogation from margin rules in respect of non-centrally cleared over-the-counter derivatives, which are single-stock equity options or index option where no EMIR Article 13(2) equivalence determination is in place, was due to expire on January 4, 2021.
January 4, 2024	Hong Kong	Expiry of the SFC exemption from margin requirements for non-centrally cleared single stock options, equity basket options and equity index options.
January 4, 2024	UK	Expiry of the derogation from margin rules in respect of non-centrally cleared over-the counter derivatives, which are single-stock equity options or index options.
January 29, 2024	US	Compliance Date for registered entities and swap counterparties to use the Unique Product Identifier (UPI) for swaps in the credit, equity, foreign exchange and interest rate asset classes for P43 and P45 reporting.
February 12, 2024	EU	CCP R&R (Article 96): ESMA shall assess the staffing and resources needs arising from the assumption of its powers and duties in accordance with this Regulation and submit a report to the European Parliament, the Council and the Commission.
March 01, 2024	Australia US EU Australia Canada Hong Kong Korea Switzerland Singapore Japan Brazil Mexico	Three-month calculation period begins to determine whether the average aggregate notional amount of derivatives for an entity and its affiliates exceeds the lowest threshold for application or revocation of initial margin requirements as of the next relevant compliance date of either September 1, 2024 or January 1, 2025 (EU/UK/CHF/US Prudential). In the US, this calculation period only applies under CFTC regulations. In Mexico, the corresponding compliance date is December 31, 2025
March 01, 2024	South Africa	Three-month calculation period begins to determine whether the average aggregate notional amount of derivatives for an entity and its affiliates exceeds ZAR 8 trillion threshold for initial margin requirements as of September 1, 2024 (per amended rule pending finalization)..
March 15, 2024	Mexico	Deadline for entities and investment funds to amend their master agreements for the exchange of margin for uncleared derivatives under the Banco de México's Circular 2/2023

March 31, 2024	Japan	Basel III: Implementation of revised credit risk, CVA, market risk (FRTB) for international active banks and domestic banks using IMM, and the leverage ratio (based on the amendment published on March 28, 2023, the implementation date for ultimate parent companies of a broker-dealer (limited to those designated by JFSA) has been changed to March 31, 2025).
April 01, 2024	Japan	Go-live of revised JFSA reporting rules based on the CPMI-IOSCO Technical Guidance. JFSA finalized the Guidelines of the revised reporting rules on December 9, 2022.
April 01, 2024	India	The RBI published draft guidelines on minimum capital requirements for market risk as part of convergence with Basel III standards. Applicable to all commercial banks excluding local area banks, payment banks, regional rural banks, and small finance banks. Not applicable to cooperative banks.
April 29, 2024	EU	Go-live of EMIR Refit reporting rules
June 28, 2024	EU	As part of the review clause inserted in CRR II, the European Commission taking into account the reports by the European Banking Authority is expected to review the treatment of repos and reverse repos as well as securities hedging transactions through a legislative proposal.
June 28, 2024	EU	As part of CRR II, the European Banking Authority is to monitor and report to the European Commission on Required Stable Funding (RSF) requirements for derivatives (including margin treatment and the 5% gross-derivative liabilities add-on).
June 30, 2024	EU	The EC to review the application of the Article 8 Taxonomy Regulation including the need for further amendments with regards to the inclusion of derivatives in the numerator of KPIs for financial undertakings.
September 1, 2024	Australia US EU Australia Canada Hong Kong Korea Switzerland Singapore	Under CFTC rules only, initial margin requirements apply to covered swap entities with material swaps exposure (average aggregate daily notional amount exceeding USD 8 billion). Australia: Initial margin requirements apply to Phase 6 APRA covered entities with an aggregate notional amount exceeding AUD 12 billion. Canada: Under both OSFI and AMF guidelines, initial margin requirements apply to Phase 6 covered entities with aggregate month-end average notional amount exceeding CAD 12 billion. Hong Kong: Initial margin and risk mitigation requirements apply to HKMA AIs and SFC LCs with an aggregate notional amount exceeding HKD 60 billion. Korea: Initial margin requirements apply to financial institutions with derivatives exceeding more than KRW 10 trillion.

	Japan Brazil South Africa	Singapore: Initial margin requirements apply to MAS covered entities with an aggregate notional amount exceeding SGD 13 billion. Japan: Initial margin requirements apply to JFSA covered entities with an aggregate notional amount 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 aggregate notional amount exceeding BRL 25 billion. SA: Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding ZAR 8 trillion (per amended rule pending finalization).
September 1, 2024	South Africa	Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding ZAR 8 trillion (per amended rule pending finalization).
Q4 2024	Singapore	Expected go-live of the updated MAS reporting regime.
October 1, 2024	US	Expiration of temporary CFTC relief regarding capital and financial reporting for certain non-US nonbank swap dealers (See CFTC Staff Letter No. 22-10 and CFTC Staff Letter No. 21-20) *relief would also expire upon the Commission's issuance of comparability determinations for the jurisdictions in question.
October 21, 2024	Australia	Expected implementation of ASIC Derivative Transaction Rules (Reporting) 2024.
December 31, 2024	UK	The FCA direction under the temporary transitional powers allowing UK firms to execute certain trades with EU clients on EU venues (even though there is no UK equivalence decision in respect of those venues) expires at the end of 2024
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	Under US Prudential Regulations only, initial margin requirements apply to covered swap entities with material swaps exposure (average aggregate daily notional amount exceeding USD 8 billion). Initial margin requirements apply to counterparties with an aggregate average notional amount exceeding EUR 8 billion.

	Switzerland UK	Initial margin requirements apply to counterparties whose aggregate month-end average position exceeds CHF 8 billion. Initial margin requirements apply to counterparties with an aggregate average notional amount exceeding £ 8 billion.
March 1, 2025	Australia US EU Canada Hong Kong Korea Switzerland Singapore Japan Brazil South Africa UK	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.
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 30, 2025	EU	The temporary recognition of UK CCPs (LME, ICE and LCH) under the EMIR 2.2 framework expires. Unless further addressed, following this

		date, EU firms could not have access to the UK CCPs and would need to relocate their clearing activities to EU CCPs. Under EMIR 2.2, ESMA has also performed its tiering assessment, with LME becoming a Tier 1 CCP whereas ICE and LCH are considered Tier 2 CCPs.
June 30, 2025	EU	The temporary exemption from clearing and margin requirements for cross-border intragroup transactions under EMIR expires.
September 1, 2025	South Africa	Initial margin requirements apply to a provider with aggregate month-end average notional amount exceeding ZAR 100 billion (per amended rule pending finalization).
November 15, 2025	EU	The CRR 2 IMA reporting requirements for market risk will be applicable from November 15, 2025, in the EU. As things stand currently in the CRR 3 political process, these IMA reporting requirements may become obsolete as we are still looking at a January 1, 2025, start date for the capitalization of market risk in the EU. However, IMA Reporting could still become live if the European Commission decides to enact the two-year delay mentioned under the CRR3 Article 461a FRTB delegated act. As this may still evolve in the CRR 3 negotiations, ISDA will keep monitoring developments in this area.
December 1, 2025	US	Expiry of extension of relief concerning swap reporting requirements of Part 45 and 46 of the CFTC's regulations, applicable to certain non-US swap dealers (SD) and major swap participants (MSP) established in Australia, Canada, the European Union, Japan, Switzerland and the United Kingdom, that are not part of an affiliated group in which the ultimate parent entity is a US SD, US MSP, US bank, US financial holding company or US bank holding company. See CFTC Staff Letters 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.
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.

August 12, 2027	EU	CCP R&R (Article 96): The Commission shall review this Regulation and its implementation and shall assess the effectiveness of the governance arrangements for the recovery and resolution of CCPs in the Union and submit a report thereon to the European Parliament and to the Council, accompanied where appropriate by proposals for revision of this Regulation.

Regulatory Calendar for Wholesale financial markets

Lead	Initiative	Expected key milestones	Indicative impact on firms	Dates
FCA	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 regulatory provisions in relation to trade data.	Feedback Statement published 11 January 2022 Trade data review launched June 2022 Publication of findings and next steps - planned for later in Q1 2023.	L	Timing Updated Jan/Mar 2023
BoE/ FCA/ HMT/ PRA	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	H	Jan/Mar 2023 April / June 2023

		counterparts to monitor any new use of US dollar LIBOR and remove dependency on it in legacy contracts. End-March 2024: Synthetic 3-month sterling LIBOR is intended to cease. End-September 2024: The FCA has consulted on a proposal to require publication of a synthetic US dollar LIBOR for the 1-, 3- and 6-month settings until September 2024. The consultation sought views on this and also on the FCA's proposed synthetic methodology, and which contracts could use these synthetic settings. However, market participants should not rely on the availability of synthetic US dollar LIBOR and should note that any potential synthetic settings would only be a temporary bridge to appropriate alternative risk-free rates. The FCA expects to announce its final decision in late Q1 or early Q2 2023.		
BoE/ FCA/ PRA	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

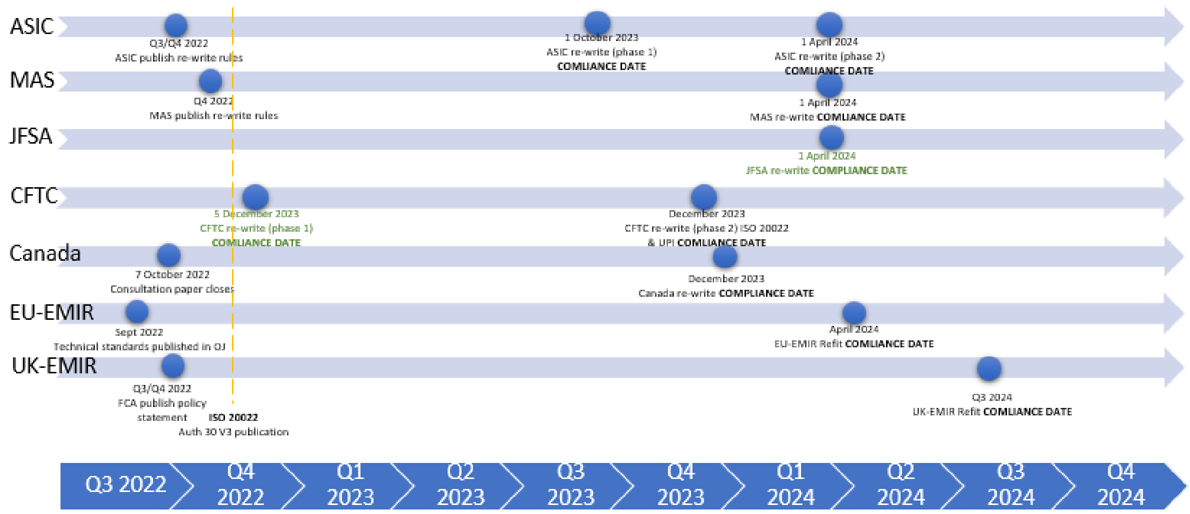
HMT	[Wholesale Markets Review](#); The Government introduced the Financial Services and Markets Bill on 20 July 2022. Subject to Parliamentary approval, the Bill will deliver the outcomes of the Wholesale Markets Review. The FCA consulted on improving equity markets (CP 22/12) in July 2022 and on the 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 paramount, the Government will use the FRF powers to deliver them.	Treasury consultation response published in March 2022. In July 2022 the Government introduced the Financial Services and Markets Bill which takes forward the most urgently needed WMR reforms. FCA Consultation Paper 22/12 on Improving Equity Secondary Markets published in July 2022. Publication of the Policy Statement in Q1 2023. FCA consultation on guidance on the trading venue perimeter published in September 2022. Publication of the Policy Statement in Q2 2023. FCA consultation on commodity derivatives and the consolidated tape in Q2/Q3 2023. FCA consultation on transparency for bonds and derivatives in Q4 2023.	L	Timing Updated Jul - Sep 2023 Oct – Dec 2023
HMT (with input from	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	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'	H	Timing Updated April / June 2023

	stablecoins. Further detail on the regime will be communicated in due course.	under 'Payments and cryptoassets').		
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 to be announced, but the implementation of the final change announced in 2022 will come into effect in April 2023	Policy Statement on the changes L to USD interest rate derivatives published in August 2022. SOFR referencing IRS added 31 October 2022; USD LIBOR referencing IRS removed 24 April 2023	L	April / June 2023
FCA	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.	L	Timing Updated April / June 2023

		Potential Consultation Paper in Q2 2023, including feedback to DP22/2.		
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	L	Timing Updated Jul - Sep 2023 Oct – Dec 2023

		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.		

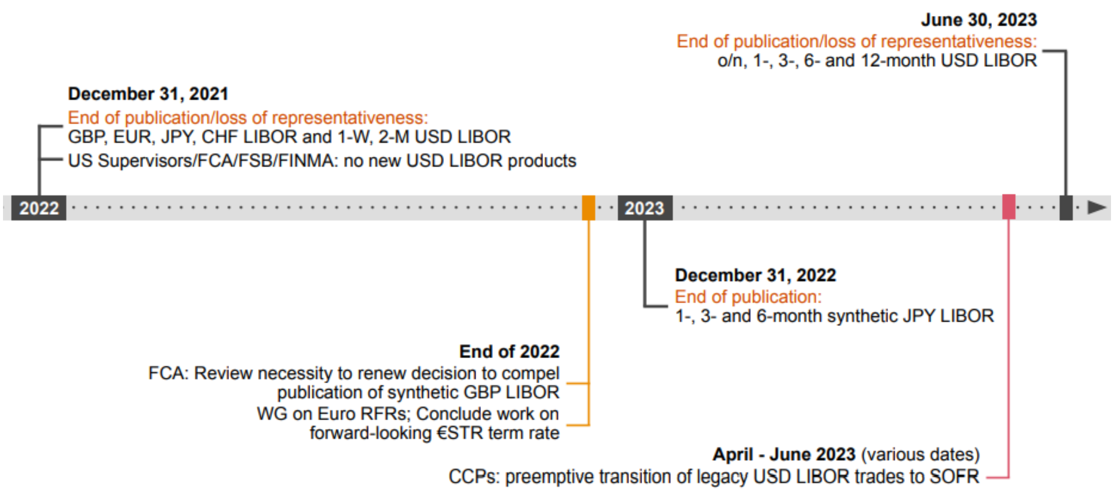
Regulatory Reporting Re-writes: reporting start dates



Benchmarks, RFRs & LiBOR Transition [*nearly done!*]

Table 1: timeline of events relating to derivative products referencing USD benchmarks	
01 May 2022	• CFTC introduces US swap clearing requirement on OIS referencing SOFR
31 October 2022	• Bank introduces DCO on OIS referencing SOFR
24 April 2023	• CCPs to commence removal of contracts referencing USD LIBOR as eligible for clearing • Bank removes contracts referencing USD LIBOR from DCO • Proposal: FCA removes contracts referencing USD LIBOR from DTO
01 July 2023	• Most widely used USD LIBOR benchmarks to cease publishing • CFTC removes contracts referencing USD LIBOR from US swap clearing requirement

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



[FCA final message one month ahead of the cessation of the last USD Libor panel; 01Jun2023.pdf]()

FCA publishes Feedback Statement on decisions on US dollar LIBOR; On 31 May 2023, the FCA published [Feedback Statement FS23/2: Decisions on US dollar LIBOR – feedback to CP22/21]() (FS23/2).

- Previous consultation; In November 2022, the FCA consulted on proposals to use its powers under the Benchmarks Regulation (BMR) to:
- Require LIBOR's administrator, ICE Benchmark Administration Limited (IBA) to publish the 1-, 3- and 6- month US dollar LIBOR settings using a synthetic methodology for a temporary period until end-September 2024.

- Use the relevant CME Term SOFR Reference Rate plus the respective ISDA fixed spread adjustment as the methodology for a synthetic US dollar LIBOR.
- Permit all legacy contracts other than cleared derivatives to use a synthetic US dollar LIBOR.
- After the consultation closed on 6 January 2023, the FCA considered the responses and decided that no change was required to its proposals. In April 2023, it announced its final decision which was in line with the proposals consulted on.
- Next steps; FS23/2 summarises the responses received to the consultation and the FCA's feedback to those responses, and sets out next steps.
- The FCA reminds market participants to be prepared for the following:
- The overnight and 12 month US-dollar LIBOR settings will cease permanently after final publication on 30 June 2023.
- The 1-, 3-, and 6- month US dollar LIBOR settings will be published in synthetic form until end-September 2024, for use in legacy contracts only (other than cleared derivatives).
- All new use of these remaining US dollar LIBOR settings will be prohibited from 1 July 2023. This will override the exemptions the FCA permitted to the restriction on new use from 1 January 2022.
- On 1 July 2023, the FCA will publish formal legal notices which will complete the implementation of the decisions announced on 3 April 2023.
- In the meantime, market participants should take all necessary steps to ensure they understand how their contract terms interact with LIBOR's winddown. They should continue to actively transition contracts that reference US dollar LIBOR, and not rely on the synthetic settings. The 3-month synthetic LIBOR setting is expected to cease at the end of March 2024, so market participants using this LIBOR setting must take necessary action to prepare for this.

The FCA has issued a final message to market participants one month ahead of the cessation of the last Libor panel, the US dollar benchmark. *In November 2022, the FCA consulted on its proposals for a synthetic US dollar Libor and in April confirmed it would require IBA, Libor's administrator, to continue to publish the one-, three- and six-month US dollar Libor settings in synthetic form until end-September 2024.*

- That said, the regulator reiterates that synthetic Libor settings are "not representative" and are only a temporary solution to allow more time to complete transition and ensure the orderly wind-down of Libor. "Firms must continue to actively transition contracts that reference Libor to appropriate, robust reference rates, and we continue to expect firms to deliver demonstrable progress," the FCA states.
- Ahead of the 30 June 2023 deadline, it says market participants must be prepared for the cessation of the overnight and 12 month-US dollar Libor settings after final publication on 30 June 2023. It adds the synthetic settings are for use in legacy contracts only (other than in cleared derivatives).
- "All new use of these remaining US dollar Libor settings will be prohibited," the FCA states. "This overrides the exemptions we permitted to the restriction on new use imposed from 1 January 2022, and as such all new use will be prohibited under the UK Benchmarks Regulation from 1 July 2023.

US dollar LIBOR panel – 1 month to go; *FCA issues final messages before the important end-June 2023 deadline.*

- It is now 1 month until the US dollar LIBOR panel ends on 30 June 2023. This is the last remaining LIBOR panel and its end marks another critical milestone in the transition away from LIBOR.
- In November 2022, we consulted on our proposals for a synthetic US dollar LIBOR. In April we confirmed our intention to require IBA, LIBOR's administrator, to continue to publish the 1-, 3- and 6-month US dollar LIBOR settings in synthetic form until end-September 2024.

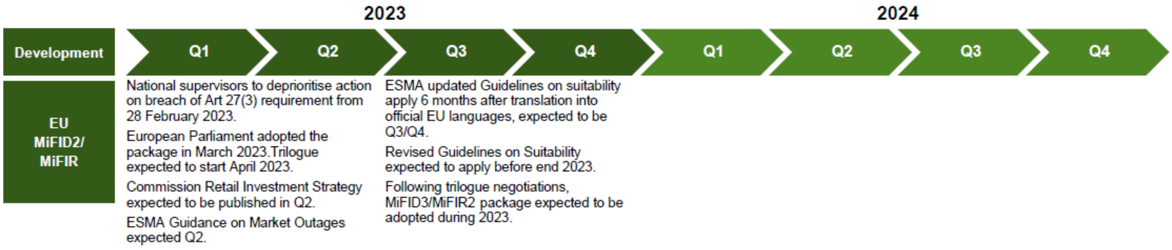
- Ahead of the 30 June 2023 deadline, market participants must be prepared for the following:
- The overnight and 12 month-US dollar LIBOR settings will cease after final publication on 30 June 2023.
- The 1-, 3-, and 6-month US dollar LIBOR settings will be published in synthetic form from 3 July 2023 until end-September 2024, for use in legacy contracts only (other than in cleared derivatives).

- All new use of these remaining US dollar LIBOR settings will be prohibited. This overrides the exemptions we permitted to the restriction on new use imposed from 1 January 2022, and as such all new use will be prohibited under the UK Benchmarks Regulation from 1 July 2023.
- As we have said in the past, synthetic LIBOR settings are not representative, and are only a temporary solution to allow more time to complete transition and ensure the orderly wind-down of LIBOR. Firms must continue to actively transition contracts that reference LIBOR to appropriate, robust reference rates, and we continue to expect firms to deliver demonstrable progress.
    - Today we have also published a detailed Feedback Statement summarising the feedback received to our November consultation and setting out our response. Read the Feedback statement.
    - We have also published 2 technical notices under the UK Benchmarks Regulation (Article 23B and Annex 4 Notices) as part of the implementation of our decisions. Further technical publications shortly after midnight on 1 July 2023 will complete the implementation.

ESMA final report on the review of the RTS on the information to be provided in an application for authorisation and registration under the Benchmarks Regulation; *On 30 May 2023, the Authority published a final report on the review of the regulatory technical standards on the information to be provided in an application for authorisation and registration under the Benchmarks Regulation.*

- Article 34(8) of the Benchmarks Regulation states that ESMA shall develop RTS to specify further the information to be provided in the application for authorisation and in the application for registration, taking into account that authorisation and registration are distinct processes where authorisation requires a more extensive assessment of the administrator's application, the principle of proportionality, the nature of the supervised entities applying for registration and the costs to the applicants and competent authorities. On 30 March 2017, ESMA published the RTS on the application for authorisation and registration. The corresponding Delegated Regulation was published in the Official Journal in 2018.
- The final report sets forth the background information on why ESMA sought to review the RTS, the feedback received to its earlier consultation last November and its final proposals for amending the technical standards. Based on the feedback received to the consultation paper ESMA has not amended its proposals and they remain identical to that consulted on. The final report also includes in the annexes the draft amendments to the technical standards together with a marked-up consolidated version and a cost and benefit analysis.
- The amended draft RTS will be submitted to the European Commission. The Commission has three months to decide whether to endorse the regulatory technical standards.

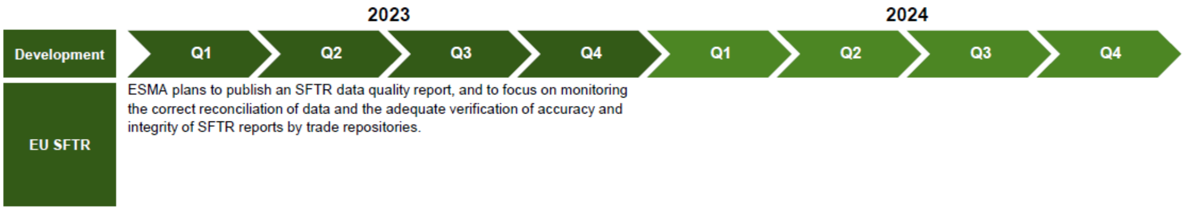
Capital Markets and Market Structure



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

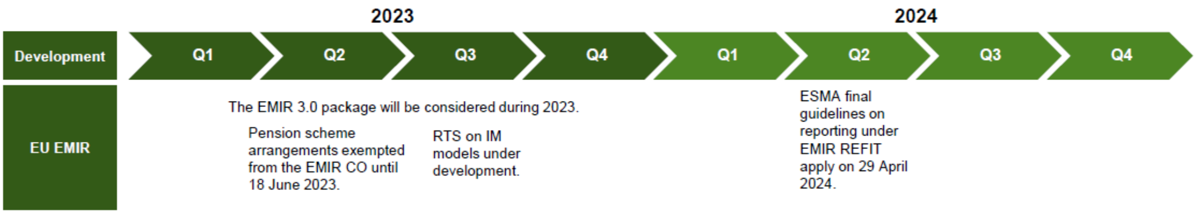


- During 2023, ESMA plans to publish an SFTR data quality report, and to focus on monitoring the correct reconciliation of data and the adequate verification of accuracy and integrity of SFTR reports by trade repositories.
- ESMA Guidelines for the transfer of data between trade repositories under EMIR 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.

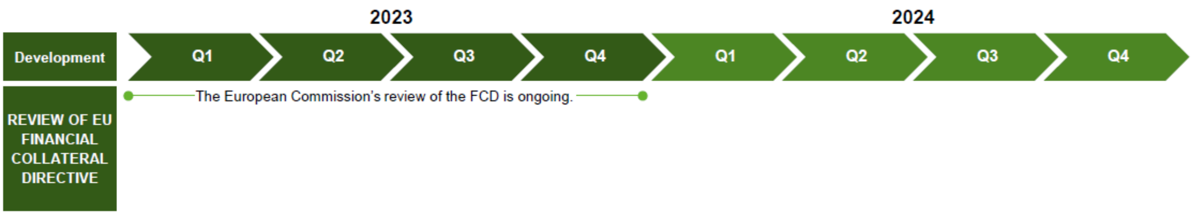
- Recently adopted Level 2 measures have deferred the application of some of EMIR's requirements.
- Commission Delegated Regulation (EU) 2022/1671 exempts pension scheme arrangements from the EMIR Clearing Obligation (CO) until 18 June 2023.
- •On 1 February 2023, in view of IBOR transition ESMA published 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

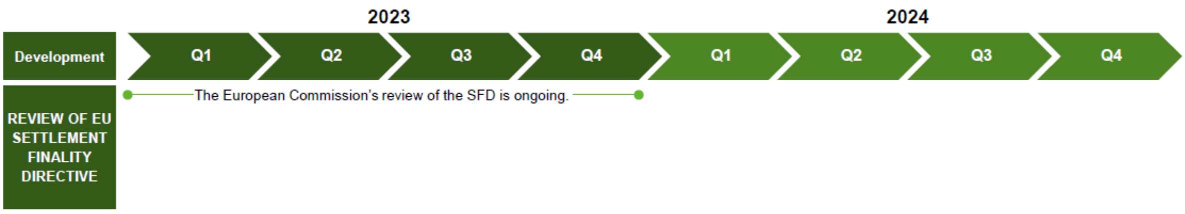
- The next major phase of implementation, the introduction of a mandatory buy-in regime, was intended to come into effect on 1 February 2022. This, however, has been postponed. In the meantime, in March 2022 the Commission published a legislative REFIT proposal with proposed amendments to the CSDR.
-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

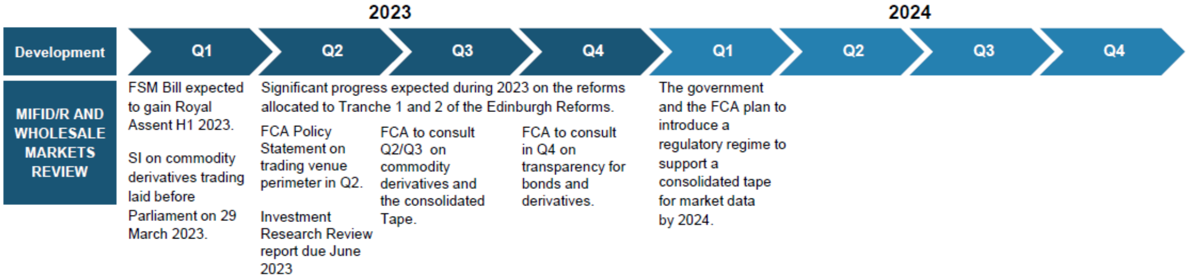
SETTLEMENT FINALITY DIRECTIVE



- 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

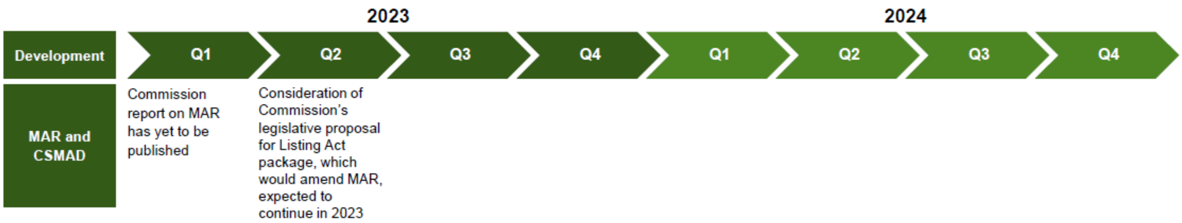
MIFID/R AND WHOLESALE MARKETS REVIEW



- Delivering on a WMR recommendation, the government and the FCA plan to introduce a regulatory regime to support a consolidated tape for market data by 2024.
- As envisaged by the WMR, on 29 March 2023, the government laid before Parliament the draft Financial Services and Markets Act 2000 (Commodity Derivatives and Emission Allowances) Order 2023, to remove burdens from firms trading commodities derivatives as an ancillary activity. The Order will come into force on 1 January 2025.
- The independent Investment Research Review was launched on 9 March 2023 and is due to report by 13 June 2023.
- Timing not yet announced
  - the government will work with the regulators and market participants to trial a new class of wholesale market venue which would operate on an intermittent trading basis
  - the government has committed to work with the FCA to examine the boundary between regulated financial advice and financial guidance
  - regulation of the wholesale markets is also likely to be impacted by the outcomes of the Overseas Framework Review which was launched by HM Treasury in December 2020. The government is considering the impact of potential reforms before bringing forward concrete proposals on potential changes to the UK's regime for overseas firms and activities.

AML & MAR

EU MAR AND CSMAD

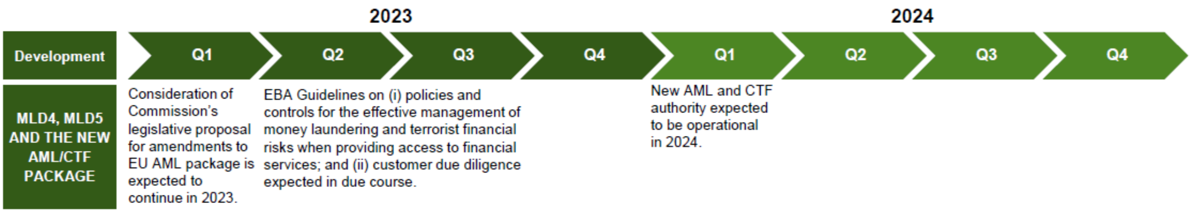


- MAR required the Commission to submit a report on MAR and, if the Commission considered this to be appropriate, a proposal for amendments to MAR, by 3 July 2019.

In September 2020, ESMA published a report on MAR. The Commission's report has yet to be published.

- •In December 2022, the Commission published a package of proposals to simplify EU listing rules, referred to as the Listing Act package. This will, amongst other things, amend MAR to: narrow the scope of the obligation to disclose inside information and enhance legal clarity as to what information needs to be disclosed and when; clarify the conditions under which issuers may delay disclosure of inside information; clarify the market sounding procedure; simplify the insider lists regime; and simplify the reporting mechanism for buy-back and stabilisation programmes. The proposals will now continue through the EU legislative process.

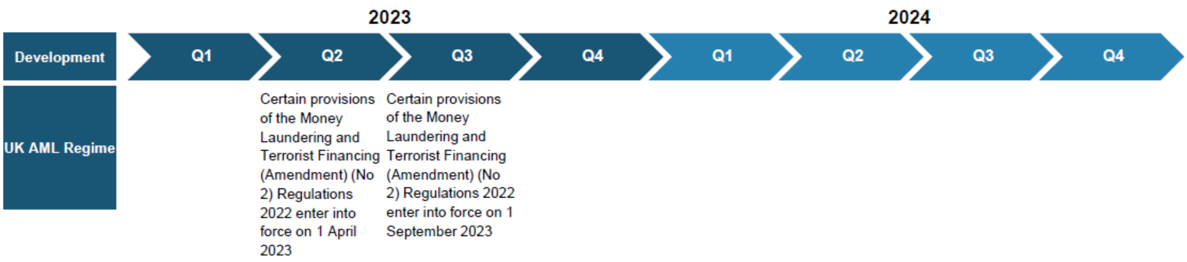
EU MLD4, MLD5 AND THE NEW AML AND CTF PACKAGE



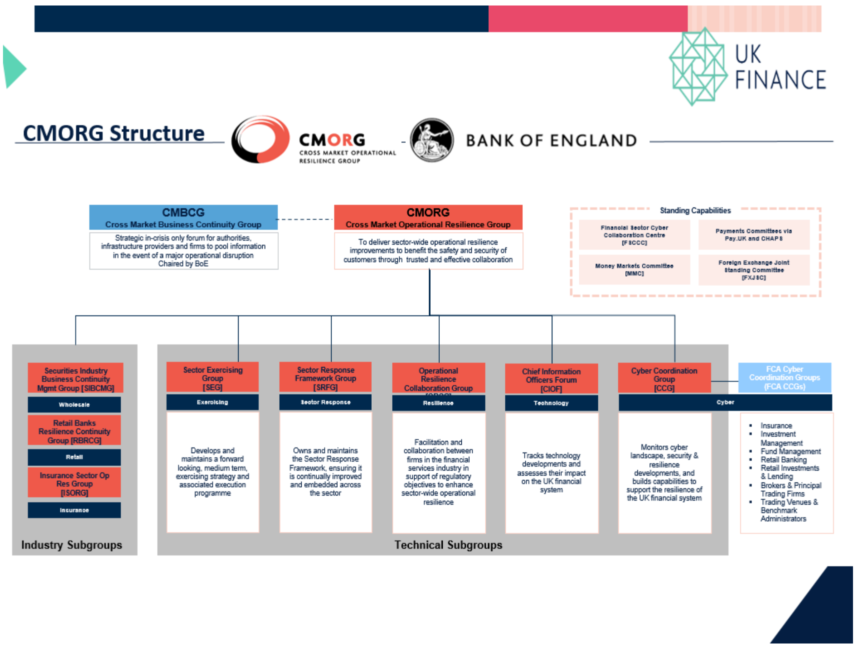
- MLD4 contains the EU's anti-money laundering framework. MLD5 made targeted amendments to MLD4 to increase transparency around owners of companies and trusts through the establishment of public beneficial ownership registers, prevent risks associated with the use of virtual currencies for terrorist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

- •It was originally expected that the new AML and CTF authority, created under the new AML package, would be operational in early 2024 but this timeline may be extended.

UK AML REGIME



- On 21 July 2022, the UK's Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 were passed. These set out specific amendments to the UK's AML regime, which are being phased in, culminating on 1 September 2023.
- Alongside the consideration of these specific amendments, the UK has been conducting a wider review of its AML regime. A report on this review was published on 24 June 2022. This indicated that further reform to the UK's AML regime is needed and, therefore, further consultations and amendments to the regime are expected.
- The Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 were made on 21 July 2022. They make various targeted amendments to the UK's Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, including in relation to the reporting of discrepancies and requirements relating to crytpoasset businesses and cryptoasset transfers. Most of the requirements entered into force on 11 August 2022 and 1 September 2022. Remaining provisions will enter into force on 1 April 2023 and 1 September 2023.
- •The UK's list of high risk third countries is updated periodically to reflect the Financial Action Task Force's standards. Future updates may be made following the next Financial Action Task Force plenaries, in March and July 2023.



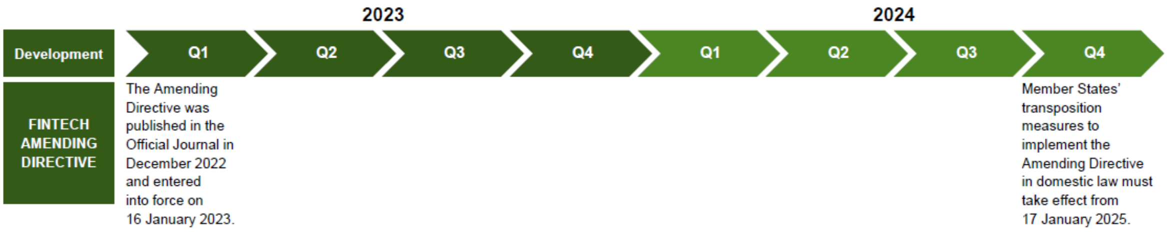
Digital finance, SupTech, RegTech & FinTech

EU MICA REGULATION

	2023				2024			
Development	**Q1**	**Q2**	**Q3**	**Q4**	**Q1**	**Q2**	**Q3**	**Q4**
EU MICA REGULATION	Council of the European Union is expected to adopt its general approach to MiCA.	European Parliament to consider MiCA in its plenary session 17-20 April 2023.		MiCA expected to enter into force during 2023.				MiCA expected to begin applying in late 2024.

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

FINTECH AMENDING DIRECTIVE



- The Amending Directive (EU) 2022/2556 of 14 December 2022 supports the DORA Regulation (see slide 35) as part of the EU's Digital Finance Strategy.
- The Amending Directive makes amendments to various sectoral Directives to ensure that their requirements on operational risk and risk management are cross-referenced to the DORA Regulation. The objective is to ensure legal certainty and clarity for financial services entities as to the relevant requirements for the operational resilience of their digital operations against information and communication technology (ICT) risk.
- Member States must amend their national law implementing the following Directives to transpose the provisions of the Amending Directive: UCITS Directive; Solvency II Directive; AIFMD; Capital Requirements Directive; Bank Recovery & Resolution Directive; MiFID II; PSD2; and IORP Directive.
- Provisions in the original proposal for the Amending Directive that proposed amendments to MiFID II to allow derogations from MiFID II requirements for DLT market infrastructures that have permission under the DLT Pilot Regulation (a related initiative under the EU's Digital Finance Strategy) were not carried through into the final version of the Amending Directive.
- •Member States' transposition measures to implement the Amending Directive in domestic law must take effect from 17 January 2025.

EU AI ACT

- The Commission published a proposal for a Regulation on artificial intelligence (AI) in April 2021. The proposed 'AI Act' sets out rules relating to the placing on the market, putting into service and use of AI systems in the EU, as well as transparency requirements and rules on market monitoring and surveillance.
    - The rules will apply proportionately on the basis of four different risk levels: unacceptable risk, high risk, limited risk, and minimal risk.
    - AI uses that are deemed to present unacceptable risk will be prohibited. High risk systems and their operators will be subject to the detailed requirements in Chapter 2 of Title III of the proposed Regulation. Limited risk systems will be

subject to transparency requirements. Minimal risk systems will be dealt with by development of and adherence to voluntary codes of conduct.

- It is intended that the AI Act will not apply to private, non-professional use of AI. Otherwise, it will apply to all sectors including financial services. The measures in the proposed Regulation will extend to providers and users of AI systems located in the EU as well as those based outside the EU to the extent the output produced by the system is used in the EU.
- Financial institutions looking to launch or use AI will need to analyse the extent to which they qualify under the AI Act as providers or users of AI systems and comply with the associated requirements according to the risk classification of the system.
- The Council agreed its general approach on the proposal on 6 December 2022 and is ready to begin negotiations with the European Parliament.
- The proposal is being considered by two committees of the European Parliament. A draft Report was published in April 2022 and has gone through a number of amendments in Committee. This legislative proposal has attracted feedback from a wide variety of stakeholders. A vote on the Report is yet to be scheduled.

The end of fin-fluencin; Regulators are cracking down on crypto promotions *Around the world,*

Sanctions

EU Updated Consolidated Sanctions List:

The trust services sanctions came into effect on 16 December 2022. *With feedback from stakeholders this new blog entry aims to provide further clarity on themes arising from questions OFSI has received.*

- join HM Treasury's Office of Financial Sanctions Implementation for an introductory webinar following an intense year of change in financial sanctions. Representatives from across OFSI will explain its role and powers in its mission to ensure that financial sanctions are properly understood, implemented and enforced in the United Kingdom.
- This one-hour webinar will take place on Tuesday 28th February at 10:00AM GMT on Microsoft Teams Live.

UK - On 05 June 2023 General Licence INT/2022/1552576 was amended to allow:

- Designated Person (DP) Representatives to pay funds to the London Court of International Arbitration (LCIA) to cover arbitration costs
- DPs or DP Representatives to transfer funds to their legal representatives for onward payment to the LCIA to cover arbitration costs
- Non-DP arbitral parties to pay substitute deposit(s) to the LCIA

UK - On 06 June 2023 General Licence INT/2022/2349952 was amended to allow the Grain and Feed Trade Association (GAFTA) to receive Funds and Economic Resources from any person in connection with the direct and indirect provision of services related to contracts for the trade in agricultural commodities, by or on behalf of GAFTA.

The following entries have been removed from the ISIL (Da'esh) and Al-Qaida financial sanctions regime and are no longer subject to an asset freeze:

- Abd Al-Aziz Aday Zimin Al-Fadhil (Group ID: 13277)
- Hamad Awad Dahi Sarhan Al-Shammari (Group ID: 13279)
- This follows an update to the UK Sanctions List, enacting the UN's decision made on 5 June 2023 to remove 2 entries.
- OFSI's consolidated list of asset freeze targets has been updated to reflect these
- Amended: Merai Abdefattah Khalil Zoghbi (Group ID: 8920)

1 entry has been added to the Somalia financial sanctions regime and 2 entries have been amended under the Russia financial sanctions regime. The following entry has been added to the consolidated list and is now subject to an asset freeze:

- Abdullahi Osman Mohamed Caddow (Group ID: 15987)
- This follows an update to the UK Sanctions List, enacting the UN's decision made on 26 May 2023 to list 1 entry. The Somalia notice can be found here.
- Furthermore, the following entries have been amended under the Russia financial sanctions regime and remain subject to an asset freeze:

- Vladimir Nikolaevich Lepin (Group ID: 15969)
- Dmitry Vladimirovich Konov (Group ID: 14735)

Russia sanctions become a high return investment As older penalties lose their bite; Western powers are preparing a new round of measures to tighten the screws on Vladimir Putin. That will hurt the Kremlin and be a marginal sacrifice for Europe, which no longer depends on Moscow for its energy – a good cost-benefit balance.

- The European Union and the G7 are preparing new sanctions to isolate Russia further. This will be the 11th round of measures since Russian President Vladimir Putin decided to invade Ukraine in February 2022. As months go by, the decision becomes easier to take. The sanctions will keep hurting the Russian economy while their impact on Europe has become marginal. Call it a good return on a small investment.

- Sanctions have hit the Russian economy hard. The country's exports of goods fell to $102 billion in the first quarter of the year, down 28% from the previous quarter, according to the Russian central bank's numbers. According to the central bank's latest poll of economists, GDP will stagnate this year after shrinking by more than 2% in 2022. And the government is at pains to finance welfare payments and the war effort.
- Further sanctions may include new restrictions on energy imports. After stopping imports of Russian pipelined gas, Europe could ban imports of liquefied natural gas (LNG). Some EU governments want to lower the $60-a-barrel price cap on the country's Urals crude. That cap already enables China and India, the big new buyers of Russian oil, to demand knock-down prices from Moscow. A lower level would push those prices down further.
- The G7 and EU are also trying to clamp down on sanctions-busting. Russia and its allies have become expert, over time, at exploiting loopholes and leakages. The European Bank for Reconstruction and Development has, for example, noted the strange boom of exports from the UK, EU and U.S. to Armenia, Kazakhstan and Kyrgyzstan, countries suspected of serving as hubs for the re-export of sanctioned products to Russia.
- As Iran has shown – and Russia as well, after first being sanctioned in 2014 for its annexation of Crimea – countries over time find ways to adapt to the new situation: Russia, for example, has now become self-sufficient for its food needs.
- Further tightening is necessary to keep the pressure on Putin by hurting the Russian economy. That may raise political issues. Today the question is whether it would be wiser to extend sanctions to the countries that help Russia evade them. The touchiest case is China. The U.S. wants to start including some of its companies on the sanctions list, but Europe is resisting.
- On economic grounds, however, tougher sanctions look like a no-brainer. Russia's share of EU exports fell from 4% to 2% last year and keeps declining. And save for LNG, energy imports in oil and gas have all but dwindled to a halt. In economic terms, Russia no longer matters for Europe. Tightening the screw would be based on a sound cost-benefit analysis.

Ukrainian President Volodymyr Zelenskiy will take part in person at the Group of Seven (G7) nations meeting in Hiroshima, Japan, which will be held from May 19-21, the head of Ukraine's national defence council said on May 19. Leaders of the G7 plan to tighten sanctions on Russia at their summit, with measures aimed at energy and exports aiding Moscow's war effort, officials told Reuters. The new measures would target sanctions evasion involving third countries and seek to undermine Russia's future energy production and curb trade that supports Russia's military, the people said.

Conduct / Enforcement / Reporting

FCA speech – How to change in response to changing threats; *On 17 May 2023, the FCA published a speech given by Sarah Pritchard (FCA Executive Director of Markets, and Executive*

Director of International) entitled How to change in response to changing threats. Among other things the speech asks important questions regarding financial crime controls:

- If you work on the first line of defence, how often do you review the threats and risks to your customers and the controls you have in place to mitigate against them?

- Do you ask yourself how your company identifies potential threats to your customers?

- Is there feedback between your customer call centres where they may be reporting potential scams or fraud?

- Are you updating and revisiting your controls in light of these changes in threat? Are you raising customers' awareness to the risks and how they can spot scams? How do they tell a genuine email from your firm versus a phishing email?
- Ms Pritchard states that these are important questions to ask – because in doing so, they will ensure that the firm is effective at adapting to changing threats of financial crime. And this is important, because at the heart of this is 'confidence.'
- The speech also touches on sanctions systems. Ms Pritchard explains that the FCA has been using a new synthetic data tool that allows it to directly test firms' systems for screening names that are on the UK's Office of Financial Sanctions Implementation (OFSI) consolidated sanctions list. Through its sanctions screening tool work, the FCA has found a few gaps in firms' sanctions testing. For example, governance and oversight of sanctions systems and controls was not clear or effective in some firms. The FCA also found that some firms were over-reliant on their third-party providers, and are not properly making sure that their systems are tailored to meet business requirements. In some cases, systems were not able to generate alerts against known names on the sanction's list issued by OFSI.
- The FCA's data tools have been rolled out to many firms over the last year and the regulator will increase its use this year. The FCA has a similar tool to test payments systems in the late stages of development and hopes to roll that widely out shortly.

FCA publishes speech on evolving to meet the challenge in changing global markets; *On 16 May 2023, the FCA published a speech given by its Executive Director of Markets and of International, Sarah Pritchard, at the Capital Markets insights launch conference.*

- The speech covers the need for the UK financial services market and the FCA itself to continue to evolve to keep up with changing global markets, looking in particular at the proposed reforms to the prospectus regime as well as its recent work to address the Wholesale Markets Review commitments and the wind-down of LIBOR.

- Points of interest in Ms Pritchard's speech include:
- The UK 'must not be shy' about highlighting its strengths as a full service, global wholesale market with a deep and broad base of expertise, and it must continue to evolve to ensure this remains the case.
- Following its recent proposals to reform listing requirements, the FCA plans to consider 'shortly' what, if any, reforms it should make to the prospectus rules.

- The FCA will be thinking about how forward-looking information should be covered in prospectuses, how to approach setting requirements for issuers seeking to admit securities to junior markets, and what rules it should set for firms that choose to operate a public offer platform to allow companies to raise capital from investors without being admitted to a public market.
- The FCA plans to play its part to drive productivity by improving its own operational efficiency, making proportionate regulation, and increasing trust, effective competition and innovation in stable and international markets.
- As it sets the plans for future regulatory reform, the FCA intends to innovate in the way it engages with industry and other stakeholder groups, so that it can work to develop rules that drive the right outcomes. In addition to publishing consultation papers and inviting written input, the FCA will also run thematic blueprints and workshops, sprints and other live events to allow it to collaborate on future reform and take each issue theme by theme, focusing on outcomes and options.
- Our new secondary international competitiveness and growth objective will come into force later this year once the Financial Services and Markets Bill receives royal assent, and we will engage with the input into the Treasury's call for proposals for metrics that will help us and others demonstrate how we are advancing the objective.
- We know that ultimately this objective will only be achieved by working in close partnership with others.
- We will play our part to drive productivity by improving our own operational efficiency, making proportionate regulation, and increasing trust, effective competition and innovation in stable and international markets.
- One example of improved operational efficiency that can be demonstrated by metrics is the reduction in our pending caseload in Authorisations. From their peak in December 2021 of 12,500, this has been cut by 60% to 5,000 amid a background of increased scrutiny and even more applications. And we are investing in making the process smarter to make it more efficient in future.
- We have included metrics in our three-year strategy and are committed to regularly report against those targets.

FCA Chair, Ashley Alder speech: The drive for data in non-bank financial intermediation; *On 16 May 2023, the FCA published a speech given by its Chair, Ashley Alder, at the Managed Funds Associations' Global Summit in Paris, on the drive for data in non-bank financial intermediation (***NBFI***). In the speech, Mr Alder explores the global debate on NBFI (which used to be referred to as 'shadow banking').*

- Mr Alder notes that NBFI is shorthand for much of the diverse and often complex investment and funding markets which are not covered by the prudential regulatory frameworks applicable to banks. As public and private debt ballooned amid years of low interest rates and quantitative easing, NBFI grew to represent about 50% of global financial assets.
- He warns that, while regulators and market participants have access to a lot of data to assess risks in the open-ended fund, Money Market Funds and central counterparty segments of NBFI, they do not have enough data to measure key risks in private investments and funding markets.

- To address this, Mr Alder suggests that the priority for NBFI regulation should be a global effort to improve the data needed to enable regulators to spot risks in private markets and supervise them credibly. This should include a good understanding of hidden on or off-balance sheet leverage, a better assessment of liquidity risks, and better information on exposures between private markets and traditional banks.
- Mr Alder notes that, this year, the Financial Stability Board (**FSB**) and the International Organization of Securities Commissions (**IOSCO**) aim to land on a set of concrete policy outcomes for NBFI that could also have implications for hedge funds, alternatives, and private markets in general. The FCA is also closely involved in this work, co-chairing (with the French Autorité des Marchés Financiers) the IOSCO group which is now developing NBFI policy proposals with the FSB.

Managing culture – some FCA speeches and papers; *Every firm's culture is different.* ***The FCA does not believe that there should be a one size fits all model and does not prescribe what any firm's culture should be****. However, it is of the view that it is the responsibility of everyone in financial services to focus on culture, and it expects leaders in financial services firms to manage the drivers of behaviour in their firms to create and maintain cultures which reduce the potential for harm.*

- **What is the FCA looking for from senior management?**
- Guidance was provided on this point in an FCA speech in 2017 which described the regulator using four types of lever. The first lever being a **clearly communicated sense of purpose and approach**. Clearly communicating the "what" and the "how" are very important in getting a firm to work effectively and efficiently. But this pales into the background when the power and effect of a well communicated 'why' is contemplated. The second lever available to senior managers is "**tone from the top**" – what staff hear and see from senior management. The third lever is the **formal governance processes and structures**, the policies and systems that specify expected behaviour and decisions. From a conduct culture point of view, the FCA looks for a well thought through conduct risk framework: is there a clear exposition of conduct risks, the systems and controls for mitigating them and risk indicators for monitoring them? The fourth lever is the **people related practices**, including incentives and capabilities. Remuneration, promotion and recognition criteria all matter. Does a firm's pay structure reward misconduct? Is the pressure to turn a profit driving employees to act against consumers' interests?
- Enforcement action also demonstrates that the FCA will consider these factors in the event of failings by firms and their senior management and will look to see to what extent the firm's culture was a contributory factor to what went wrong and whether the firm's culture was appropriately focused, for example, on governance.
- **What about the CEO?**
- In March 2020, the FCA published a Discussion Paper which set out a collection of essays from industry leaders and others which explored the role of purpose in driving a healthy, sustainable culture. From a governance perspective perhaps the most striking point was that both purpose and culture are set by **the CEO who need to constantly re-evaluate both their vision and leadership of people**. The leader's role is to focus on developments, take on board knowledge, disseminate this information to employees and continually ensure that employees understand the purpose of the organisation. To this end, **the leader needs to really understand what drives their employees and ensure it accords with the firm's culture**. Enforcement action has also reflected the FCA's view

that some roles, including the CEO and Chairperson, carry higher expectations in terms of conduct standards and that greater penalties may be imposed on more senior members of the management team.

- And middle management?
- The March 2020 Discussion Paper followed an earlier Discussion Paper published in 2018 and a Transforming Culture conference which dived into four themes which included leadership and management capabilities. Among the points raised on leadership was the importance of **leaders having the capability to support middle managers**, who were viewed as crucial to delivering the 'right' culture. We have not yet seen enforcement against managers not performing a senior management function role but they too may be held to account for misconduct.
- Mind your language
- In an FCA speech last November the point was made that the most direct ways leaders can shape culture from the start – and spot when it needs changing – is through **language**. The speech also spoke of the "revolutionary technique" of cutting down emails and **walking around and talking to people being more effective and immediate**.
- Speaking-up is sometimes still unsafe
- In September 2020, the FCA issued its 2019/20 report covering engagement work for the 5 Conduct Questions Programme for wholesale banking supervision. The report was delayed due to prioritising COVID-19 work and made the point that conduct and culture will remain a key focus of the FCA's engagement activity. Among other things, the report warned that the FCA saw a persistent and significant lack of **psychological safety in day-to-day speak up and challenge** and this was something that firms needed to address. Also, whilst the FCA found clear **official whistleblowing and other escalation channels** in place participants described them as largely unused and reserved for the most serious cases. We have published numerous updates on whistleblowing, most recently providing key practical steps for firms to consider taking when a whistleblowing report is received.
- Consumer Duty will ask significant questions of firms
- The same FCA speech noted that the new Consumer Duty, which soon applies to closed book products and services, will focus minds on culture. The reason for this is that **the Duty challenges firms to ask significant questions about their purpose**. The FCA has made it clear that it expects the focus on acting to deliver good outcomes to be at the centre of firms' strategy and business objectives. **The higher standard of the Duty and the shift to focusing on customer outcomes will require a significant change in many firms' culture**. Chapter 10 of the FCA's guidance on the Duty discusses culture, governance and accountability. In particular, the **FCA sets out a table** which provides examples of the type of questions firms can expect to be asked in their interactions with the FCA in relation to their governance arrangements and the Duty.
- Diversity and inclusion
- Another telling indicator of culture is diversity and inclusion. In its firm wide review on understanding approaches to diversity and inclusion in financial services, the FCA found that **very few firms understood diversity and inclusion as a fundamental culture issue**. In an FCA speech published last November the regulator mentioned that there was growing evidence that **a diversity of perspectives and thought, when part of an inclusive culture, results in better judgements and decision making**.
- A similar point was made in the FCA's Discussion Paper on diversity and inclusion which pointed out that there was growing evidence that diversity of thought, when part of an

inclusive culture, supports better decision making by firms. It added that diversity made business sense – from both a financial and a consumer perspective on the basis that it can lead to better outcomes for firms, support their safety and soundness, and promote financial stability. The FCA believes that more diverse and truly inclusive firms will benefit from better risk management, as individuals will feel more empowered to have open discussions and debates, without fear of having their views shut down. It should mean that concerns about imprudent practices are more likely to be raised and acted upon.

- The FCA wants to see diversity and inclusion as an important driver of healthy cultures, so that it is embedded throughout firms – from the Board and senior management to developing diversity in managerial, technical and professional staff, making it part of 'business as usual' through all of a firm's activities. Among the applicable regulatory requirements is the PRA's Supervisory Statement on Corporate Governance which applies to all dual-regulated firms. It sets out that to be effective, Boards need to include individuals with a diverse mix of skills and experience so that they have capacity to provide effective challenge across the full range of the firm's business and the opportunity to explore key business issues rigorously.
- And finally, adaptability
- Arguably, perhaps one of the most important practical things for management to consider is what to do when things go wrong. When a firm makes a decision or sets out a new policy it may not be right. Senior leadership need to acknowledge mistakes and investigate alternative solutions. When issues are raised internally, this can be an opportunity to make enhancements and strengthen the firm's culture. Being flexible and adaptable to changing circumstances is key. A proactive culture is significantly more effective than a reactive culture and we can assist firms when undertaking such reviews.

FCA Market Watch 73 – CfDs and spread bets; *Recently, the FCA published Market Watch 73 which covered the regulator's market abuse peer review into firms that offer contracts for difference (*CfDs*) and spread bets. The Market Watch followed the FCA's earlier Dear CEO letter which was published last December which highlighted the FCA's expectations of firms offering CfDs (including in relation to the new Consumer Duty) and illustrated areas of poor practice.*

- The key issues identified in the FCA's Market Watch raise important questions that firms offering CfDs and spread bets should consider and provide some useful reminders of FCA expectations and best practice:
    - Market abuse risks – Not all firms could demonstrate they had considered all market abuse risks relevant to their business. Firms which had considered the entire business, all asset classes and different execution methods were more effective in identifying applicable risks.
    - Market abuse surveillance – Most firms do not have effective surveillance for non-equity asset classes, and a range of different set ups are used. Where responsibility for market abuse surveillance rests with teams or individuals outside compliance, the FCA found more effective arrangements where conflicts had been considered and mitigated through independent oversight and quality assurance.
    - Surveillance systems – Some firms do not monitor for unrealized profits, either specifically, or by capturing them via discrete alerts, such as news or price movements, which operate independently of profit. The FCA states that the firm

which reviews all trading activity prior to an event, rather than limiting investigation to the alerted trading, will be more effective at identifying potential market abuse which falls outside the system parameters. The regulator adds that firms should consider whether their surveillance coverage is adequate for market manipulation and in non-equity asset classes.

- Narrowing the spread – The FCA believes that this type of market manipulation may be increasing but no firm in its survey had listed this behaviour in their risk assessments or had compliance-based surveillance to detect it. Firms providing DMA access to clients should also be aware of potentially unusual activity where clients are improving the best bid or offer and rarely executing those orders, as a potential indicator of narrowing the spread.
- Front office and tipping off – Compliance being reluctant to provide feedback to front office staff on surveillance matters or refuse client orders due to concern about tipping off. A balance is needed in terms of engaging with front office on surveillance matters. Although STORs should only be shared on a need-to-know basis, this should not prevent Compliance educating the front office where concerns have not been raised. Where front office holds information which leads them to conclude that a client is seeking to trade either manipulatively or based on inside information, they should refuse to accept that order, where they are able to do so. Relevant compliance policies should be clear and appropriate action taken if they are breached. Guidance on this is set out in the FCA's Financial Crime Guide, 8.2.3.
- Countering the risk of market abuse-related Financial Crime (SYSC 6.1.1R) – A robust framework, which includes how to deal with new clients, will be particularly useful to firms in the CfD sector. Keeping good records of discussions about clients and decisions about whether to retain, restrict or offboard clients is also important. It enables firms to demonstrate they are meeting their obligations to counter the risk they are being used to facilitate market abuse.

* The FCA asks CfD providers to consider the points made in Market Watch and take steps to ensure that their systems and procedures for detecting and reporting potential market abuse are appropriate and proportionate to the scale, size and nature of their business activities. The regulator adds that firms should also ensure they have effective policies and procedures to counter the risk they are used to further market abuse-related financial crime as per SYSC 6.1.1R.
* In their enforcement proceedings the FCA often allude to Market Watch and Dear CEO letters as providing fair warning to firms of their expectations so the failings identified should be taken seriously and careful records made of steps taken to review policies and procedures and address any potential areas of challenge. There has also been previous FCA enforcement in this area, see for instance [FCA v Barnett Michael Alexander] (2011) and [FCA v Corrada Abbattista] (2022). The FCA adds in Market Watch that it will continue to visit CfD providers to assess their Suspicious Transaction and Order Reports arrangements and work to ensure they meet their regulatory obligations.

1. FCA - Decision Notice for Banque Havilland and associated staff / Senior Managers

- Like London buses, you're waiting for one and then three arrive at once – the FCA has published three linked Decision Notices fining Edmund Rowland (SMF 21 and former London branch CEO) £352,000, David Weller (SMF 21 and former London branch Senior Manager) £54,000 and Vladimir Bolelyy (former London branch employee) £14,200 and banning all three individuals from working in financial services. All individuals were found to be in breach of Individual Conduct Rule 1 (you must act with integrity) and to lack fitness and propriety. All of these decisions have been referred to the Upper Tribunal. Note, the firm Banque Havilland SA was also fined £10 million for a breach of Principle 1 (a firm is required to conduct its business with integrity) and is also referring the decision to the Upper Tribunal. So these FCA findings are subject to change once the Tribunal hears the references.
- Speed read – the FCA's case is that in 2017, a presentation was drafted and disseminated which contained manipulative trading strategies aimed at creating a false or misleading impression in the price of Qatari bonds. Although the strategy was never implemented, the proposals contained could have been a criminal offence if they had taken place in the UK. It all came to light via the press – an article entitled "*Leaked Documents Expose Stunning Plan To Wage Financial War On Qatar (…)*". Mr Rowland had tasked Mr Bolelyy to draft the document, Mr Weller significantly contributed to the content and both Mr Rowland and Mr Bolelyy then disseminated the document.

- A couple of interesting points to note:
  - The FCA reiterated a number of times that if the strategy had been executed it could have been a criminal offence if it had taken place in the UK. Even though the strategy was never implemented and there was no criminal offence, the prospect that there could have been was deemed enough (combined with the fact the presentation was produced in the first place) to amount to a lack of integrity.
  - Again, there was no duty of responsibility case brought against the Senior Managers.

2. FCA Decision Notice for Markos Markou

- The FCA is usually measured in its response to Upper Tribunal decisions that disagree with it, but they described this one as "incorrect and irrational" which is quite strong! This relates to the Decision Notice for Markos Markou, imposing a fine of £25k, withdrawing his approval as an SMF 1 and SMF 3 and prohibiting his performance of any function in relation to any regulated activity. Mr Markou was the sole director at a small mortgage and insurance intermediary, with responsibility for establishing and maintaining the systems, controls and oversight of the mortgage business. The FCA found that Mr Markou recklessly failed to have appropriate oversight over the mortgage business, and even after multiple communications from the FCA, failed to implement satisfactory systems and controls. The FCA therefore determined that Mr Markou had breached Statement of Principle 1 under the Code of Practice for Approved Persons (acting with integrity) (note the relevant period was pre-SMCR) and was not a fit and proper person to perform the SMF roles allocated to him.

- Mr Markou referred the decision to the Upper Tribunal, which concluded that it was not satisfied that Mr Markou had failed to establish, maintain and enforce effective financial crime systems and controls and made no findings of misconduct. The Upper Tribunal therefore concluded that the FCA's decision was unreasonable and directed the FCA not to impose a disciplinary sanction on Mr Markou. The FCA has confirmed it will seek permission to appeal this decision. Watch this space…

3. PRA - Policy Statement on changes to SMR forms

- An administrative update for dual-regulated firms now, and as anticipated in CP 2/23, the PRA has published PS 4/23 which moves Forms A, B, E, I, J and the Statement of Responsibilities from the PRA Rulebook to the Connect system (downloadable blank templates of the forms remain available on the PRA's website). The PRA also confirmed that they will increase the visibility of any future changes to the forms that are not consulted on by including a message in the monthly Regulatory Digest (they said they will try to publish this before the changes take effect, which feels only reasonable!).
- The PRA have also increased the length of employment history required by the long Form A from five to ten years, and have confirmed that this amendment will not have an impact on the six year regulatory reference requirement. They have said that they are very open to feedback on any authorisation form so if firms have any you can let them know at PRA-ApprovedPersons@bankofengland.co.uk.

- We note that the Senior Manager approval forms are one thing we are covering in our response to the PRA/FCA Discussion Paper on the SMCR. Notably, we are proposing to suggest a number of things – a summary of which we've outlined below. Let us know if you have other comments to add or any that you would like to discuss - we are aware that firms have differing views and we are aiming to present a consensus view where we can or otherwise propose options for consideration!
- Reducing duplication within the forms – e.g. requiring a CV, employment history and competency assessment.
- Reducing additional forms: MiFID investment firms have to submit an Article 4 SMR form and Annex III form when there is a change in the management body along with the relevant Form A/Form E. We have suggested doing away with these because they are legacy EU driven forms where most firms cross refer to the contents of the Form A.
- Equivalence: Where an individual is approved or assessed as fit and proper under another regime that the PRA/FCA deem to be broadly equivalent (e.g. Managers in Charge regime in Hong Kong), allowing firms to submit a notification informing the regulators the individual will be performing a SMF role in the UK, or at least providing an abridged process for their approval.
- Notifications rather than applications:
    - Potentially only requiring a notification to the FCA rather than a Form E / approval process to be conducted where individuals who are already approved are taking up new SMF roles. We note that there may be a proportionality point here whereby there are certain roles where the regulators may still want the ability to scrutinise the particular individuals (e.g. SMF 1), but there are other roles (e.g. SMF 18) where this may not be necessary.
    - Allowing firms to notify the FCA of individuals taking on certain Senior Manager roles (likely by submitting a Statement of Responsibilities) provided the firm has

done its own assessment and there was not anything of particular note (e.g. an adverse regulatory reference). Of course, the regulators may ask questions, but it would avoid the rigmarole of a full application. For example, for SMF 18s and SMF 6s where they tend to be business heads, it is arguably disproportionate that the PRA/FCA would need to approve them if the firm has done its own assessment.

4. WhatsApp monitoring failures – SEC and what's happening across the pond

- $1.8 billion of fines were previously issued by the SEC in relation to the use of private messaging services when conducting firm business. And it hasn't stopped there, with more fines being issued by the SEC last week, totalling £18 million. In both cases from last week the SEC found that the firms had failed to maintain and preserve electronic communications relating to business dealings. Both firms had self-reported and self-remediated the violations meaning the fines were reduced. Interestingly, the SEC noted that the purpose of the fines is twofold: reminding firms and employees of all levels of seniority of the importance of following the regulatory record keeping requirements, whilst also encouraging firms to disclose any violations if and when they occur. Of course, this is happening in the US for now but this is clearly on the FCA's radar since COVID-19 and the rise of individuals working from home and so we'd encourage firms to consider these enforcements by the SEC in the context of their UK business given the broadly applicable lessons that can be learned.

5. FCA publishes steps to improve whistleblower confidence

- Following the Government's announcement of its review of the whistleblowing framework, the FCA has now published a list of actions to improve confidence of whistleblowers following a survey of individuals who had provided them with information. These actions include providing whistleblowers with information on how the information they provide is used, as well as improving how the information is used across the FCA. The FCA also confirmed that it will enhance its webform, which is the most used method of whistleblowers contacting them. The FCA will also engage with the Government in their review of the legislative framework for whistleblowers. This will be of interest to firms Whistleblowing Champions and for broader policies and procedures on this topic, and is one to keep an eye one (we certainly will!).

6. FCA - Market Abuse in Contract for Difference (CFD) providers

- In its Market Watch 73, the FCA published its observations from its market abuse peer review into firms offering CFDs. From a governance perspective, the FCA found that all firms had policies and procedures which set out the roles and responsibilities for market abuse surveillance, with responsibility resting either solely with the front office, or a mix of the front or middle office with a Compliance function independently reviewing any alerts. The FCA confirmed that for smaller firms, it may be proportionate for responsibility to rest with teams or individuals who are outside of Compliance. The FCA also found that Compliance were reluctant to provide feedback to front office staff on surveillance matters due to concern about tipping off. The FCA reiterated that

Compliance should be challenging and educating front office staff to ensure they understand their obligations under the market abuse regime. Although this Market Watch is specifically in relation to CFD providers, these broad findings will be of interest to a wider scope of firms.

7. FCA publishes complaints data

- The FCA has published a webpage which provides an overview of firm-specific complaints data and aggregate market-level complaints data for the second half of 2022. The FCA found that the number of complaints received in the second half of 2022 was down by 6% from the first half, with financial services firms receiving 1.79 million complaints. The FCA flagged notable increases in complaints in certain product groups, including the home finance product group (up 14%) and savings (including ISAs) (up 35%), with the majority of complaints being closed within 8 weeks. This is useful data for firms to compare their performance with other peers in the market and particularly within the context of the Consumer Duty and its implementation by relevant firms' implementation. Some firms will have responsibility for complaints sitting with a particular Senior Manager – if this is the case, this may be of interest to them.

8. PRA - Consultation Paper on proposed changes to enforcement approach

- The PRA have published CP 9/23 which sets out proposals to amalgamate the Bank of England's enforcement policies and procedures which includes the PRA's Approach to Enforcement. As part of those amendments, the PRA has proposed an innovative new 'Early Account Scheme' under which the subject of the investigation would be compelled to undertake the 'fact-find' phase of the review itself and to report to the PRA. The current proposal is that this report would need to be supported by an attestation from a Senior Manager who is "independent" of the subject matter of the investigation that "there are no other related matters, relevant information or potential breaches of which the firm is aware and which should be notified to the PRA". This would potentially be a significant undertaking for the Senior Manager in question. The Bank of England is asking for responses by 4 August 2023.

The long-awaited (and much discussed) final version of the EU Commission's Retail Investment Strategy and Annexes (RIS) was published on 24 May 2023. It also includes related but separate document proposing minor amendments to PRIIPs Regulation

1. The backdrop

The RIS comes as part of the EU Commission's long-rumbling 2020 Capital Markets Union Action Plan (CMU Plan) - the stated aims of which are to improve access for retail investors to financial markets, at the same time as ensuring investor protection. The RIS is the first major proposal to come out of this edition of the CMU Plan and it's not been without controversy, especially on the topics of inducements and product governance.

It's wide-reaching scope proposes to make changes, in the retail client arena, to MiFID, PRIIPs and (from a product governance angle) AIFMD and UCITS. It also proposes to amend the

Insurance Distribution Directive (IDD) and Solvency 2, most of which are aimed at aligning IDD and MiFID.

What's the timing?

It's important to remember that this version of the RIS is just the start. It is the final proposal from the EU Commission, but it will now need to go through the EU's machinery. It will need to be considered and voted on by the EU Parliament and Council before it becomes law. Why? Because it proposes to directly amend the main (level 1) MiFID, PRIIPs, AIFMD, UCITS, IDD and Solvency 2 legislation, which cannot happen unless or until the EU Parliament and Council agree. So we could see a number of changes to the RIS as it goes through this process, and the final agreed version could look quite different from the version we are discussing here.

This process is expected to take a year or longer – although it's possible that the European Parliament MEP elections due in May 2024 may expedite an agreement or cause a further delay. The underlying delegated acts and technical standards will also need to be prepared after that in order to provide 'meat on the bones'. Given that there are some controversial elements in the RIS (inducements and product governance, in particular), which will likely cause disagreement between and within the Council and Parliament, this is going to be a marathon, not a sprint.

What do we need to do now?

Well, whilst there is no immediate need to action business changes at this stage, it will be important to follow developments as the RIS goes through the Council and Parliament, and to align your business with ongoing lobbying efforts where relevant.

So, what does the RIS say? …

2. To ban or not to ban (inducements) … that is the question

Let's start with one of the most controversial areas - inducements. At the end of 2022 into 2023 we saw open letters passed between EU Commissioner McGuinness and MEP Markus Faber arguing over whether the RIS should propose a ban on inducements. There was significant industry lobbying on both sides of that argument. The EU Commission toyed with the idea of bringing in a full ban on inducements for non-independent advice, as well as for execution-only and RTO. In the end they didn't go that far. The RIS proposes:

- **No full inducements ban for non-independent advice.** Welcome news to some, disappointing to others…but it's not a free-pass. Significantly, the Commission has not closed the door on this. A **review clause** allows it to revisit the topic in 3 years and make further proposals – including, potentially, a ban. We are also aware that there are groups within the European Parliament strongly advocating that a full ban should be introduced.
- An **inducements ban for execution-only and RTO**. There are some limited exceptions for underwriting/placement scenarios and when non-independent advice is combined with execution-only/RTO.
- The existing MiFID inducements 'quality enhancement' test is replaced with a **new 3-fold 'best interest'** principle requiring non-independent advisors to:

  - base their advice on an assessment of an **appropriate range** of financial products; and
  - recommend the **most cost-efficient financial product** from the range of suitable financial products; and
  - offer at least one financial product without **additional features** which are not necessary to the achievement of the client's investment objectives and that give rise to additional costs, so that retail investors are presented also with alternative and possibly cheaper options to consider. 'Additional features' might include a fund with an investment strategy which implies higher costs, a capital guarantee, or structured products with hedging elements.
- The **minor non-monetary benefit threshold** is set to EUR100 per annum.
- A change in wording from cannot 'accept and retain' to **cannot 'pay or receive'** inducements, for portfolio management as well as execution-only and RTO (although not for independent advice) meaning that, for example, clean share classes only would be permitted in these circumstances.
- **Enhanced disclosures** to ensure retail investors understand the concept of inducements, potential conflicts of interest and overall costs and expected returns.

3. It's all about the (value for) money – pricing and benchmarking

The other much-talked about proposals are on product governance. Over recent months there has been market chatter that a **value for money** concept would be proposed by the Commission to allay fears that the price of retail products remains too high - and as an alternative to a full inducements ban for non-independent advice. This is exactly what we see in the RIS – via a new **pricing process** to be integrated into manufacturer and distributors product governance frameworks. The requirements appear to apply to PRIIPs (although the drafting is slightly unclear in places as to whether it could apply more broadly to financial instruments) as well as UCITS and AIFs. The intention is to limit the offer of products that bear poor or no value for money for retail investors. Firms will be required to make a comparison of the cost and performance of a product against wider benchmarks…and **ESMA is requested to develop those benchmarks**. Under the proposals there is a **two-fold test**:

- **quantitative**: products whose value aligns with the relevant benchmark can be offered to the retail market;
- **qualitative**: products whose value does not align with its benchmark should not be marketed to retail unless additional testing can show that it still offers value for money. Additional underlying legislation will be required to provide further detail on this process.

The proposals leave big questions. How will ESMA come up with these benchmarks? How 'tight' they will be on product parameters? How is it to be decided which benchmark aligns with which product? How long it will take to produce the benchmarks? How many benchmarks will there be? Is ESMA suitably qualified to do this? How exactly will the process work for firms carrying out pricing assessments in absence of a benchmark or if the benchmark is inadequate? Is this a move towards pricing interventionism?

The RIS also proposes additional changes to UCITSD and AIFMD involving '**undue costs'**, which seek to enshrine and expand into main legislation ESMA's existing supervisory briefing requirements. One proposal of note is the requirement for AIFMs and UCITS Mancos to **compensate investors** if undue costs have been charged. There is not much meat on the bone on these requirements and further underlying legislation will be needed to provide the detail.

4. The more the merrier – expanded scope of elective professional client

In a move that will likely be welcomed by many, the criteria for MiFID retail clients to opt into professional client status has been widened. The **wealth criteria** has been reduced from EUR500,000 to EUR250,000. A new fourth option to the criteria has been added, allowing the **education and training of the client to be taken into account. Finally legal entities** can qualify by fulfilling certain balance sheet, net turnover, and own funds criteria.

5. Suitability-'lite'

One of the key anti-inducement ban arguments has been that independent advice is just too expensive for many retail investors – that the upfront costs are prohibitive – and that's why non-independent advice paid for through inducements should remain. In response to this, the RIS proposes that MiFID independent advisors should be allowed to advise retail clients on **well-diversified, non-complex, and cost-effective products** based on a more limited set of data collected for the suitability assessment. A **suitability-lite regime** if you like. The stated intention of the Commission is that this will help develop an independent advice market that charges a reasonable cost, no longer making it too expensive for retail investors. Whilst a welcome proposal to many in the industry, sceptics may be left wondering if the Commission is dismantling the roadblocks for a potential future (re-)introduction of a full ban on inducements for non-independent advice.

6. Suitability and appropriateness

Added to the list of elements to consider in a **suitability assessment** is **the need for portfolio diversification**. The list of elements to be considered in an **appropriateness** assessment is expanded to include the **ability to bear full or partial losses** and **risk tolerance.** There is also a requirement that the **client's explicitly request** is required in order for a firm to proceed with a transaction that is subject to a warning that it is not appropriate. **Enhanced disclosure** obligations are also proposed (see section 8 below).

7. Knowledge (and competency) is everything

A lack of harmonisation across jurisdictions on the investment advisor knowledge and competency requirements has long been a bone of contention. To level the playing field the RIS proposes to codify into a **new Annex V of MiFID** the ESMA K&C guidelines as minimum standards. An understanding of **sustainable investments** has also been added to the list of requirements, as well as the introduction of a **certification regime** and minimum **ongoing professional training.**

8. Disclosures

Changes to the various MiFID disclosure requirements are proposed to encourage standardisation and increased transparency:

- **Enhanced costs and charges disclosures** for retail clients are proposed.
- ESMA is asked to prepare regulatory standards on a **standardised form and content of costs and charges** disclosures.
- A new concept of '**particularly risky products**' is introduced. Firms must identify such products and include appropriate **risk warnings** in client communications, including marketing materials. ESMA is asked to prepare guidelines on how firms can identify these products, and also to prepare regulatory standards on a standardised form and content of those risk warnings.
- **Suitability/appropriateness assessment warnings** are added, to explain the purpose of these assessments and the consequences on the quality of those assessments if the client does not provide accurate and complete information. ESMA is asked to prepare regulatory standards on a standardised form and content of those warnings.
- Enhanced disclosures on **marketing materials** are also proposed (see section 9 below).

9. Marketing

Proposals to modernise MiFID marketing requirements to take account of digitalised marketing – including the use of social media, influencers, and behavioural biases - include new definitions of '**marketing communications**' and '**marketing practice**'. There are **enhanced disclosure requirements for marketing materials** to make clear, in an ever-increasing digitalised world, essential information about the firm and the product, with further underlying legislation required to provide the details of these requirements. Firms will also be required to put in place a **marketing policy** which takes into account the target audience, and which will sit under the responsibility of the **firm's management body**.

10. The EU strong arm of the law

In a move that is in line with the direction of travel we have been seeing over the last few years, there is an enhanced focus on **national regulators and EU regulator MiFID information-gathering powers and interventionist powers.** These are scattered throughout the RIS.

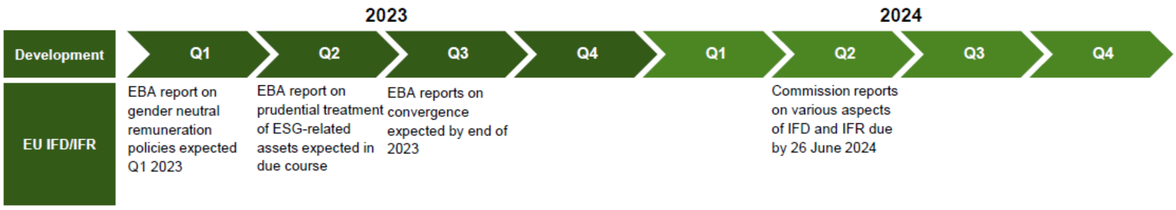
11. Financial literacy

Member States are required to promote measures to support retail clients' financial literacy. Importantly in order not to discourage product providers from producing financial education materials, these types of materials are explicitly excluded from the new definition of 'marketing communications' and 'marketing practice'.

Resources – this [Simmons Simmonds webinar] on this topic too.

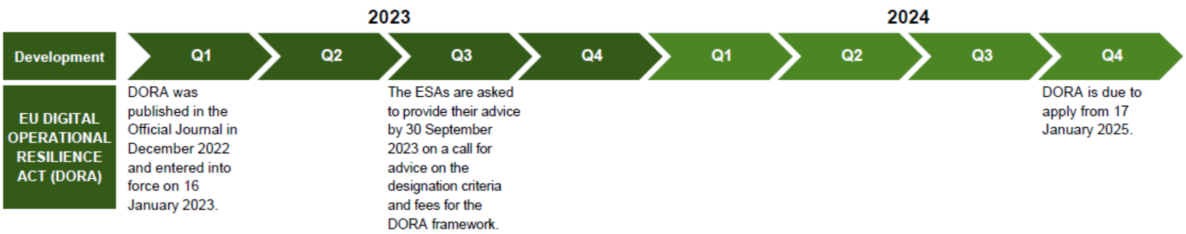
Financial Stability, Operational Resilience

EU IFD/IFR



- The IFD and IFR will be accompanied by a number of RTS, ITS and guidelines, not all of which have been finalised.
- An EBA report on the application of gender-neutral remuneration policies is expected in Q1 2023.
- The EBA was required to report by 26 December 2021 on whether dedicated prudential treatment of assets exposed to activities associated substantially with environmental or social objectives, in the form of adjusted K-factors or adjusted K-factor coefficients, would be justified from a prudential perspective. The report has not been published. The EBA published a discussion paper on the topic in May 2022 and a report is expected in due course.
- An EBA report on the degree of convergence of the application of the Chapter 2 of the IFD (Review process) among member states is expected by the end of 2023.
- The Commission is required to report on the IFD and IFR, with legislative proposals to amend the package if it considers this to be necessary, by 26 June 2024.

DORA



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

OPERATIONAL RESILIENCE

Development	2023 Q1	2023 Q2	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4
Operational resilience		Financial Services and Markets Bill, creating a new regulatory regime for critical third parties, expected to gain Royal Assent in H1 2023.	Consultation paper on operational resilience of critical third parties expected in H2 2023.	Consultation paper on incident, outsourcing and third party reporting expected in Q4 2023.				

- The Financial Services and Markets Bill (FSM Bill) which includes proposals to regulate cloud service providers and other designated critical third parties providing services to UK regulated firms, is expected to gain Royal Assent in H1 2023.
- In July 2022, the FCA, PRA and Bank of England published a joint discussion paper (DP22/3) on the operational resilience of critical third parties and how the regulators could use their new powers under the Financial Services and Markets Bill. The consultation closed in December 2022 and feedback and a consultation paper are expected in H2 2023.
- Firms have 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.

Prudential & Risk

CRR3/CRDVI

Development	2023 Q1	2023 Q2	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4
CRR3/CRDVI	Trilogue negotiations will proceed on the CRR3/CRDVI package.			BRRD amendments consequential on the Daisy Chain Regulation must be brought into force by 15 November 2023.	Daisy Chain Regulation provisions on indirect subscription of internal MREL eligible instruments within resolution groups apply from 1 January 2024.			The CRR3 Regulation is to apply (with limited exceptions) from 1 January 2025.

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

Green finance, ESG & Disclosures

GREEN BOND REGULATION

Development	2023 Q1	2023 Q2	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4
GREEN BOND REGULATION	Council and European Parliament reached political agreement on 28 February 2023..	Adoption by Council and European Parliament expected.				Green Bond Regulation expected to enter into application 12 months after entry into force.		

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

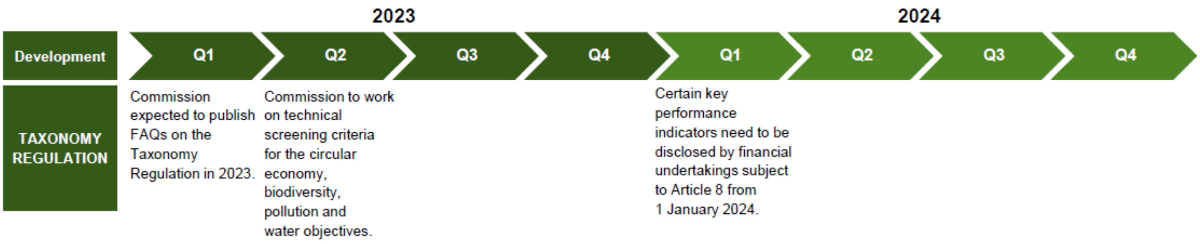
EU SFDR

Development	2023 Q1	2023 Q2	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4
SFDR	Delegated regulation on nuclear and gas entered into force February 2023; Public consultation on the SFDR and Commission Q&As on SFDR expected early 2023;	ESAs' greenwashing progress report due May 2023; PAI statements due 30 June 2023;	ESAs annual report to the Commission on best practices and voluntary reporting standards due by 10 September 2023	ESAs to report on disclosures and PAI indicators by 28 November 2023		ESAs' greenwashing final report due May 2024		

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

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

EU TAXONOMY REGULATION



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

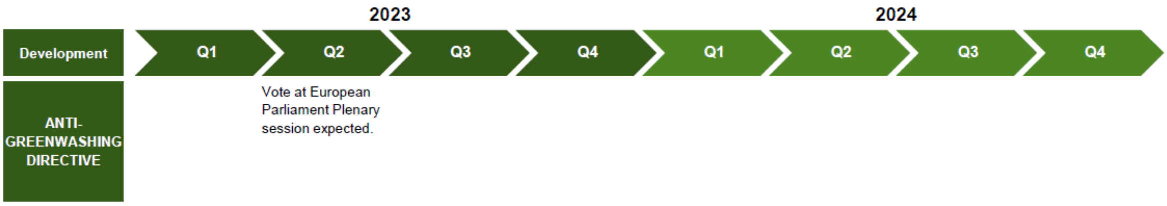
Taxonomy Regulation: EU Commission consults on additional criteria in delegated acts; *The EU Commission has published for consultation two delegated acts relating to the Taxonomy Regulation ((EU) 2020/852).*

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

- civil engineering;
- disaster risk management;
- information and communication;
- environmental protection and restoration; and
- accommodation.

- The second draft delegated act amends the Taxonomy Climate Delegated Act ((EU) 2021/2139) to include technical screening criteria for manufacturing activities relating to low carbon transport and electrical equipment.
- Comments on both delegated acts are due by 3 May 2023.

ANTI-GREENWASHING DIRECTIVE: AMENDMENTS TO UCPD



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

Energy & Commodities

ACER's latest REMIT Quarterly; *The 32nd edition of the Quarterly has an improved format and wider scope. It covers the first quarter of 2023 and features:*

- Cross-border capacity hoarding;
- A summary of the European Commission's proposals for amending REMIT;
- A report on the potentially distortive use of cross-border wash trades in Single Intraday Coupling (SIDC);
- The statistics for registered reporting mechanisms' (RRMs') contingency reports;
- An updated overview of the sanction decisions for the past four quarters, with 364 REMIT cases under review at the end of the first quarter;
- A brief overview of trading on organised market places in the first quarter; and
- Other latest REMIT updates.

REMIT Quarterly

ACER's quarterly report on its activities under Regulation (EU) No 1227/2011 (REMIT) Issue No. 32/Q1 2023

About this edition

In this edition, our opening article outlines the recent development on the ongoing revision of the Regulation (EU) No 1227/2011 on Wholesale Energy Market Integrity and Transparency ('REMIT'). In addition to the regular report on ACER's activities under Regulation (EU) No 1227/2011 (REMIT), we would like to highlight the following:

- ACER and the European Securities and Markets Authority ('ESMA') submitted their Market Correction Mechanism ('MCM') effect assessment reports to the European Commission on 1 March 2023, as per Council Regulation (EU) 2022/2578 of 22 December 2022. Read more.
- ACER launched the daily Liquefied Natural Gas ('LNG') price assessments on 13 January 2023 and the daily LNG benchmarks on 31 March 2023, as per Council Regulation (EU) 2022/2576 of 19 December 2022. ACER also published LNG reporting guidance and methodology documents. Read more.
- The Expert Group on LNG Price Assessment/ Benchmarks ('LNG Expert Group') was established in December 2022 to offer advice and contribute to ACER's tasks under Council Regulation (EU) 2022/2576. The LNG Expert Group had two meetings in Q1 2023. Read more.
- The 2023 REMIT Forum is set for Q4 of 2023. More information will be shared with REMIT stakeholders soon.

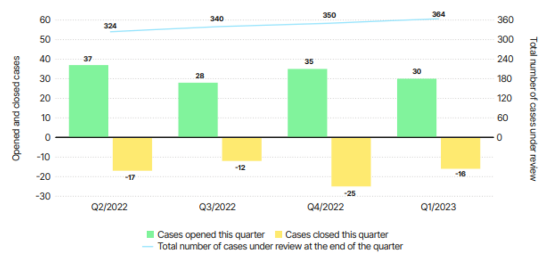
The European Commission's proposal on REMIT amendments

This article presents the European Commission's proposal[1] to amend the current framework of the Regulation (EU) No 1227/2011 on Wholesale Energy Market Integrity and Transparency ('REMIT'), which was established 12 years ago. The Commission's amendments aim to enhance the integrity and transparency of the EU wholesale energy markets by improving the REMIT data collection process and strengthening the monitoring and enforcement regime against possible abuses in the trading of wholesale energy products.

The proposed amendments align the REMIT legal framework with other EU legislation in the financial, competition, and taxation domains. The proposal also expands the scope of REMIT to cover all markets and products referred to in the EU electricity and gas legal frameworks, such as the reporting of the full order book of organised market places ('OMPs') and new balancing markets. Furthermore, it introduces amendments to enhance the quality, reporting, transparency, and monitoring of REMIT data, such as mandatory disclosure of inside information via inside information platforms ('IIPs'). The proposal also strengthens the energy consumer protection against market abuse and aims to address the

1 Electricity Market Reform for consumers and annex (europa.eu).

Figure 1: Potential REMIT Breach Cases - Quarterly Statistics



Traded volumes and active market participants (MPs) per market segment (time frame) and OMP type

Total contract quantity (TWh) Active MPs

	2021	2022	YTD 2023	Q1 2022	Q1 2023	2021	2022	YTD 2023	Q1 2022	Q1 2023
EL	27,071	17,321	4,685	5,847	4,685	1,748	1,757	1,527	1,577	1,527
Forward	24,084	14,392	3,897	5,083	3,897	602	555	416	451	416
Day-ahead	2,595	2,515	657	669	657	1,525	1,530	1,350	1,385	1,350
Intraday	391	414	131	95	131	1,171	1,171	949	1,014	949
NG	147,799	118,136	33,523	40,483	33,523	797	822	747	710	747
Forward	143,795	111,068	31,687	38,951	31,687	567	553	375	412	375
Intraday	4,004	7,068	1,837	1,531	1,837	632	665	619	558	619
EL	27,071	17,321	4,685	5,847	4,685	1,748	1,757	1,527	1,577	1,527
Energy Broker Platform	9,511	4,664	1,094	1,631	1,094	314	271	211	247	211
Energy Exchange	17,559	12,657	3,591	4,216	3,591	1,703	1,726	1,507	1,550	1,507
NG	147,799	118,136	33,523	40,483	33,523	797	822	747	710	747
Energy Broker Platform	72,170	39,842	8,600	14,526	8,600	262	227	177	194	177
Energy Exchange	75,630	78,294	24,924	25,957	24,924	748	784	725	673	725
Total	174,870	135,457	38,208	46,329	38,208	2,072	2,093	1,840	1,869	1,840

Overview of trading on organised market Places; *Assessment of the operation and transparency of different categories of marketplaces and ways of trading*

- At the end of Q1 2023, the List of Organised Market Places contained 67 OMPs. One OMP was added (FGSZ RBP Platform) and two were delisted (SCB & Associates Limited and PVM Oil Futures Ltd). In addition, Towarowa Gielda Energii S.A. changed their MIC code.
- The List of Standard Contracts, which previously contained 18,329 contracts, has now expanded to include 18,504 standard contracts. Most contracts were added by FGSZ RBP Platform, a newly added OMP.
- In the first quarter of 2023, market participants reported trading 38,208 terawatt-hours ('TWh') on 29 energy exchanges' and 18 broker exchanges, which represents a 17.5% drop compared to the first quarter of 2022. As usual, the majority of trading volumes were done in natural gas forward markets (83%) and on energy exchanges (75%).
- The number of market participants entering energy markets through both main types of organised marketplaces ('OMPs') is similar to previous years, amounting to 1,840 in the first quarter of 2023. A total of 83% of these market participants were active on electricity markets and 41% were active on natural gas markets
- List of Organised Market Places

Energy Broker	42 Financial Services		31570010000000050826	
Energy Broker	Aurel Bgc Sas	AURO		
Energy Broker	Braemar Securities Limited		549300MKGUYMMT8WIJ94	A0019989E.DE
Energy Broker	Cavendish Markets B.V.		724500F90910RKNAJA14	
Energy Broker	Corretaje E Información Monetaria Y De Divisas		529900MLKOEV3XDRCP63	

	Sociedad De Valores Sociedad Anonima, Cimd Sv (Otf)			
Energy Broker	Engnsol		254900Y8ZW19230JDZ89	
Energy Broker	Enterprise Commodity Services Limited		213800FJ9BFQ7CM6XV47	
Energy Broker	Evolution Markets Limited		213800XUL6949NBPI464	
Energy Broker	Flow Brokers Bv		72450099B13WOICAHG46	A00145869.NL
Energy Broker	Gfi Eu, A Trading Name Of Aurel Bgc	GFPO	5RJTDGZG4559ESIYLD31	
Energy Broker	Griffin Markets Europe Sas	GMES	969500OBCS5EQT67NQ53	
Energy Broker	Hpc Sa		969500AMLHB21RACL168	
Energy Broker	Icap Energy As		549300ESJXOU0F7S8014	A0001546I.NL
Energy Broker	Icap Energy Limited		213800CZM9YMSN4AL882	
Energy Broker	Marex Spectron Europe Limited	MSEL	549300L6UG0LIPH04553	A0015798I.IE
Energy Broker	Ovovis Gmbh		3912000D1J1N0UTPHP22	
Energy Broker	Spx, S.R.O.	SPXE	097900BFDY0000023584	
Energy Broker	Tp Icap (Europe) S.A.	ICOT, TPEU	213800R54EFFINMY1P02	
Energy Broker	Tsaf Otc	TSAF	969500V058ZSY03FNX80	
Energy Broker	Tradition Financial Services Espana Sociedad De Valores Sa		5493006UOQCUGJ33L287	
Energy Broker	Tradition Financial Services Ltd	TFSG	549300PGXWH0WZUNMG82	
Energy Broker	Tullett Prebon (Europe) Limited	TBEN, XTPE	549300MU2MYJLOY6IJ51	
Energy Exchange	Bsp D.O.O.	XSOP		
Energy Exchange	Bursa Romana De Marfuri Sa Romanian Commodities Exchange	XBRM	2594004XQ58NIEX1Y444	B00020987.RO
Energy Exchange	Balkan Gas Hub Ead		254900OBGLGL51E9EQ66	
Energy Exchange	Borsa Italiana S.P.A., Idem - Idex Segment	XDMI		
Energy Exchange	Bulgarian Energy Trading Platform Ad	BEBG	984500852DB3CFC4A665	
Energy Exchange	Ceegex Ltd.	XGAS		B00009714.HU
Energy Exchange	Central European Gas Hub, Cegh, Wiener Börse Ag	XCEG	315700LCYNUH9SYC0I94	
Energy Exchange	Croatian Power Exchange Ltd.	XCRO		
Energy Exchange	Epex Spot Se	EPEX		B0000258F.FR
Energy Exchange	Etpa B.V.		724500ESIIL4H59L4375	B0005193M.NL
Energy Exchange	Exaa Abwicklungsstelle Für Energieprodukte Ag	EXAA		B0000114T.AT

Energy Exchange	European Energy Exchange Ag Regulated Market	XEER, XPSF		
Energy Exchange	Gaspoint Nordic	NPGA		
Energy Exchange	Gestore Dei Mercati Energetici Spa (Gme)	XGME		B00009070.IT
Energy Exchange	Henex Sa		2138003ETH4FUSCHL785	B0015217D.GR
Energy Exchange	Hupx Ltd.	HUPX		B0000450I.HU
Energy Exchange	Hungarian Derivatives Energy Exchange	HUDX	529900RK7BVGI1QZI986	
Energy Exchange	Ice Endex Gas Spot Ltd.	NDCM	5493007PP5JLCOM9WY96	
Energy Exchange	Ice Endex Markets Bv	NDEX, NDXS	549300CZW488L20NT866	
Energy Exchange	Ice Futures Europe	IFEU	549300UF4R84F48NCH34	
Energy Exchange	Independent Bulgarian Energy Exchange	IBEX		
Energy Exchange	Meff Sociedad Rectora Del Mercado De Productos Derivados, S.A.	XMPW		
Energy Exchange	Mibgas	MIBG		B0003262L.ES
Energy Exchange	Mibgas Derivatives S.A.	MDRV		
Energy Exchange	N2ex/Nord Pool Spot As	N2EX		
Energy Exchange	Nasdaq Omx Oslo Asa	NORX	5493003IZZWOHHJY1L88	
Energy Exchange	Nasdaq Omx Stockholm Ab	XSTO	549300KBQIVNEJEZVL96	
Energy Exchange	New York Mercantile Exchange, Inc. (Nymex)	XNYM	5493008GFNDTXFPHWI47	
Energy Exchange	Nord Pool As	NOPS		B0000116N.NO
Energy Exchange	Okte, A.S.			B0000138K.SK
Energy Exchange	Omi-Polo Español S.A. (Omie)	OMIE		B0000107M.ES
Energy Exchange	Omip - Pólo Português, S.G.M.R., S.A.	OMIP	529900NIA9TL7Q1I4639	
Energy Exchange	Operatorul Pietei De Energie Electrica Si De Gaze Naturale "Opcom" Sa	XRPM		B0000117H.RO
Energy Exchange	Ote, A.S.		31570010000000009116	B0000106C.CZ
Energy Exchange	Power Exchange Central Europe, Pxe A.S.	XPXE	3157006COUQSF6YE4X10	
Energy Exchange	Semo			B00018612.IE
Energy Exchange	Towarowa Giełda Energii S.A.	PLPD, WGAS, PLPX, PLPS, PLPO		B00001020.PL
Energy Exchange	Uab Get Baltic	GETB		B0000889N.LT
Other Omp	European Energy Exchange Ag (Otf)	XEEO, XPOT		

Other Omp	Fgsz Földgázszállító Zártkörűen Működő Részvénytársaság			A00009913.HU
Other Omp	Fgsz Kereskedési Platform Kft			A0015181D.HU
Other Omp	Gaz-System S.A.			A0001079H.PL
Other Omp	Iberian Gas Hub (Sociedad Bilbao Gas Hub, S.A.)	IBGH		
Other Omp	Prisma European Capacity Platform Gmbh			B0002657Z.DE
Other Omp	Route4gas B.V.		724500EY0KGMVVONVS49	

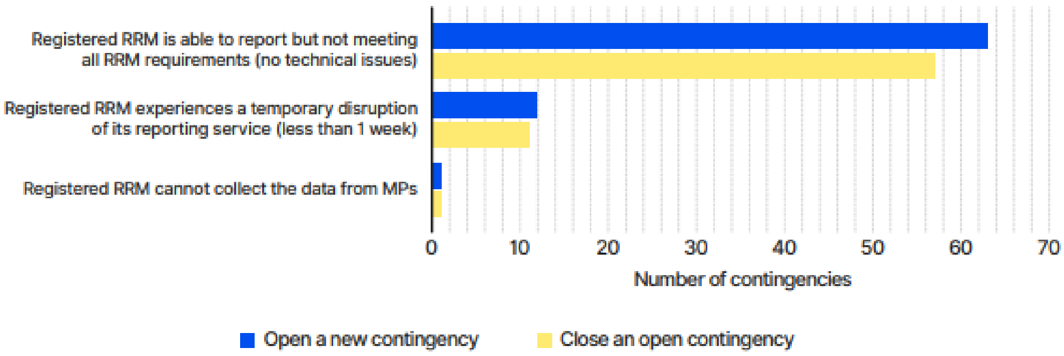
Updated ARIS Data Validation document *On 27 March 2023, ACER published a new version of ACER's REMIT Information System (ARIS) Data Validation document.*

- The new version of the document contains the descriptions of three new data validation rules (AT1F25R1, AT1F25R2 and AT1F25R1) that check the reported values in Data Field (25) Fixing index or reference price submitted using Version 3 of the electronic format for the reporting of REMIT Table 1 transactions.
- ACER updates the data validation rules performed by ARIS on a continuous basis in order to ensure the quality of data reported by RRMs. For more details on data validation rules performed by ARIS, access the ARIS Data Validation Document and the ARIS Data Validation Rules Configuration Document

EEX Press Release - Signing in Vilnius: Gas exchange GET Baltic becomes part of EEX Group; With a formal signing, Lithuania's gas transmission system operator Amber Grid and the European Energy Exchange (EEX) today sealed the acquisition under which EEX will take 66% of the shares in the regional gas exchange GET Baltic. As a result, the gas exchange operating in the three Baltic countries and Finland will become part of EEX Group. /jlne.ws/41ICNoQ

Updated List of accepted EICs (Delivery Points or Zones; The first quarterly update of 2023 of the List of Accepted EICs was published on the REMIT section of the ACER website on 14 April. The List of accepted EICs was updated with nine new codes: three LNG Terminals (Wilhelmshaven LNG FRSU 1, Lubmin LNG Terminal and Brunsbuettel LNG Terminal), four connection points (Brunsbuettel Haffen (FSRU), Baltic Energy Gate, Eemshaven and Zeebrugge Trading point H zone), one virtual trading point (VTP Bulgaria) and one electricity zone (NPTF-DK)

Figure 6: Number of contingencies opened and closed in Q1 divided by scenario



Recommendations to the Commission on REMIT and Electricity market design revision; *On 14 February 2023, ACER, jointly with CEER, responded to the European Commission's public consultation on the EU's electricity market design revision and the revision of REMIT.*

- In light of REMIT not being changed since its adoption in 2011, ACER and CEER jointly recommended to harmonise the REMIT legal framework with the EU financial market legal framework, whilst taking due account of the specificities of wholesale energy markets; to adapt the scope of REMIT to current and evolving market circumstances; to harmonise the levels of fines imposed under REMIT at national level; to strengthen the enforcement regime under REMIT; and to enhance REMIT reporting and data quality, transparency and monitoring under the REMIT legal framework.
- In the meantime, the Commission has adopted its proposal to amend REMIT23. ACER welcomes this proposal by the Commission and looks forward to a timely adoption, which will take into account the recommendations expressed in the public consultation, to bring REMIT up to date – 12 years following its adoption. ACER is available to assist and consult the Commission and the legislative bodies during the legislative procedure of the REMIT revision as required

Updated List of LNG facilities; On 14 February 2023, ACER published an updated Annex IX to the Manual of Procedures on data reporting, namely the List of LNG facilities subject to reporting according to Article 9(3) and (5) of the REMIT Implementing Regulation. The new version of the list includes four newly added LNG facilities and updated operability information

On 23 March 2023, the 7th Meeting of the REMIT Expert Group on wholesale energy market trading took place. *The meeting focused on the revision of the REMIT Regulation and other specific topics of interest, including the introduction of the Market Correction Mechanism, LNG data reporting requirements, and the LNG benchmark methodology*

ACER Guidance in the field of REMIT; *ACER produces and updates non-binding Guidance for National Regulatory Authorities (NRAs) to ensure effective coordination and consistency in their monitoring activities under REMIT. Additionally, ACER regularly updates and publishes documents on general REMIT policy and REMIT reporting. ACER frequently and regularly conducts meetings with stakeholders to discuss relevant REMIT topics and address any questions and concerns from REMIT stakeholders.*

- The current REMIT committees and task forces that meet several times per year are the ACER REMIT Committee (ARC), the REMIT Policy Task Force (RP TF), the Market Data Standing Committee (MD SC), the Market Monitoring Standing Committee (MM SC) and the RISIG. Once per year ACER organises its Roundtable meetings to discuss REMIT data collection and reporting, as well as its flagship REMIT event – the REMIT forum – which features both plenary and special interest group sessions and is attended by policy experts, energy traders and consumers, transmission system organisations and NRAs from all over Europe.
- ACER also establishes expert groups that provide ACER with ad hoc support and advice on REMIT topics. *The two current expert groups are the REMIT Expert Group and the Expert Group on LNG Price Assessment/Benchmarks*.
- Updates of the ACER guidance on the application of REMIT There were no updates of the ACER guidance on the application of REMIT due to the prioritisation of ACER's LNG tasks. Updates of the REMIT reporting guidance *There were no updates of the REMIT reporting guidance due to the prioritisation of ACER's LNG tasks.*
- Stakeholder engagement; Several REMIT stakeholder meetings took place in Q1 of 2023. The Expert Group on LNG Price Assessment/Benchmarks ('LNG Expert Group') was set up in December 2022 to advise ACER on the establishment and the integrity of LNG price assessments and benchmarks, according to Council Regulation (EU) 2022/2576 of 19 December 2022 'Enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders' ('Regulation (EU) 2022/2576'). Its first meeting took place on 11 January 2023, during which the group looked into the data collection and reporting obligations for the LNG price assessment, as well as the first version of the methodology for LNG price assessments.
- The experts discussed the aim of the LNG price assessment and provided advice on the basic elements of the process, including the type of market data to be collected and processed, the scope and method of the data analysis for LNG price assessments, as well as the data normalisation.
- The second meeting of the LNG Expert Group followed on 2 February 2023, where the group discussed the start of LNG market data submission to ACER in accordance with the specifications set out in Regulation (EU) 2022/2576 and analysed the outcome of the first phase of the application of the methodology for LNG price assessments. The discussion also focused on the input that the experts had provided on the methodology and how it was incorporated in the second version of the methodology document.

The European Commission's proposal on REMIT amendments; *to amend the current framework of the Regulation (EU) No 1227/2011 on Wholesale Energy Market Integrity and Transparency ('REMIT'), which was established 12 years ago.*

- The Commission's amendments aim to enhance the integrity and transparency of the EU wholesale energy markets by improving the REMIT data collection process and strengthening the monitoring and enforcement regime against possible abuses in the trading of wholesale energy products.
- The proposed amendments align the REMIT legal framework with other EU legislation in the financial, competition, and taxation domains. The proposal also expands the scope of REMIT to cover all markets and products referred to in the EU electricity and gas legal frameworks, such as the reporting of the full order book of organised marketplaces ('OMPs') and new balancing markets.
- Furthermore, it introduces amendments to enhance the quality, reporting, transparency, and monitoring of REMIT data, such as mandatory disclosure of inside information via inside information platforms ('IIPs'). The proposal also strengthens the energy consumer protection against market abuse and aims to address the difficulty of investigating and enforcing pan-European cases involving multiple or complex cross-border elements and non-EU based market participants.
- Finally, the Commission proposes harmonising the level of fines for REMIT breaches across EU Member States.
- Alignment of the REMIT legal framework with the EU financial market legal framework; Several Commission amendments aim at clarifying the interaction of REMIT with other EU legislative texts in the financial, competition, and taxation domains, particularly due to the increasingly close interrelation of these fields.
    - The alignments of the definitions of market manipulation and inside information with EU financial regulation will provide additional clarity to the market. The strengthening of the cooperation and of the exchange of information between national regulatory authorities ('NRAs') and the national financial, competition, and tax authorities, as well as between the European Union Agency for the Cooperation of Energy Regulators ('ACER') and the Commission, the ESMA ('ESMA') and EUROFISC, will be beneficial for the overall monitoring of the EU wholesale energy markets.
- Adaptation of the scope of REMIT to current and evolving market circumstances The REMIT framework needs updating to reflect the developments and the evolution in the EU energy wholesale markets and to cover all the markets and products referred to in the EU electricity and gas legal frameworks (current and upcoming).
- In this context, the Commission's proposal includes under REMIT scope:
    - (i) the reporting of the full order book of OMPs;
    - (ii) the data collection of coupled markets, such as single day-ahead and single intraday coupling; and
    - (iii) new balancing markets.
    - The proposal also introduces new dedicated provisions providing clarifications on the concepts of OMPs, algorithmic trading, and direct electronic access.
- Improvements to REMIT data quality, reporting, transparency, and monitoring
- The Commission proposal introduces powers for ACER to authorise, supervise, and withdraw authorisation from registered reporting mechanisms ('RRMs') and IIPs, which will enhance the collection of high-quality data for market surveillance activities by both ACER and NRAs.
- Furthermore, the mandatory disclosure of inside information via IIPs will sensibly increase transparency in the market. However, possible fines by ACER for infringements

of the REMIT requirements for IIPs, RRMs and OMPs are not included in the proposals of the Commission. In this context, it is worth mentioning that ESMA can adopt a fining decision if it finds that a trade repository has, intentionally or negligently, committed infringements against EMIR2 provisions. Withdrawal of the authorisation should be the ultima ratio.

- A possibility for ACER to enforce guidelines for market participants under the proposed Article 16(b) on the application of Articles 4(a), 8, 9 and 9(a) for an effective data reporting and monitoring framework is not part of the Commission's proposal.
- A stronger energy consumer protection against market abuse: Strengthening the enforcement regime of cases with EU dimension
- According to REMIT, ACER is responsible for the monitoring of wholesale energy markets in order to detect market abuse, while NRAs are responsible for the investigation and enforcement of potential REMIT breaches. For the latter, ACER must ensure that the NRAs carry out their tasks under REMIT in a coordinated and consistent way, without having investigatory or enforcement powers itself.
- Under REMIT, NRAs have been efficient in investigating and enforcing cases that are national in scope and with limited complex cross-border elements. See the overview of publicly available sanction Decisions, which is available here.
- The Commission assesses that the investigatory process has nevertheless proven to be difficult in certain pan European cases involving multiple or complex cross-border elements and non-EU-based market participants, despite all endeavours of NRAs. For example, the last 12 years showed that it is twice as likely to have a purely national case (only one NRA involved) investigated than a cross-border one (involving multiple NRAs), and almost three times as likely to have an enforcement decision with a sanction in a national case than in a cross-border one.
- The Commission establishes the core problem as: 'Market abuse cases involving multiple cross-border elements and market participants established outside the Union are particularly challenging from an enforcement perspective. The current supervisory set-up is not appropriate for the desired level of market integration'; and 'The absence of a mechanism to ensure the best possible supervisory decisions for cross-border cases, where joint action by national regulatory authorities and the Agency currently requires complicated arrangements and where there is a patchwork of supervisory regimes must be addressed.'
- Meanwhile, the EU dependence on gas suppliers outside the EU is growing. This highlights the importance of ensuring adequate levels of investigation and enforcement to address instances of market abuse under REMIT that have an EU dimension. In this context, the Commission is proposing to give ACER limited investigatory powers (compared to those provided to ESMA under Article 23(e) of CRAR3, Articles 25(i) and 64 of EMIR, Article 38(k) of MiFIR, and Article (3) of Regulation (EU) No 667/2014). It is interesting to note that, for example, in order to conduct investigations for these cases, ACER will have to rely on national enforcement powers, including when requesting information from entities who do not cooperate to the necessary level during the investigation.
- The Commission is providing ACER with investigatory powers for a specific set of cases of potential market abuse that involve a complex cross-border dimension in Europe or instances where it involves a non-EU-based supplier. These cases make up less than 5% of the total number of ongoing REMIT breach cases. According to the Commission's

proposal, once ACER completes its investigation report and identifies a breach of the REMIT market abuse prohibition provisions, it will be up to the relevant NRA(s) to decide whether to take enforcement action. This enforcement model falls short compared to the one conceived for ESMA under Article 36(a) CRAR, Articles 25(j) and 65 of EMIR and Article 38(h) of MiFIR.

- Harmonising the level of the fines imposed under REMIT at national level
- Having converging levels of fines throughout the European Union is an important element of deterrence and contributes to a harmonised and efficient implementation of the REMIT framework. To this end, the Commission's proposal for REMIT to provide a minimum threshold (i.e. a percentage of the total annual turnover) for the level of the maximum administrative fines imposed at national level by NRAs, per type of REMIT breach (drawing on what exists under MAR and competition law), can be an important step forward

---

Ends. 02 May 2023