

EVIA & LEBA Compliance reference sheet

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

0830 Wednesday 10th January 2024

- 1. Regulatory Outlook and Diary**
 - a EU and UK regulatory frameworks - alignment or divergence?
 - b Diversity and inclusion in regulated firms; PRA and FCA propose new requirements
 - c SMCR Topics
 - d Regulatory Barometer – H2 2023
 - e Autumn ESG Round-up 2023
 - f Global and UK Markets Code Reviews
 - g UK Legislative Proposals on Cryptoasset Rules
- 2. Regulatory and Compliance Forward Diary**
- 3. Highlights from the Regulatory Environment in March**
 - a BMR, RFRs & LiBOR Transition Update
 - b Capital Markets and Market Structure
 - c MAR
 - d Fintech, SupTech & Reg Tech Developments
 - e Sanctions Requirements
 - f Conduct, Fines & Enforcements
 - g Prudential & Risk
 - h Green finance, ESG & Disclosures
 - i Energy & Commodities

Regulatory Outlook and Diary

Forward Regulatory Calendar: Updated 01st November 2023

Q4 2023	Hong Kong	Consultation of Hong Kong's reporting rules on adoption of UPI and CDE.
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Q4 2023	EU	<p>The European Commission (EC) has published the 3rd Capital Requirements Regulation (CRR III) proposal on October 27, 2021, which will implement the Basel 3 framework in Europe. The CRR III will transpose the market risk standards (FRTB) as a binding capital constraint, the output floor, the revised credit valuation adjustment framework, alongside operational and credit risk framework, amongst others.</p> <p>EU policymakers have agreed on a final trilogue deal on 27 June 2023. There will be technical work to finalize the agreed compromise wording over the summer. The European Parliament and Member States will have to endorse formally the trilogue deal which will pave the way for the publication in the Official Journal, now expected in Q3/Q4 2023. The date of implementation of the EU banking package is expected on 1 January 2025.</p>
Q4 2023	Japan	<p>Pursuant to the amended Comprehensive Guidelines for the Supervision of Agricultural Cooperative Financial Institutions (which became effective as of July 1, 2023), the Norinchukin Bank and its group entities are required to incorporate contractual recognition of temporary stay under the Agricultural and Fishery Co-operatives Savings Insurance Act into existing and new non-Japanese law governed master agreements.</p>
Q4 2023	EU	<p>Earliest expected start date for the Internal Model Approach (IM) reporting requirements under the CRR II market risk standard.</p>
December 04, 2023	US	<p>Swap data repositories (SDRs), swap execution facilities (SEFs), designated contract markets (DCMs), and reporting counterparties must comply with the amendments to the CFTC swap data reporting regulations found in Part 43, Part 45 and Part 49 by the compliance date of December 5, 2022; provided, however that SDRs, SEFs, DCMs, and reporting counterparties must comply with the amendments to §§43.4(h) and 43.6 by December 4, 2023.</p>
December 31, 2023	UK	<p>Expiry of the temporary Intragroup Exemption Regime (TIGER) from clearing and margin requirements. <i>(this will change subject to HM Treasury passing a statutory instrument to extend the instrument to December 31, 2026).</i></p>
December 31, 2023	Mexico	<p>Deadline for entities and investment funds to comply with the margin requirements for uncleared derivatives under Banco de México's Circular 2/2023.</p>
2024 / 2025	Singapore	<p>MAS will defer implementation of the final Basel III reforms in Singapore between January 1, 2024, and January 1, 2025, to allow the industry sufficient time for proper implementation of systems needed to adopt the revised framework, including regulatory reporting. This aligns timelines with other major jurisdictions. MAS will monitor banks' implementation progress and finalize the implementation timeline for the final Basel III reforms, including the transitional arrangement for the output floor by July 1, 2023</p>

January 1, 2024	US	Under US Prudential Regulations only, initial margin requirements apply to covered swap entities with material swaps exposure (average (daily) aggregate notional amount from June, July, and August 2023 exceeding USD 8 billion)
	EU	EU: Initial margin requirements apply to counterparties with an average (monthly) aggregate notional amount from March, April, and May 2023 exceeding EUR 8 billion.
	Switzerland	Switzerland: Initial margin requirements apply to counterparties whose average (monthly) aggregate notional amount from March, April, and May 2023 exceeds CHF 8 billion.
	UK	UK: Initial margin requirements apply to counterparties with an average (monthly) aggregate notional amount from March, April, and May 2023 exceeding EUR 8 billion
January 1, 2024	EU	Application of the Delegated Acts (DAs) with respect to the four remaining environmental objectives on the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystem.
January 4, 2024	EU	The three-year derogation from margin rules in respect of non-centrally cleared over-the-counter derivatives, which are single-stock equity options or index option where no EMIR Article 13(2) equivalence determination is in place, was due to expire on January 4, 2021.
January 4, 2024	Hong Kong	Expiry of the SFC exemption from margin requirements for non-centrally cleared single stock options, equity basket options and equity index options.
January 4, 2024	UK	Expiry of the derogation from margin rules in respect of non-centrally cleared over-the counter derivatives, which are single-stock equity options or index options.
January 16, 2024	US	Comment Deadline on U.S. Basel III proposal (See 88 Fed. Reg. 73770-73772 (October 27, 2023)).
January 29, 2024	US	Compliance Date for registered entities and swap counterparties to use the Unique Product Identifier (UPI) for swaps in the credit, equity, foreign exchange and interest rate asset classes for P43 and P45 reporting.
March 01, 2024	Australia	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.
	US	
	EU	
	Australia	
	Canada	

	<p>Hong Kong</p> <p>Korea</p> <p>Switzerland</p> <p>Singapore</p> <p>Japan</p> <p>Brazil</p> <p>Mexico</p>	<p>In Mexico, the corresponding compliance date is December 31, 2025</p> <p>Brazil is daily and all others are month-end for March, April, and May average aggregate notional amount.</p>
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	<p>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).</p> <p>After March 31, 2023, optionality for financial institutions wishing to implement earlier than the above period must submit a notification to the Financial Services Agency (limited to those designated by JFSA).</p>
April 01, 2024	Japan	Go-live of revised JFSA reporting rules based on the CPMI-IOSCO Technical Guidance <u>excluding Unique Product Identifier (UPI) and Delta</u> . JFSA finalized the Guidelines of the revised reporting rules on December 9, 2022.
April 01, 2024	India	The RBI published draft guidelines on minimum capital requirements for market risk as part of convergence with Basel III standards. Applicable to all commercial banks excluding local area banks, payment banks, regional rural banks, and small finance banks. Not applicable to cooperative banks.
April 29, 2024	EU	Go-live of EMIR Refit reporting rules

June 28, 2024	EU	As part of the review clause inserted in CRR II, the European Commission taking into account the reports by the European Banking Authority is expected to review the treatment of repos and reverse repos as well as securities hedging transactions through a legislative proposal.
June 28, 2024	EU	As part of CRR II, the European Banking Authority is to monitor and report to the European Commission on Required Stable Funding (RSF) requirements for derivatives (including margin treatment and the 5% gross-derivative liabilities add-on).
June 30, 2024	EU	The EC to review the application of the Article 8 Taxonomy Regulation including the need for further amendments with regards to the inclusion of derivatives in the numerator of KPIs for financial undertakings.
July 1, 2024	US	Compliance date for CFTC Block and Cap reporting amendments. Expiry of relief in CFTC Staff Letter No. 22-03.
July 1, 2024	US	Expected implementation of revised credit risk, operational risk, output floor, and leverage ratio frameworks and reporting-only requirement for market risk and CVA-risk
July 1, 2024	Singapore	<p>With regards to the final Basel III reforms in Singapore, all standards, other than the revised market risk and credit valuation adjustment (CVA) standards, as required under the revised MAS Notice 637 on Risk Based Capital Adequacy Requirements for Banks Incorporated in Singapore will come into effect from 1 July 2024.</p> <p>For revised market risk and CVA standards, only compliance with supervisory reporting requirements will come into effect from 1 July 2024.</p> <p>The output floor transitional arrangement of 50% will commence from 1 July 2024 and reach full phase-in (72.5%) on 1 Jan 2029.</p>
July 12, 2024	US	Compliance date: CFTC Governance Requirements for Derivatives Clearing Organizations (See 88 FR 44675- 44694 (July 13, 2023)).
August 31, 2024	Korea	Expiry of the FSS exemption from margin requirements for non-centrally cleared equity options.
September 1, 2024	US Australia Canada	<p>Under CFTC rules only, initial margin requirements apply to covered swap entities with material swaps exposure (average (month-end) aggregate notional amount from March, April, and May 2024 exceeding USD 8 billion).</p> <p>Australia: Initial margin requirements apply to Phase 6 APRA covered entities with an average (month-end) aggregate notional from March, April, and May 2024 amount exceeding AUD 12 billion.</p> <p>Canada: Under both OSFI and AMF guidelines, initial margin requirements apply to Phase 6 covered entities with average (month-</p>

	Hong Kong	end) aggregate average notional amount from March, April, and May 2024 exceeding CAD 12 billion.
	Korea	Hong Kong: Initial margin and risk mitigation requirements apply to HKMA AIs and SFC LCs with an average (month-end) aggregate notional amount from March, April, and May 2024 exceeding HKD 60 billion.
	Singapore	Korea: Initial margin requirements apply to financial institutions with derivatives exceeding more than average (month-end) aggregate KRW 10 trillion based on calculation from March, April, and May 2024.
	Japan	Singapore: Initial margin requirements apply to MAS covered entities with an average (month-end) aggregate notional amount from March, April, May 2024 exceeding SGD 13 billion.
	Brazil	Japan: Initial margin requirements apply to JFSA covered entities with an average (month-end) aggregate notional amount from March, April, and May 2024 exceeding JPY 1.1 trillion.
	Saudi Arabia	Brazil: Initial margin requirements apply to financial institutions and other entities authorized to operate by the Central Bank of Brazil which have an average (daily) aggregate notional amount from March, April, and May 2024 exceeding BRL 25 billion.
		SA: Initial margin requirements apply to covered entities belong to a group whose average (month-end) aggregate notional amount of non-centrally cleared derivatives from March, April, and May 2024 exceeds EUR 8 billion.
September 1, 2024	South Africa	Initial margin requirements apply to a provider with average (month-end) aggregate notional amount from March, April, and May 2024 exceeding ZAR 8 trillion. (per amended rule pending finalization).
September 28, 2024	Canada	Multilateral Instrument 93-101, Business Conduct Rules become effective.
September 30, 2024	EU	Go-live of UK EMIR Refit reporting.
Q4 2024	Singapore	Expected go-live of the updated MAS reporting regime.
Q4 2024	Singapore	Expected go-live of the updated MAS OTC derivatives trade reporting regime.
October 1, 2024	US	Expiration of temporary CFTC relief regarding capital and financial reporting for certain non-US nonbank swap dealers (See CFTC Staff Letter No. 22-10 and CFTC Staff Letter No. 21-20) *relief would also expire upon the Commission's issuance of comparability determinations for the jurisdictions in question.

October 21, 2024	Australia	Expected implementation of ASIC Derivative Transaction Rules (Reporting) 2024.
December 31, 2024	UK	The FCA direction under the temporary transitional powers allowing UK firms to execute certain trades with EU clients on EU venues (even though there is no UK equivalence decision in respect of those venues) expires at the end of 2024
December 31, 2024	Mexico	Annual compliance date for entities and investment funds to comply with the margin requirements for uncleared derivatives under Banco de México's Circular 2/2023 if average aggregate notional amount exceeds UDI 20 billion based on month-end calculation period from March to May 2023
January 1, 2025	EU	Expected implementation of FRTB and CVA risk under the CRR III proposal.
January 1, 2025	Australia	Basel III: Expected implementation of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
January 1, 2025	US	Under US Prudential Regulations only, initial margin requirements apply to covered swap entities with material swaps exposure (average (daily) aggregate notional amount from June, July, and August 2024 exceeding USD 8 billion).
	EU	Initial margin requirements apply to counterparties with an average (month-end) aggregate notional amount from March, April, and May 2024 exceeding EUR 8 billion.
	Switzerland	Initial margin requirements apply to counterparties whose average (month-end) aggregate notional amount from March, April, and May 2024 exceeds CHF 8 billion.
	UK	Initial margin requirements apply to counterparties with an average (month-end) aggregate notional amount from March, April, and May 2024 exceeding EUR 8 billion.
January 1, 2025	Singapore	With regards to the final Basel III reforms in Singapore, compliance with capital adequacy and disclosure requirements for revised market risk and CVA standards will come into effect from 1 January 2025. The output floor transitional arrangement of 55% will commence from 1 January 2025.
January 1, 2025	Hong Kong	Expected implementation date for the minimum regulatory requirement for Basel III revised market risk and CVA risk.
March 1, 2025	Australia	Three-month calculation period begins to determine whether the average aggregate notional amount of derivatives for an entity and its affiliates exceeds the lowest threshold for application or revocation of initial margin requirements as of the next relevant compliance date of either September 1, 2025, or January 1, 2026 (EU/UK/CHF). In the US, this calculation period only applies under CFTC regulations. In Mexico,
	US	
	EU	

	Canada Hong Kong Korea Switzerland Singapore Japan Brazil South Africa UK Mexico Saudi Arabia	the corresponding compliance date is December 31, 2026. Brazil is daily and all others are month-end for March, April, and May average aggregate notional amount.
Q4 2024/Q1 2025	EU	Earliest expected start date for the Internal Model Approach (IM) reporting requirements under the CRR II market risk standard.
January 1, 2025	Australia	Basel III: Expected implementation of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
January 1, 2025	UK	Expected implementation of the Basel 3.1 standards
January 1, 2025	UK	Expected implementation of the Basel 3.1 standards
April 07, 2025	Japan	Proposed implementation date for UPI and Delta under the revised Guideline on the JFSA reporting rules.
March 31, 2025	Japan	Basel III: Expected implementation of revised credit risk, CVA, market risk (FRTB) for domestic banks not using IMM.
June 18, 2025	UK	End of the temporary exemption for pension scheme arrangements from clearing and margining under UK EMIR.
June 30, 2025	EU	The temporary recognition of UK CCPs (LME, ICE and LCH) under the EMIR 2.2 framework expires. Unless further addressed, following this date, EU firms could not have access to the UK CCPs and would need to relocate their clearing activities to EU CCPs. Under EMIR 2.2, ESMA

		has also performed its tiering assessment, with LME becoming a Tier 1 CCP whereas ICE and LCH are considered Tier 2 CCPs.
June 30, 2025	EU	The temporary exemption from clearing and margin requirements for cross-border intragroup transactions under EMIR expires.
Q3 2025	Hong Kong	Expected go-live of the updated HKMA and SFC OTC derivatives trade reporting regime.
July 1, 2025	US	The Basel III endgame proposal has an effective date of July 1st, 2025, accompanied by a 3-year phase-in period for the new ERBA RWAs that starts at 80% of total RWA and phases in incrementally each year until July 1st, 2028.
July 1, 2025	UK	Expected implementation of the Basel 3.1 standards
September 01, 2025	US	Under CFTC rules only, initial margin requirements apply to covered swap entities with material swaps exposure (average (month-end) aggregate notional amount from March, April, and May 2025 exceeding USD 8 billion).
	Australia	Australia: Initial margin requirements apply to Phase 6 APRA covered entities with an average (month-end) aggregate notional amount from March, April, and May 2025 exceeding AUD 12 billion.
	Canada	Canada: Under both OSFI and AMF guidelines, initial margin requirements apply to Phase 6 covered entities with average (month-end) aggregate average notional amount from March, April, and May 2025 exceeding CAD 12 billion.
	Hong Kong	Hong Kong: Initial margin and risk mitigation requirements apply to HKMA AIs and SFC LCs with an average (month-end) aggregate notional amount from March, April, and May 2025 exceeding HKD 60 billion.
	Korea	Korea: Initial margin requirements apply to financial institutions with derivatives exceeding more than average (month-end) aggregate notional amount of KRW 10 trillion based on calculation from March, April, and May 2025.
	Singapore	Singapore: Initial margin requirements apply to MAS covered entities with an average (month-end) aggregate notional amount from March, April, and May 2025 exceeding SGD 13 billion.
	Japan	Japan: Initial margin requirements apply to JFSA covered entities with an average (month-end) aggregate notional amount from March, April, and May 2025 exceeding JPY 1.1 trillion.

	Brazil	Brazil Initial margin requirements apply to financial institutions and other entities authorized to operate by the Central Bank of Brazil which have an average (daily) aggregate notional amount from March, April, and May 2025 exceeding BRL 25 billion.
	Saudi Arabia	Saudi Arabia: Initial margin requirements apply to covered entities belong to a group whose average (month-end) aggregate notional amount of non-centrally cleared derivatives from March, April, and May 2025 exceeds EUR 8 billion.
September 01, 2025	South Africa	Initial margin requirements apply to a provider with average (month-end) aggregate notional amount from March, April, and May 2025 exceeding ZAR 8 trillion. (per amended rule pending finalization).
November 15, 2025	EU	The CRR 2 IMA reporting requirements for market risk will be applicable from November 15, 2025, in the EU. As things stand currently in the CRR 3 political process, these IMA reporting requirements may become obsolete as we are still looking at a January 1, 2025, start date for the capitalization of market risk in the EU. However, IMA Reporting could still become live if the European Commission decides to enact the two-year delay mentioned under the CRR3 Article 461a FRTB delegated act. As this may still evolve in the CRR 3 negotiations, ISDA will keep monitoring developments in this area.
December 01, 2025	US	Expiry of extension of relief concerning swap reporting requirements of Part 45 and 46 of the CFTC's regulations, applicable to certain non-US swap dealers (SD) and major swap participants (MSP) established in Australia, Canada, the European Union, Japan, Switzerland and the United Kingdom, that are not part of an affiliated group in which the ultimate parent entity is a US SD, US MSP, US bank, US financial holding company or US bank holding company. See CFTC Staff Letters No. 20-37 and No. 22-14 .
January 01, 2026	Australia	Basel III: Expected implementation of APRA FRTB and CVA risk (APS 116 and APS 180) frameworks.
January 01, 2026	Singapore	With regards to the final Basel III reforms in Singapore, the output floor transitional arrangement of 60% will commence from 1 January 2026.
January 01, 2026	EU	Expiry of the suspension of the BMR rules allowing EU supervised entities to continue to use non-EU benchmarks.
January 04, 2026	UK	Expiry of the derogation from margin rules in respect of non-centrally cleared over-the-counter derivatives, which are single-stock equity options or index options
February 12, 2026	EU	CCP R&R (Article 96): The European Commission (EC) shall review the implementation of this Regulation and shall assess at least the following: <ul style="list-style-type: none"> the appropriateness and sufficiency of financial resources available to the resolution authority to cover losses arising from a non-default event

		<ul style="list-style-type: none"> 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. <p>Where appropriate, that report shall be accompanied by proposals for revision of this Regulation.</p>
June 01, 2026	EU	Commodity dealers as defined under CCR, and which have been licensed as investment firms under MiFID 2/ MIFIR have to comply with real capital/large exposures/liquidity regime under Investment Firms Regulation (IFR) provisions on liquidity and IFR disclosure provisions.
December 31, 2026	UK	Expiry of the temporary Intragroup Exemption Regime (TIGER) from clearing and margin requirements
January 1, 2027	Singapore	With regards to the final Basel III reforms in Singapore, the output floor transitional arrangement of 65% will commence from 1 January 2027.
August 12, 2027	EU	CCP R&R (Article 96): The Commission shall review this Regulation and its implementation and shall assess the effectiveness of the governance arrangements for the recovery and resolution of CCPs in the Union and submit a report thereon to the European Parliament and to the Council, accompanied where appropriate by proposals for revision of this Regulation.
January 1, 2028	Singapore	With regards to the final Basel III reforms in Singapore, the output floor transitional arrangement of 70% will commence from 1 January 2028.
January 1, 2029	Singapore	With regards to the final Basel III reforms in Singapore, the output floor transitional arrangement of 72.5% will commence from 1 January 2029.

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

	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			
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	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

	<p>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.</p>			
<p>HMT (with input from</p>	<p>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.</p> <p>UK regulatory approach to stablecoins; Treasury consultation on the broader regulatory approach to cryptoassets, including new challenges from so-called stablecoins. Further detail on the regime will be communicated in due course.</p>	<p>01 February 2023: publication of Consultation Paper. The consultation will close on 30 April 2023.</p> <p>The Government has now responded to this consultation. The Government has now introduced legislation - the Financial Services and Markets Bill - that will give effect to the measure. Treasury is consulting on a future regulatory regime for cryptoassets (see 'Future regulatory regime for cryptoassets - consultation' under 'Payments and cryptoassets').</p>	H	<p>Timing Updated</p> <p>April / June 2023</p>
<p>BoE/ FCA/ HMT</p>	<p>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 will enable a more flexible and tailored approach to meeting requirements in current legislation, whilst appropriately balancing any risks to financial stability, market integrity and consumer protection. Treasury have started work with the Bank of England and</p>	<p>The Government has published information on this initiative as part of its response the Call for Evidence on the Wholesale and Investment uses of Security Tokens. The FMI Sandbox will be up and running in 2023.</p>	L	<p>Oct -Dec 2023</p> <p>(Not updated)</p>

	the FCA on secondary legislation to deliver this.			
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. Potential Consultation Paper in Q2 2023, including feedback to DP22/2.	L	Timing Updated April / June 2023
FCA	Implementing ISSB disclosure standards into FCA listing or transparency rules; We expect the International Sustainability Standards Board to finalise international sustainability	Consultation Paper in Q4 2023 Policy Statement 2024	L	Oct -Dec 2023

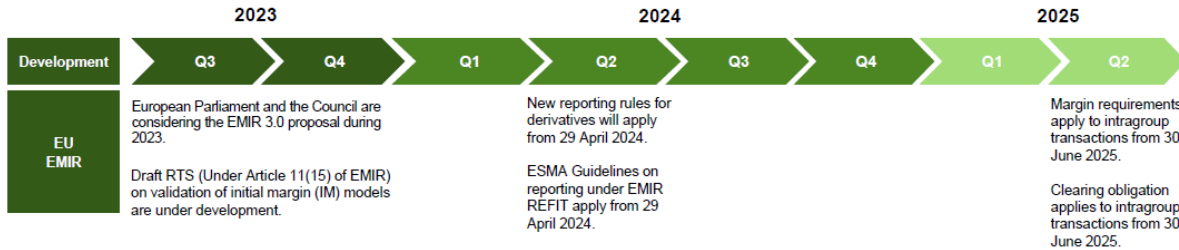
	disclosure standards later in 2023. The FCA has previously indicated it will explore implementing those standards in its rules for listed companies once finalised, which would replace existing TCFD disclosure requirements. The FCA expects to consult towards the end of this year, with final rules in the first half of 2024 subject to feedback. Timing may be subject to the Government's response to the ISSB standards			
HMT	<p>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.</p> <p>This power will reinforce that reputation and help us maintain the UK's status as a world-class destination for listings</p>	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	<p>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.</p>	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	<p>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</p>	The Government has accepted all the recommendations addressed to it and is considering how to take these forward	L	N/A

	considering how to take these forward			
HMT	<p>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.</p>	<p>June - September 2021: Call for Evidence took place</p> <p>December 2021: Treasury report on the review published and laid in Parliament</p> <p>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.</p> <p>December 2022: A draft SI has been published, intended to demonstrate how Treasury may implement the outcomes of the FRF review for the Securitisation Regulation. This process will enable reforms in areas identified in the report to be taken forward.</p> <p>2023 and 2024: The FCA and the PRA will plan to consult on the FCA and PRA rules to deal with the relevant firm-facing provisions in the Securitisation Regulation (and related technical standards) taking into consideration the reform areas identified in Treasury's Review of the Securitisation Regulation. Treasury plans to lay legislation to enable the introduction of these rules.</p>	L	<p>Timing Updated</p> <p>Jul - Sep 2023</p> <p>Oct - Dec 2023</p>

Benchmarks, RFRs & LiBOR Transition

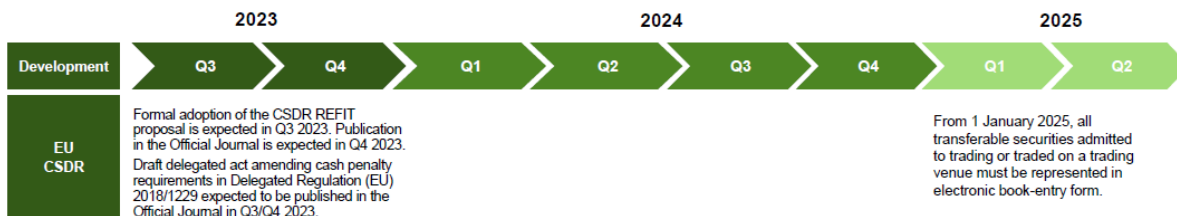
Capital Markets and Market Structure

EU EMIR



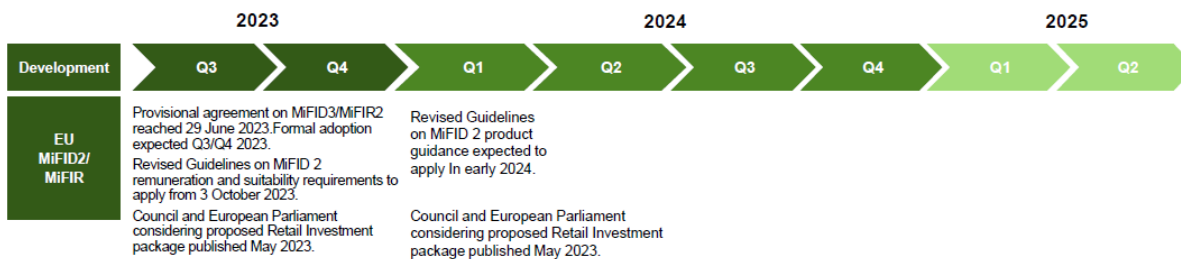
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EU CSDR

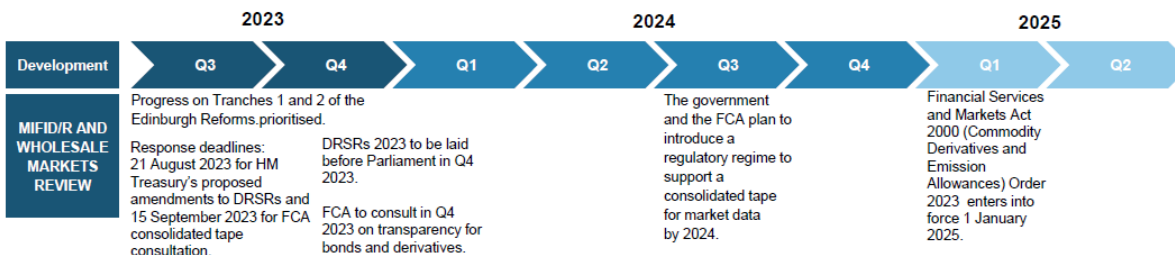


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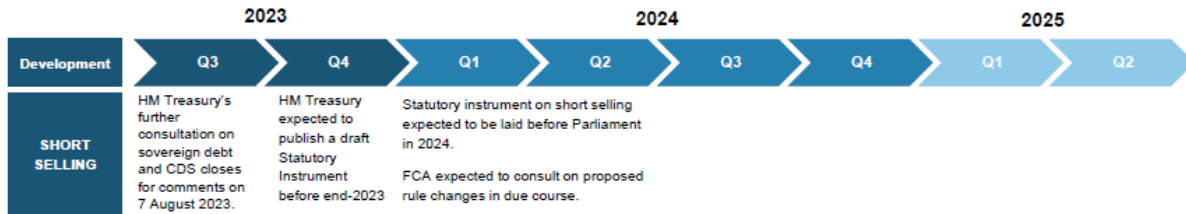
EU MIFID2/MIFIR



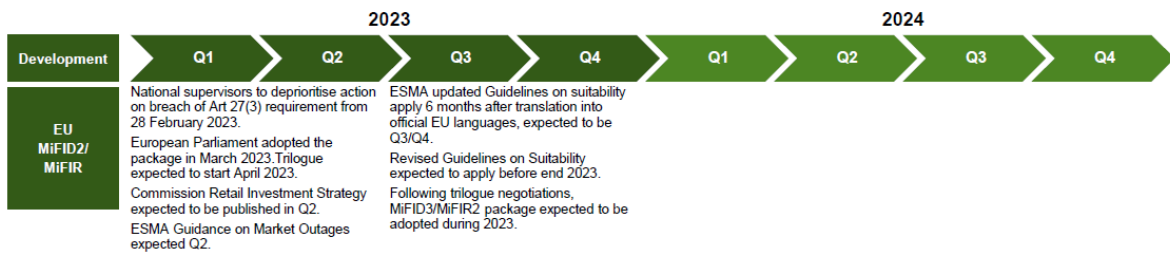
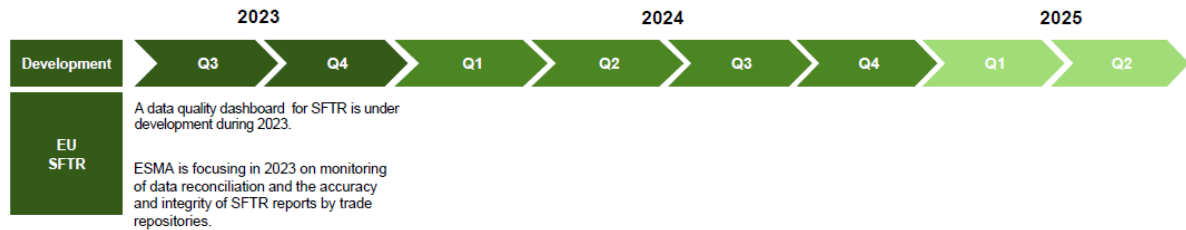
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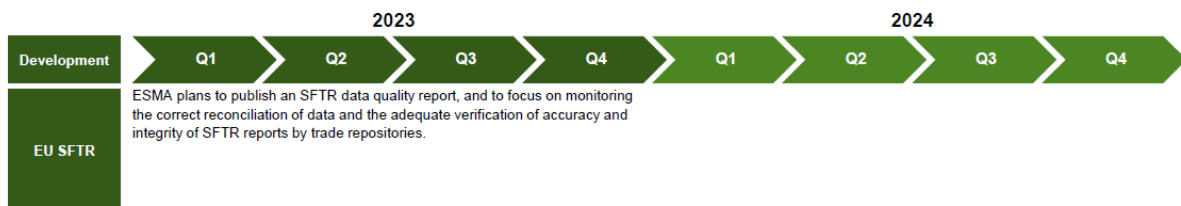
SHORT SELLING



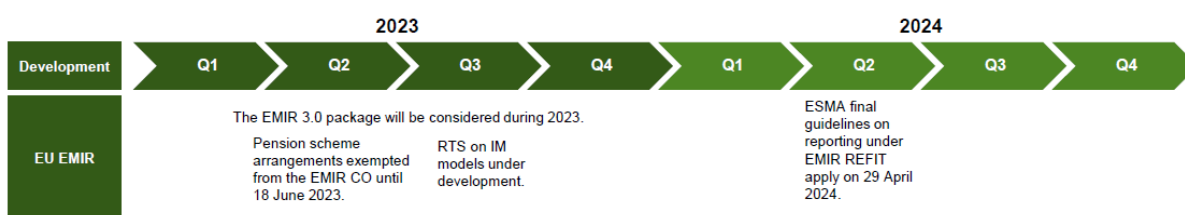
EU SFTR



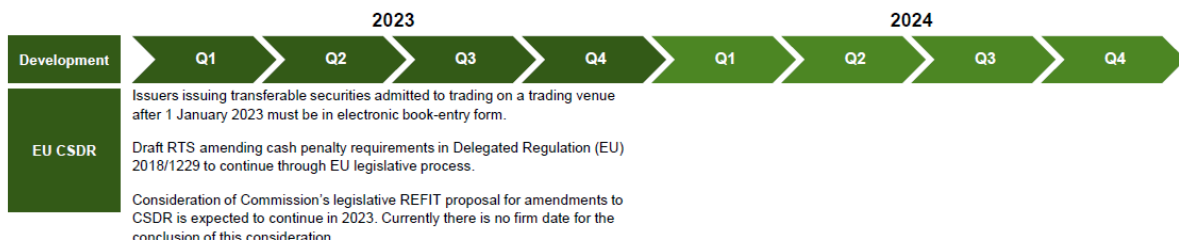
EU SFTR



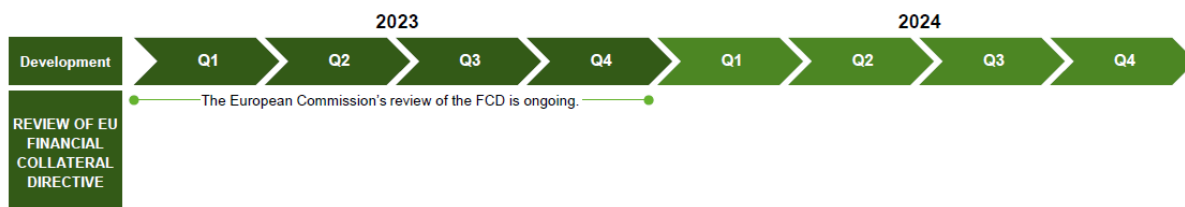
LISTING ACT PACKAGE



EU CSDR

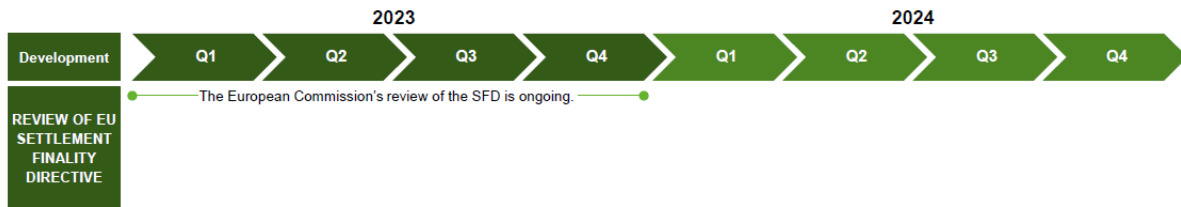


FINANCIAL COLLATERAL DIRECTIVE

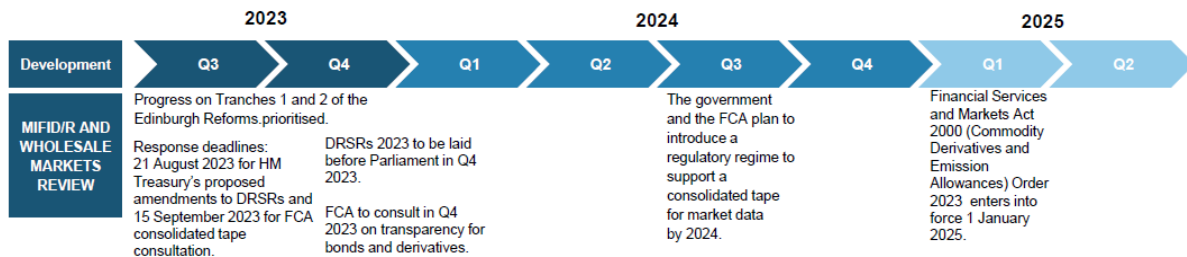


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SETTLEMENT FINALITY DIRECTIVE



UK Divergences



Key UK developments timeline

Brexit changes in 2018

- EUWA receives Royal Assent on 26 June 2018
- Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018

1

"Quick fix" SI in 2021

- Markets in Financial Instruments (Capital Markets) (Amendment) Regulations 2021

2

"Quick fix" FCA rule changes made in 2021

- PS 21/20: Changes to UK MiFID's conduct and organisation requirements

3

HMT's Wholesale Markets Review in 2021/2

- Consultation published in July 2021
- Response published in March 2022

4

FSMA 2023 – transitional amends

- Certain MiFIR transitional amendments come into force on 29 August 2023

7

Investor reporting changes in 2022

- Markets in Financial Instruments (Investor Reporting) (Amendment) Regulations 2022

5

Transparency changes in 2023 and 2024

- UK Technical Standards (Markets in Financial Instruments Transparency) Instrument 2023
- FCA PS 23/4: Improving Equity Secondary Markets

8

Financial Services and Markets Act 2023

- FSMA 2023 receives Royal Assent on 29 June 2023
- Includes transitional amendments to MiFIR and the FSMA 2000 (Markets in Financial Instruments) Regulations 2017

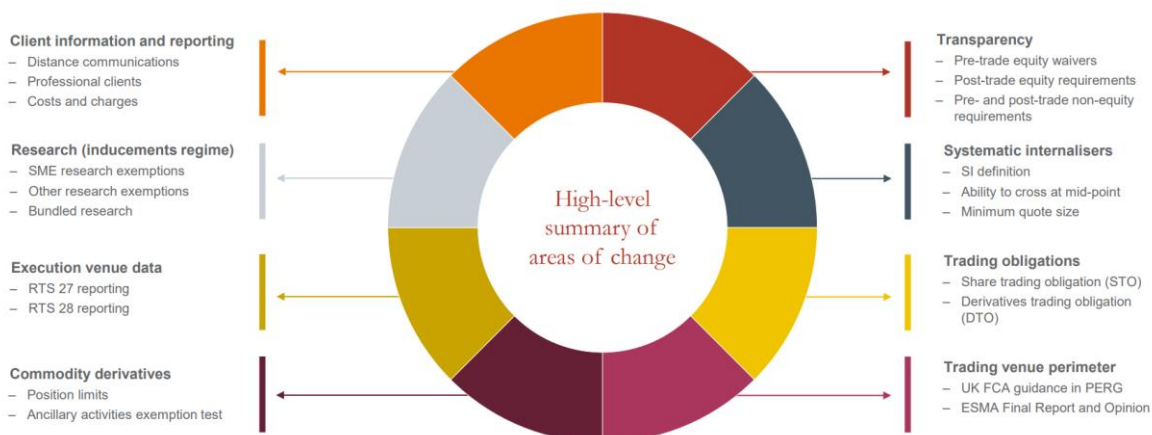
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MiFID II/MiFIR changes since Brexit

In the UK...	In the EU...
Brexit changes	UK status post-Brexit

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

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



Plus limited changes in relation to: (i) consolidated tape; (ii) market making agreements; (iii) ETD open access; (iv) payment for order flow; (v) DEA limitation for the dealing on own account exemption; (vi) product governance

EVI/A

European
Venues &
Intermediaries
Association

LEBA

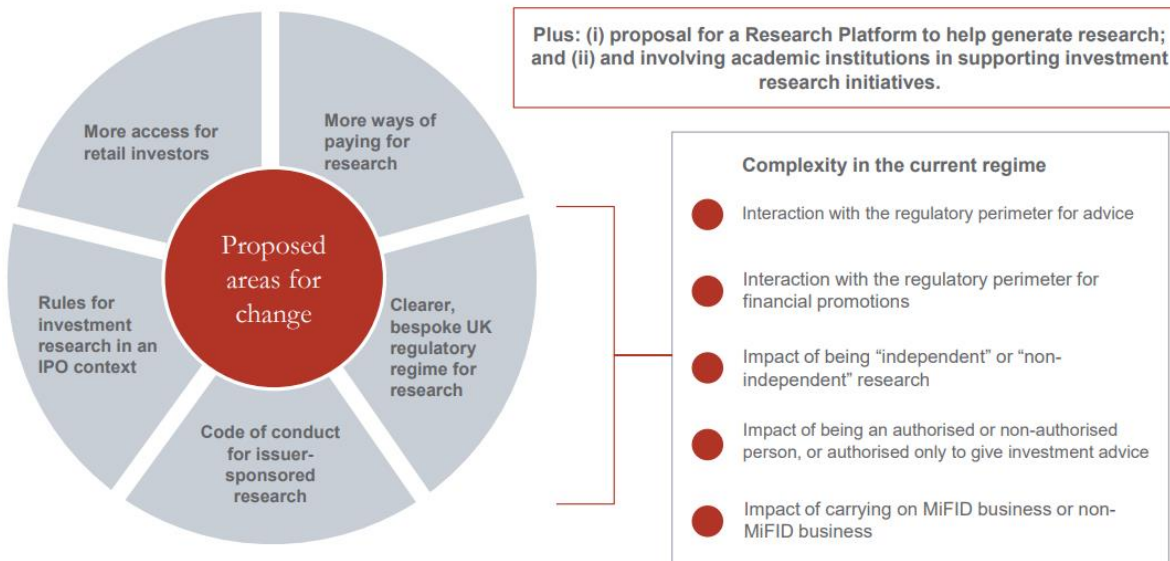
London
Energy
Brokers'
Association

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

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

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

o



UK “smarter regulatory framework”

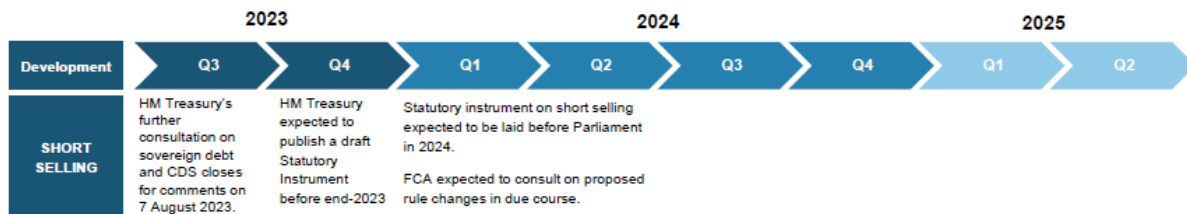
PS 23/4 changes	FSMA 2023 changes
– Streamlining the lists of non-price forming transactions used for different purposes in the context of equity transparency	– New FCA rule-making powers for pre-trade transparency requirements for equity instruments and pre- and post-trade transparency requirements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

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

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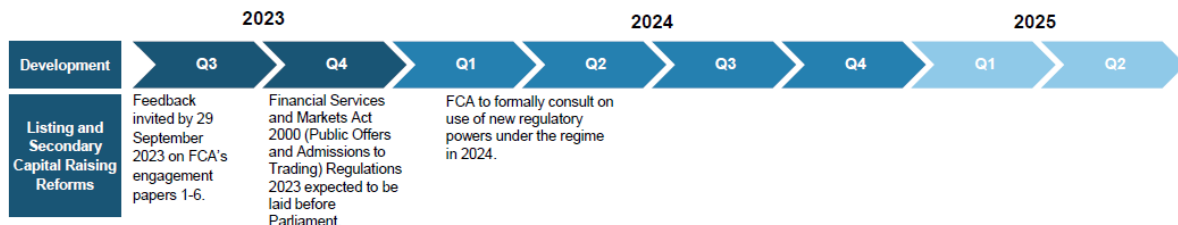
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SHORT SELLING



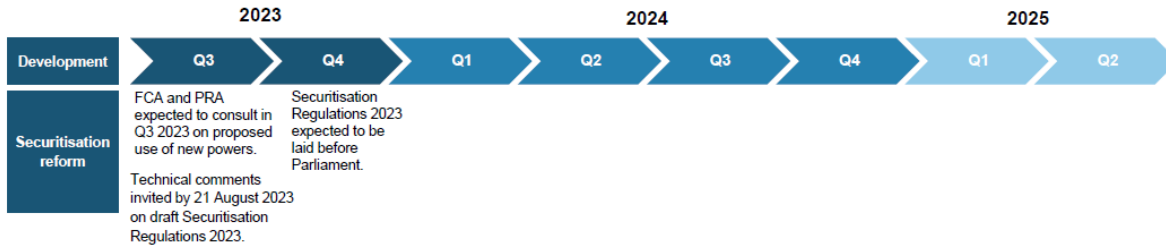
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LISTING AND SECONDARY CAPITAL RAISING REFORMS



●

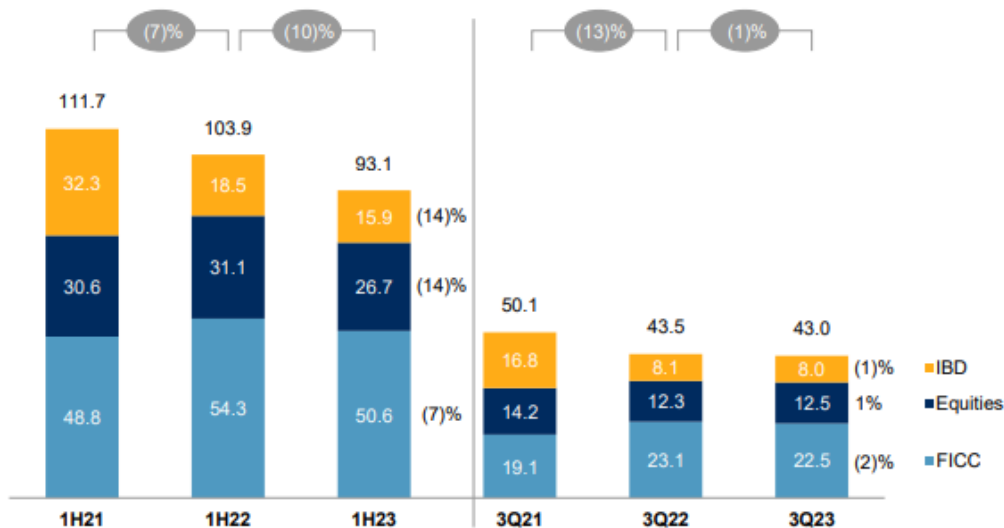
SECURITISATION REFORM



Coalition Index for Investment Banking – 3Q23YTD. Dec 2023; Here are the key takeaways:

- 3Q23YTD Coalition Index Investment Banking revenues were down by (8)% on a YoY basis.
- FICC: Revenue normalization driven by weaker performance in Macro products (particularly Commodities, EM Macro and G10 FX) while Spread products improved off a low base with trading underperformance last year.
- **Equities:** Decline in revenues from reduced client activity in Equity Derivatives and Cash Equities, partially offset by robust performance in Prime Services and Futures.
- **IBD:** IBD revenues fell moderately as M&A activity remained weak despite a recovery in ECM and bond underwriting activity.

Figure 1. Revenues by Business (USD Billion)



- 3Q23YTD Coalition Index Investment Banking revenues were down by (8)% on a YoY basis. FICC: Revenue normalization driven by weaker performance in Macro products (particularly Commodities, EM Macro and G10 FX) while Spread products improved off a low base with trading underperformance last year. Equities: Decline in revenues from reduced client activity in Equity Derivatives and Cash Equities, partially offset by robust performance in Prime Services and Futures. IBD: IBD revenues fell moderately as M&A activity remained weak despite a recovery in ECM and bond underwriting activity

Figure 2. Revenues by Business (USD Billion)

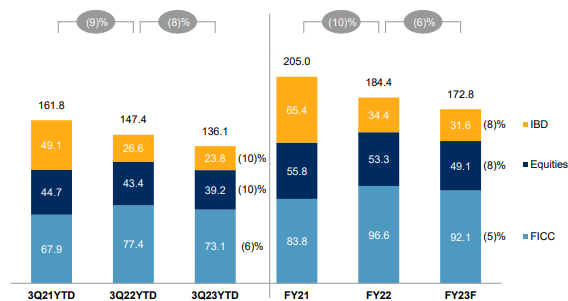
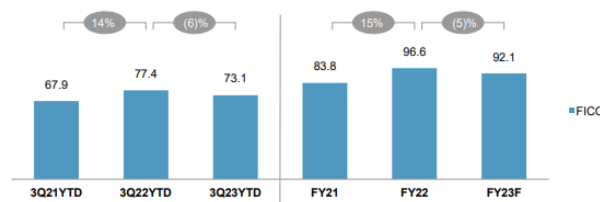


Figure 3. FICC Revenues (USD Billion)



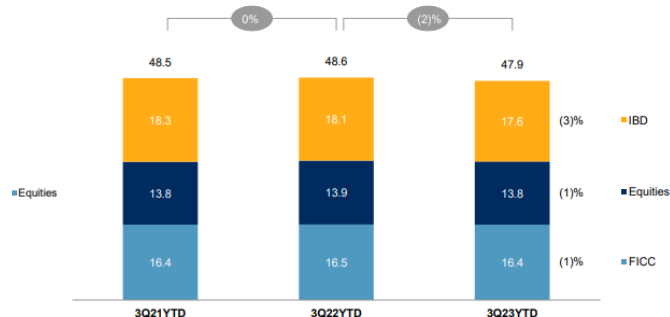
- FICC – 3Q23YTD;** Lower revenues were driven by weaker performance in Macro products, which was partially offset by improvement in Spread Products. G10 Rates was the strongest area within Macro, whereas Commodities, EM Macro and G10 FX normalized from outsized trading gains in 2022. Spread revenues strengthened as trading recovered from last year's underperformance, and financing activity remained healthy throughout the year.
 - G10 Rates:** G10 Flow Rates performed well in 1H23, with a light slowdown in activity going into the third quarter. The best performing regions were AMER and Japan, as the U.S. benefited from regional bank dislocation and the LIBOR transition, while Japan saw increased client interest and trading opportunities. EMEA Rates was comparatively more challenged, partially due to a strong 2022 performance marked by high volatility and the UK mini-budget/pension issues.
 - G10 FX:** Revenue drop driven by muted institutional client activity and lower volatility against a high base from the previous year. The sluggish pace of deal-contingent flows continued to negatively impact FX options performance.
 - EM Macro:** Sharp revenue decline driven largely by CEEMEA in the absence of one-off gains from Russia/Ukraine last year. LatAm revenue was comparatively stable due to interest rate changes, elections, and corporate hedging, while APAC experienced a moderate decline due to the slowdown in China.
 - Commodities:** Drop in revenues driven by reduced price volatility and the absence of one-off gains versus an exceptional 2022, especially in EU Power and Gas. Oil revenues fell YoY on the back of lower client demand and a pullback in financing. However, higher revenues in the third quarter were driven by increased demand for corporate hedging. Metals revenues fell on the back of lower activity in base metals although precious metals remained flattish YoY.
 - Credit:** Credit improvement was driven by both G10 Flow and Structured Credit, partially offset by a decline in EM Credit. HY, Loans, Distressed and CLOs recovered from 2022 trading losses while financing growth continued owing to strong institutional demand. EM Flow Credit normalized lower from one-off gains related to Russia/Ukraine last year.
 - Securitisation:** Light YoY improvement in the first half of the year was followed by a more substantial uptick in 3Q23. Trading revenues normalized higher from a weak base while financing remained stable due to higher interest rates and improved margins. The primary market began to recover in 3Q23 (particularly ABS) after a weak performance earlier in 1H23.
 - Municipals:** Recovery from substantial trading losses in 1Q22 paired with robust retail demand led to a notable uptick in secondary YoY. However, the primary market remained weak due to sufficient local funding post-COVID and higher interest rates.
- Equities – 3Q23YTD** Significant revenue normalization in Equity Derivatives and Cash Equities due to reduced client activity and lower volumes, partially offset by improvement in Prime Services and Futures.
 - Cash Equities:** Revenue decline driven by continued slowdown in volumes and client activity amidst low volatility. Program trading revenues were flattish YoY despite last year's losses, while High Touch was challenged by fewer block trades and weak ECM (with some pickup in activity in the third quarter).

- **Equity Derivatives:** Equity Derivatives was the primary driver of the overall Equities decline, given normalization from strong results last year coupled with lower issuance and a dip in retail client demand. Relative outperformance seen in Strategic Equity Transactions, as revenue improved in the third quarter given increased ECM activity and a stronger deal pipeline.
- **Prime Services:** The Prime revenue uptick was supported by good performance in Cash PB on the back of better spreads in hard to borrow and higher equity index levels. Synthetics revenue normalized from a strong 2022 (especially in EMEA), while Delta One revenues slowed due to fewer trading opportunities.
- **Futures:** Higher interest rates led to an improvement in FICC Futures volumes and revenues, partially offset by a decline in EQ futures as lower volatility dragged results.

Figure 4. Equities Revenues (USD Billion)

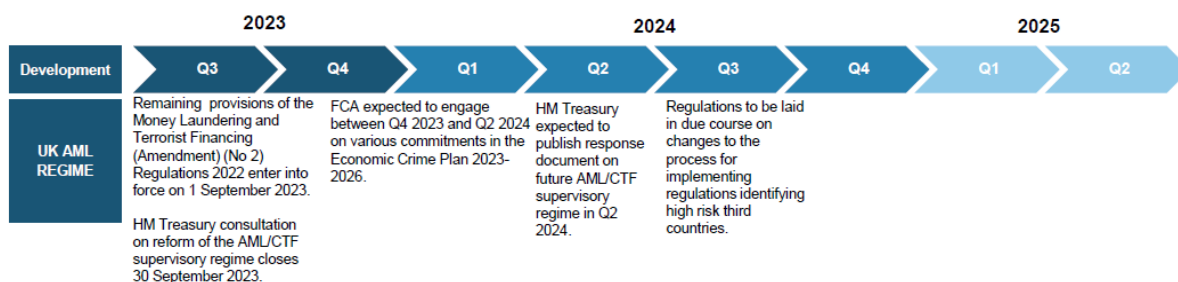


Figure 6. Front Office Producer Headcount by Business (FTE '000s)

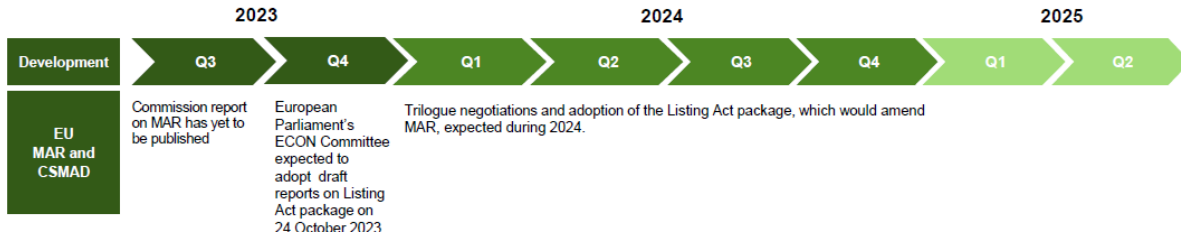


AML & MAR

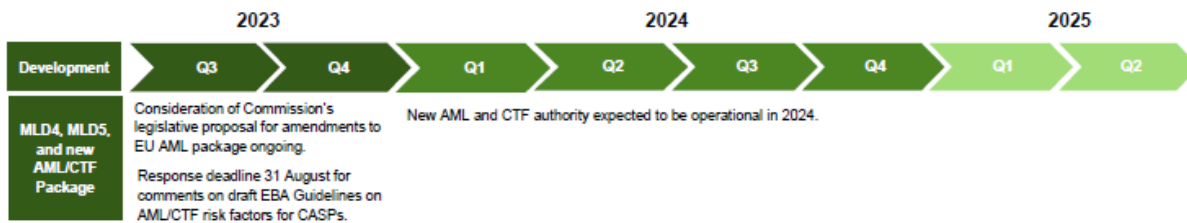
UK AML REGIME



EU MAR AND CSMAD

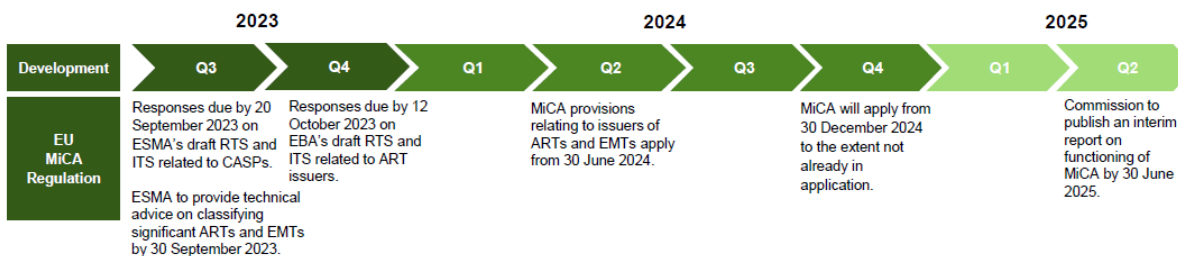


EU MLD4, MLD5 AND THE NEW AML AND CTF PACKAGE

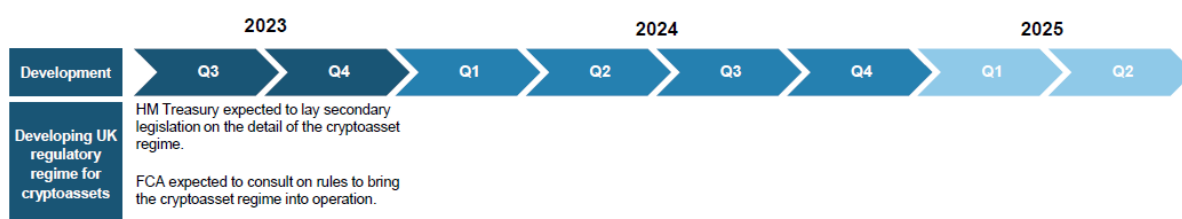


Crypto & DLT

EU MiCA REGULATION



DEVELOPING UK REGULATORY REGIME FOR CRYPTOASSETS

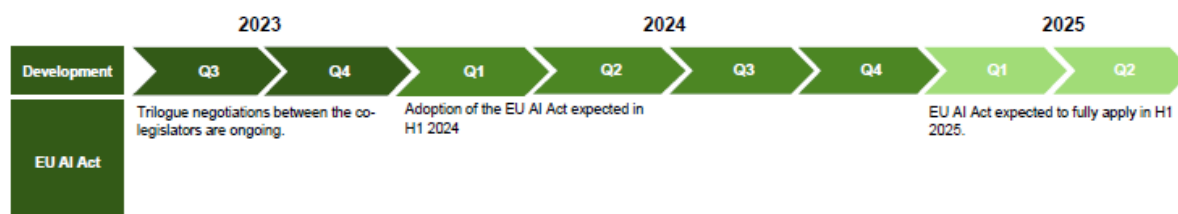


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Activity category	Phase 2 sub-activities (indicative, non-exhaustive)	Chapter
Issuance activities	Admitting a cryptoasset to a cryptoasset trading venue	Chapter 5
	Making a public offer of a cryptoasset	Chapter 5
Exchange activities	Operating a cryptoasset trading venue which supports: <ul style="list-style-type: none"> the exchange of cryptoassets for other cryptoassets the exchange of cryptoassets for fiat currency the exchange of cryptoassets for other assets (e.g. commodities) 	Chapter 6
Investment and risk management activities	<ul style="list-style-type: none"> Dealing in cryptoassets as principal or agent Arranging (bringing about) deals in cryptoassets Making arrangements with a view to transactions in cryptoassets Making arrangements with a view to transactions in cryptoassets 	Chapter 7
Lending, borrowing & leverage activities	Operating a cryptoasset lending platform	Chapter 10
Safeguarding and/or administration (custody) activities	Safeguarding or safeguarding and administering (or arranging the same) a cryptoasset other than a fiat-backed stablecoin and/or means of access to the cryptoasset (custody)	Chapter 8

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EU AI ACT



In a recent article with Prof. Kahn, MS at IMF argues that there are asymmetries between banks and fintechs that needs to be levelled. Typically, at a global bank, the overall treasury is fungible across their T0 (instantaneous settlement) and T+1 (end of day settlement) business lines; this allows them to generate significant netting benefits (and thus “float”). As a result, banks do not need to pre-fund their stablecoins to the same extent as Fintechs which must maintain 100% coverage with high-quality liquid assets (HQLAs), such as government bonds. Fintechs and PSPs (payment service providers) are not reliant on netting and float; they seek to generate revenue from other business lines such as custody of assets etc.

Levelling the playing field for stablecoins; Regulatory asymmetries are a barrier to innovation in digital payments

- A recent Bank of England discussion paper could shake up the race to provide faster payments. Non-bank fintechs and payment service providers (PSPs) are leading the way in developing the technology for real-time – also known as T0 – payment and settlement systems for stablecoins. These firms are currently outside the regulatory perimeter but will likely prefer to operate within it if given a level playing field. Meanwhile, regulated banks such as JP Morgan that already offer near-T0 payments and intra-day repo using tokenised deposits have inherent advantages over non-banks that lack access to central bank master accounts and payment rails.
- The BoE’s discussion paper argues that stablecoins used for systemic payments should be issued out of a separate legal entity that does not engage in other financial activities and be fully backed by central bank deposits. This will go a long way towards levelling the playing field between these competing providers. The current regulations – or lack of them – helps banks, which can access central bank payment rails and do not need to ringfence their stablecoin businesses. This means their overall treasury is fungible across their T0 and T+1 business lines, allowing them to generate significant netting benefits that are not available to fintechs and PSPs. As a result, banks do not need to pre-fund their stablecoins to the same extent as standalone stablecoin issuers, which must maintain 100% coverage with high-quality liquid assets (HQLAs), such as government bonds. This makes it difficult for fintechs and PSPs to compete. The BoE’s paper addresses this regulatory asymmetry. Fintechs and PSPs can safely be given access to central bank master accounts and payment rails for T0 products if their stablecoins are issued by ringfenced entities and 100% backed by central bank deposits. Bringing these firms within the regulatory perimeter in this manner also has other benefits, both in terms of reducing financial stability risks and ensuring government bonds and other forms of good collateral are available for market-making and funding transactions, rather than being locked up in reserve accounts backing stablecoins.
- Where does this leave banks? Netting is key to understanding the transformation of conventional banking into a digital business. Aggregating the amounts due to counterparties and paying the difference allows banks to reduce funding requirements and potentially benefit from the ‘float’ when intra-day receipts do not have to be paid instantaneously. This would not be possible in a T0 world, where there is no concept of netting or float. A forthcoming paper in JFMI shows that while T0 settlement will entail a complete loss of multilateral netting benefits, large banks can achieve most of their netting within an hour of receiving

payment instructions by efficiently leveraging their global hubs. A near real-time solution that converges to one hour settlement could well be amenable to banks wanting to expand their digital business without losing the benefits of the current model. Fintechs and PSPs are chasing something else. Unlike banks, they are not reliant on netting and the float, and seek to generate revenue from other complementary business lines, such as custody and cross-border foreign exchange fees. Levelling the playing field by requiring stablecoins to be ringfenced and backed by central bank deposits will allow these firms to pursue instant settlement with an appropriate level of regulatory oversight. Despite a very cold winter in 2022, the stablecoin market remains robust, with around \$130 billion-\$150 billion of daily volume. However, the financial stability risks of allowing a market this size to remain outside the regulatory perimeter cannot be overlooked. The BoE's proposals could change that, and foster the development of real-time payment and settlement systems in a safe and regulated environment.

[UK and US develop new global guidelines for AI Security](#); *On 27 November 2023, the UK published new global guidelines for secure AI development which 17 other countries, including the US, have confirmed they will endorse and co-sign.*

- Developed by the UK's National Cyber Security Centre and the US's Cybersecurity and Infrastructure Security Agency, in collaboration with industry experts, the guidelines are the first of their kind to be agreed globally, and address [cybersecurity](#) challenges in the rapidly advancing field of AI.
- The guidelines are focussed on the following four key areas.
 1. **Secure design:** Guidelines that apply to the design stage of the AI system development lifecycle, covering understanding risks and threat modelling, as well as specific topics and trade-offs to consider on system and model design.
 2. **Secure development:** Guidelines that apply to the development stage of the AI system development lifecycle, including supply chain security, documenting operation and lifecycle processes, and asset and technical debt management.
 3. **Secure deployment:** Guidelines that apply to the deployment stage of the AI system development lifecycle, addressing the protection of infrastructure and models from compromise, threats, malicious use or loss as well as developing incident management processes and responsible release.
 4. **Secure operation and maintenance:** Guidelines that apply to the secure operation and maintenance stage of the AI system development lifecycle, covering logging and monitoring, update management and information sharing.
- The guidelines are aimed primarily at providers of AI systems, however the guidelines can help all AI stakeholders make informed decisions about the design, deployment and operation of AI systems.

[California proposes automated decision-making technology regulations](#); *On 27 November 2023, the California Privacy Protection Agency released draft regulations on automated decision-making technology (ADMT).*

- The regulations propose to implement consumer rights to opt-out of, and access information regarding, businesses' use of ADMT, as provided for by the California Consumer Privacy Act. The draft regulations propose requirements on significant impact areas for businesses using ADMT, such as employment decisions, and profiling employees, contractors, applicants, students and consumers in various contexts. The draft also proposes consumer protection measures such as pre-use notices to inform consumers about how the business intends to use ADMT, opt-out notices, and access to information about ADMT use. The draft regulations would work in tandem with risk assessment requirements that the California Privacy Protection Agency Board is also considering.
- On 8 December 2023, the California Privacy Protection Agency Board voted unanimously to advance the legislative proposal to require browser vendors to include a feature that allows users to exercise their

privacy rights through opt-out preference signals. If the proposal is adopted, California would be the first US state to require browser vendors to offer consumers the option to enable these opt-out signals.

[Italian Data Protection Authority investigates the online collection of personal data to train algorithms](#): On 22 November 2023, the Italian Data Protection Authority (**IDPA**) launched a “fact-finding” investigation into the collection of personal data online for training AI algorithms.

- The investigations aims to evaluate whether online platforms implement adequate security measures to prevent unwarranted data scraping for AI purposes. Academics, AI experts, and consumer groups have been invited to participate in the fact-finding process, and can share their views or comments over a 60 day period.
- The IDPA is one of the most proactive national data protection authorities in assessing AI platform compliance with the GDPR. Earlier this year, the IDPA temporarily suspended ChatGPT from processing personal data relating to Italian users based on concerns that ChatGPT may violate several GDPR obligations including transparency, legal basis, and accuracy.
- The IDPA has reserved the right to take necessary steps following the fact-finding investigation.

[Courts and Tribunals Judiciary releases guidance for responsible use of AI in UK Courts and Tribunals](#): On 12 December 2023, the Courts and Tribunals Judiciary released guidance to assist judicial office holders in relation to the use of AI in courts and tribunals. In summary, the guidance emphasizes:

1. The need for a basic understanding of AI capabilities and potential limitations, such as possible inaccuracies in output.
 2. Upholding confidentiality and privacy by urging caution when entering information into public AI chatbots, and avoiding entering private or confidential information into AI chatbots.
 3. Ensuring accountability and accuracy of information provided by AI tools before relying on information, recognising that there is a possibility of bias in AI tools which may result in misleading or incorrect information.
 4. Following best practices for maintaining security, such as using work devices rather than personal devices, and taking responsibility for material produced using AI.
 5. Being aware that other court users may possibly have used AI tools, such as legal professionals, or unrepresented litigants and therefore there may be errors or inaccuracies in information presented in courts or tribunals. The guidance provides examples of indications that information presented in courts or tribunals may not be accurate such as references to cases that do not sound familiar, or have citations from other jurisdictions such as the US.
- Additionally, the guidance discusses potential uses and risks of generative AI (**GenAI**) in courts and tribunals, offering examples and recommendations for tasks suitable or not recommended for AI involvement. It suggests tasks like summarising text, writing presentations, and performing administrative duties are potential uses for GenAI, however, tasks such as legal research or legal analysis are not recommended to be performed by GenAI.

CBDC and BigTech

Central Bank Digital Currency

House of Commons Treasury Committee report on the digital pound

December 2023 Committee views on the need for a digital pound (that is, for a retail central bank digital currency in the UK)

- Benefits – could support innovation and international competitiveness
- Risks – could take time to fully understand the impact on financial stability and wider economy
- May accelerate the demise of physical cash
- Privacy safeguards vital

BigTech

FCA call for input and Online Fraud Charter

November 2023 FCA published a call for input on potential competition impacts from the data asymmetry between Big Tech and firms in financial services

Follows the FCA's discussion paper and feedback statement on the competition impacts of Big Tech in four retail sectors: payments, deposit taking, consumer credit and insurance

The FCA invites responses by 22 January 2024. It intends to report back in Q2 2024

November 2023 Voluntary Online Fraud Charter. Commitment from 11 largest tech companies

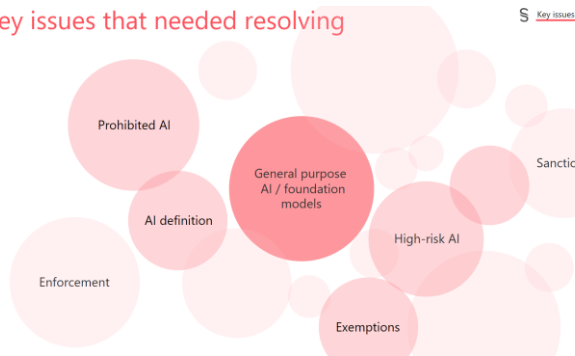
Legislative approach – Regulation of fiat-backed stablecoins (1)

- 01 In January 2021, HM Treasury (HMT) published its consultation on the UK regulatory approach to cryptoassets and stablecoins, together with a call for evidence on distributed ledger technology in financial markets
- 02 HMT's consultation response was published in April 2022, confirming the government's plans to legislate to bring certain activities relating to stablecoins into the regulatory perimeter for financial services
- 03 HMT published its "[Update on Plans for the Regulation of Fiat-backed Stablecoins](#)" on 30 October 2023, setting out the government's plan to regulate certain activities relating to fiat-backed stablecoins (**phase 1** of the government's proposals for a wider Financial Services Regulatory Regime for Cryptoassets)

"The regulatory landscape will bring certain (fiat-backed) stablecoins within the remit of the Bank of England, Financial Conduct Authority (FCA) and Payment Systems Regulator (PSR), which altogether will aim to minimise potential for customer harm and mitigate the conduct, prudential, and financial stability risks arising from those stablecoins, particularly when used for payments."

EU Agrees a new AI Law

Key issues that needed resolving



Key milestones

- Technical meetings to finalise text: **next few weeks / early Q1**
- Adoption expected in **March or April 2024**
- Then publication in Official Journal and entry into force 20 days later
- Staggered implementation:
 - **6 months** for prohibited AI
 - **12 months** for GPAI provisions
 - **24 months** for remaining provisions
- Various other milestones along the way
- AI Pact

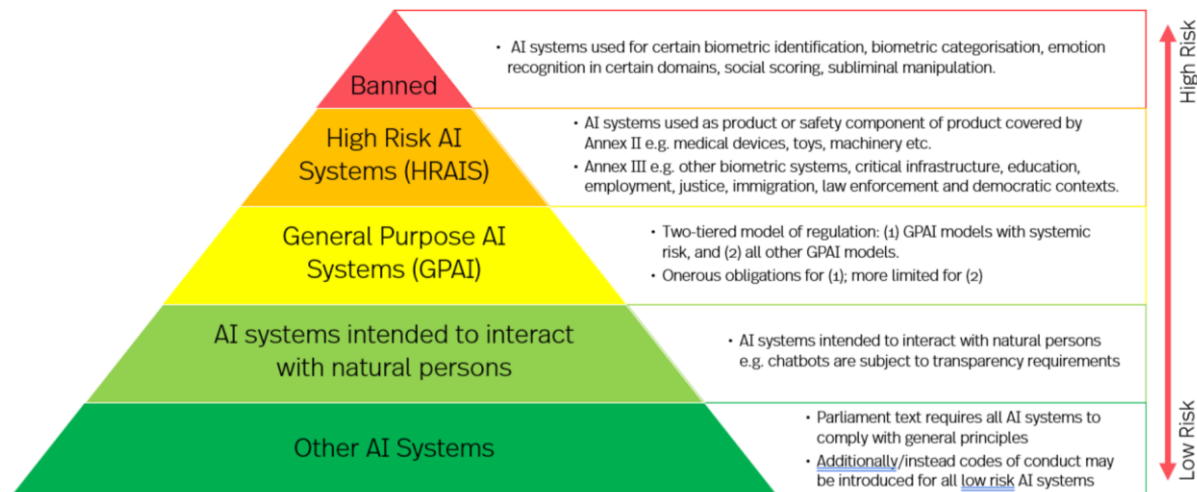
How did these points get resolved?

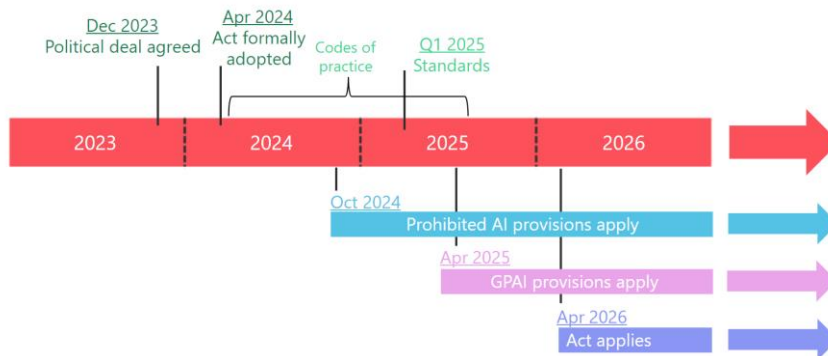
Resolution

Point	Resolution
GPAI/Foundation models	<ul style="list-style-type: none"> • Two tiers of regulation: (1) GPAI models with systemic risk, and (2) all other GPAI models • Category (1) is based on FLOPS: 10^{25} (so only most complex models e.g. GPT) • All GPAI providers subject to light transparency/documentation requirements, obligation to make information available downstream, obligation to explain training dataset content, and labelling requirements • Systemic risk GPAI providers subject to: testing requirements, risk assessment and mitigation, reporting of serious incidents, cybersecurity requirements, reporting on energy consumption
Prohibited AI	<ul style="list-style-type: none"> • Remote biometric identification in law enforcement is permitted in limited circumstances • Ban on biometric categorisation is limited • AI systems that create facial recognition databases by scraping internet or CCTV are prohibited
High-risk AI	<ul style="list-style-type: none"> • Mandatory fundamental rights impact assessments • Citizens' right to launch complaints and receive explanations about decisions • REMOVED: VLOP recommender systems • INCLUDED: Biometric categorisation, remote biometric identification, emotion recognition (+ others)
Enforcement	<ul style="list-style-type: none"> • Centralised EU AI Office to have exclusive competence to regulate GPAI • Member State market surveillance authorities to enforce remaining provisions
Sanctions	<ul style="list-style-type: none"> • Fines of up to EUR 35 million or 7% of global turnover
AI definition	<ul style="list-style-type: none"> • OECD definition adopted: "An AI system is a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that [can] influence physical or virtual environments. Different AI systems vary in their levels of autonomy and adaptiveness after deployment."

Risk-based approach

Risk-based approach





Preparation

S Preparation

- Although the final text is not yet available (or agreed), the key areas are agreed and preparatory work can begin
- If your organisation may have prohibited AI or GPAI, then it is important to prepare as soon as possible given the early implementation
- Our suggested approach:



Cryptoassets

[SMSG Advice on second MiCA package](#): The SMSG provides opinions and comments on a selection of issues discussed in the second MiCA consultation paper.

- **Proportionality.** Proportionality is key to avoiding barriers to small-size players, holding constant all measures targeted to the soundness of the crypto ecosystem. The SMSG supports the approach to proportionality for business continuity proposed in the draft RTS, including the proposed self-assessment, as it allows each entity to calibrate business continuity measures on their own needs. The SMSG also recommends that proportionality, where appropriate, should be taken into account in other aspects of MiCA, where these do not compromise overarching safety and soundness considerations. This recommendation rests on the idea that a 'one size fits all' approach may limit the participation of small-

size players and ultimately also the competitiveness of the EU crypto ecosystem with respect to other jurisdictions.

- **Governance.** The draft RTS on organisational arrangements establishes that the CASP's management body must endorse and regularly review the business continuity policy. The SMSG supports the approach proposed in the draft RTS, including the roles of the CASP's management body to define, endorse, implement and review the business continuity policy. The SMSG does not see a need to require the establishment of a business continuity function to oversee the obligations in the RTS, leaving this possibility to the decision of the CASP's management body, also taking into account considerations related to proportionality. The SMSG also highlights that CASPs' governance is key to build a robust crypto ecosystem.
- **Measures for permissionless DLT.** The consultation paper clarifies that CASPs that intend to conduct their services on permissionless DLTs should make their clients aware of the risks that this entails at the point when their clients first access those services. ESMA encourages CASPs to explain to their clients that their liability does not extend to permissionless DLTs. The SMSG supports the proposal to require CASPs to communicate externally with their clients in the event of a service disruption involving a permissionless DLT. The SMSG recommends that external communications are performed making sure that users are actually reached and aware of the issues, also with the establishment of temporary contact points. The SMSG also recommends that appropriate disclosure should be carried out when users first access those services to make them aware of the risks associated to permissionless DLT and the scope of CASPs' liability (that includes their own smart contracts and does not extend to permissionless DLT).
- **The specialness of the user base.** MiCA requires CASPs to keep records of all crypto-asset services, activities, orders, and transactions undertaken by them. Concerning clients that are not eligible for a LEI, ESMA proposes to use the list of national identifiers, which are dependent on the client's nationality, prescribed by MiFIR. The SMSG supports the proposal to rely on the methods for client identification that are used under MiFIR, having considered that the expected user base of crypto services may be largely represented by natural persons, not acting in a business capacity, who are not eligible for a LEI. The SMSG also highlights that the special composition of the users' base of crypto services deserves careful attention with regard to the communication methods used to reach crypto users.
- **Pre-trade transparency for AMMs.** ESMA proposes to include a description and the related pre-trade transparency requirements for Automated Market Makers (AMMs) particularly in a Decentralised Exchange (DEX) context. The draft RTS requires the disclosure of the mathematical equation used to determine the price and the quantity of the crypto-assets in the liquidity pools. The SMSG supports the proposal to require the publication of the mathematical equation for price and quantity, as this requirement makes market participants aware of the price setting rule. The SMSG suggests to disclose details to enable market participants to understand the difference in the price discovery with respect to more widely known methods to set the price.
- **White paper.** Crypto-asset white papers should contain information, among other things, on the project to be carried out with the capital raised. White papers for 'other cryptos' are expected to include the planned use of collected funds. The SMSG believes that investors also need to know the actual use of the funds after the issuance (not only the expected use at the time of the white paper). Issuers of 'asset-referenced tokens', in addition to the information provided in the white paper, should also provide information on an ongoing basis. The SMSG highlights the need to provide ongoing information to the holders of other cryptos (not only to the holders of 'asset-referenced tokens').

Cooperation. ESMA requested the opinion of the SMSG regarding two RTSs and two ITSs relating to (i) the exchange of information between competent authorities, (ii) procedures, forms and templates for the exchange of information between competent authorities, (iii) procedures, forms and templates for exchange of information between competent authorities and ESMA/EBA, and (iv) the template for cooperation with third-country authorities. The SMSG supports the adoption of the proposed technical standards.

New UK Crypto Regime Proposals; *In November, UK regulators published a range of new papers on licensing of cryptoasset activities, oversight of stablecoin payment systems and related restrictions on banks. In a webinar series, our UK regulatory experts described the key developments and their impact*

- [1. Stablecoin Stocking Fillers – new UK licensing regime and payment chain oversight](#); A deep dive into the Financial Conduct Authority’s proposed framework for regulating stablecoins in the UK, and for Bank of England oversight of stablecoin payment systems and providers. We also covered the PRA’s recent Dear CEO letter on innovation in payments, and its implications for bank issuers of stablecoins, e-money and tokenised deposits.
- [2. Crypto for Christmas – UK cryptoasset regulatory framework](#); An overview of the UK Government’s latest proposals for a comprehensive regulatory framework for cryptoassets, equivalent to the EU’s MiCA regime. We focused on changes from previous proposals on exchange, trading, custody and other cryptoasset activities, as well as the market abuse regime, territorial scope and timelines.

Cryptoasset trading venue regime

Proposed Design Features for Cryptoasset Trading Venues	
Regulatory trigger points	– Operating a cryptoasset trading venue
Authorisation rules	– Authorisation will be needed
Regulatory requirements	<ul style="list-style-type: none"> – Prudential: Requirements will be set by the FCA – Consumer protection: <ul style="list-style-type: none"> – Fair, open and transparent access rules and fee schedules – Adequate procedures for handling customer complaints – Robust governance arrangements <ul style="list-style-type: none"> – Government won’t endorse or prohibit specific business models or execution protocols, but expects firms to manage conflicts of interest and risks to market integrity appropriately within their specific business models – Operational resilience: <ul style="list-style-type: none"> – People, processes, systems, controls and arrangements to ensure resilient trading systems – Appropriate due diligence and oversight of outsourcing – Effective business continuity, disaster recovery arrangements and cyber security protections
Data reporting	<ul style="list-style-type: none"> – Venues to make accurate and complete information readily accessible for transactions – Specific requirements to be set by the FCA

Cryptoasset intermediation activities

Proposed Design Features for Cryptoasset Intermediation Activities	
Regulatory trigger point	<ul style="list-style-type: none"> – Dealing in cryptoassets as principal or agent – Arranging (bringing about) deals in cryptoassets – Making arrangements with a view to transactions in cryptoassets
Authorisation rules	<ul style="list-style-type: none"> – Authorisation will be needed
Regulatory requirements	<ul style="list-style-type: none"> – Consumer protection and governance arrangements: <ul style="list-style-type: none"> – Act honestly and fairly and in the best interests of clients – All reasonable steps should be made to obtain the best possible result when executing orders – Firms should assess cryptoassets as appropriate for the consumer before an order – Trading arrangements should be transparent to clients – Conflicts of interest should be appropriately identified and managed – Prudential requirements – Operational resilience
Data reporting	<ul style="list-style-type: none"> – Systems and controls to detect market abuse and submit Suspicious Transaction and Order Reports (STORs)

Intermediation activities – HMT’s response; Wholesale vs retail customers

- Government agrees, in principle, with idea that certain requirements (e.g. disclosures, appropriateness checks) would differ for intermediaries when dealing with eligible counterparties
- Government agrees, in principle, with the idea that disclosure requirements would be less prescriptive for venues which only admit institutional investors

Intermediation activities – HMT’s response

Wholesale vs retail customers

- Government agrees, in principle, with idea that certain requirements (e.g. disclosures, appropriateness checks) would **differ for intermediaries when dealing with eligible counterparties**
- Government agrees, in principle, with the idea that disclosure requirements would be **less prescriptive for venues which only admit institutional investors**

Regulatory outcomes for cryptoasset custody

The current regulated activity for custody services is set out at Article 40 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO). However, due to the specific nature of cryptoasset custody services, there are aspects of Article 40 that do not apply to or cover cryptoasset custody services in a suitable or practical way.

01	Article 40 (summary)	02	Examples of issues for crypto
<ul style="list-style-type: none"> – The activity consists of (i) safeguarding assets belonging to someone else and the administration of those assets, or (ii) arranging for one or more persons to carry on the activity in (i) – The activity is capable of being a regulated activity only if the assets may consist of or include any investment which is a security or contractually based investment 		<ul style="list-style-type: none"> – The term custody does not have a settled meaning when used by the industry – The custodian may hold a private key (rather than the asset) – Unauthorised access has severe implications as transactions may be immutable – The number of parties that may be involved means the concept of factual control of digital objects is complex and technology specific 	

Legislative approach

- 01 → In February 2023, HM Treasury (**HMT**) published its consultation and call for evidence on the future financial services regulatory regime for cryptoassets
- 02 → UK intends to add financial services regulation of cryptoasset activities to the Financial Services and Markets Act 2000 (**FSMA**), as updated by the Financial Services and Markets Act 2023 (**FSMA 2023**)
- 03 → The consultation does not propose making cryptoassets “financial instruments”. Instead, HMT will specify new regulated activities in relation to cryptoassets and any person carrying out certain activities involving cryptoassets “by way of business” within the regime’s territorial scope would be performing regulated activities and will require authorisation, unless an exemption applies
- 04 → HMT’s consultation response was published on 30 October 2023, confirming the Government’s plans to legislate to bring several cryptoasset activities into the scope of regulation for the first time

“HMT’s objective is to establish a proportionate, clear regulatory framework which enables firms to innovate at pace, while maintaining financial stability and clear regulatory standards”

Same risk,
same
regulatory
outcome

Proportionate
and
focused

Agile and
flexible

Definition of “cryptoasset”

- 1 → Definition contained in **FSMA 2023**
- 2 → Broad definition to capture all current types of cryptoasset
 - Similar to definition of “**cryptoasset**” used in **regulation 14A(3)(a) of MLRs**, although new definition references wider range of underlying technology
 - Similar to definition of “**cryptoasset**” in **EU MiCAR**
 - Shares some features with “**virtual asset**” in the **FATF’s recommendations**
- 3 →

“cryptoasset” means “any cryptographically secured digital representation of value or contractual rights that— (a) can be transferred, stored or traded electronically, and (b) that uses technology supporting the recording or storage of data (which may include distributed ledger technology)”

Different types of “cryptoasset”

The different types of cryptoasset which **could** become subject to financial services regulation when they are being used for certain new regulated activities:



Territorial scope of proposed new regime

Phased approach to regulating cryptoassets

Phase	Location of the provider		Location of the customer	
	UK	Overseas	UK	Overseas
Phase 1 - Focus is on regulation of activities relating to fiat-backed stablecoins used as a means of payment - Expect to see finalisation of rules for consultation in H2 2024	UK	Overseas	In Scope	In Scope
Phase 2 - A regulatory regime for a broader set of cryptoassets (such as Bitcoin and other stablecoins, such as algorithmic stablecoins) - Introduced with a longer timetable	UK	Overseas	In Scope	Out of Scope

Territorial scope (continued)

- 1 → HMT to capture cryptoasset activities **provided in or to the United Kingdom**
- 2 → HMT does not support expanding the overseas persons exclusion (OPE) commonly available for traditional financial services firms, allowing them to access the UK market on a cross-border basis, to cover cryptoassets
- 3 → HMT intends to pursue equivalence type arrangements whereby firms authorised in third countries can provide services in the UK without needing a UK presence, provided they are subject to equivalent standards and there are suitable cooperation mechanisms. However, the requirements for equivalence are not yet established and are unlikely to be useful to cryptoasset firms operating in the UK in the near term
- 4 → Approach required that will facilitate access to global liquidity pools under specific circumstances which would apply on a time-limited basis for the interim period before appropriate equivalence/deference type arrangements are in place
- 5 → Could permit UK firms who are operating a regulated cryptoasset trading venue in an overseas jurisdiction to apply for authorisation for a UK branch extension of their overseas entity:
 - Branch could be authorised to specifically handle trade matching and execution activity
 - Specifics of these requirements on physical location would be determined by the FCA

Cryptoasset activities to be regulated under Phase 2

Activity category	Phase 2 sub-activities (indicative, non-exhaustive)
Issuance activities	<ul style="list-style-type: none"> – Admitting a cryptoasset to a cryptoasset trading venue – Making a public offer of a cryptoasset
Exchange activities	<ul style="list-style-type: none"> – Operating a cryptoasset trading venue which supports: <ol style="list-style-type: none"> The exchange of cryptoassets for other cryptoassets The exchange of cryptoassets for fiat currency The exchange of cryptoassets for other assets (e.g., Commodities)
Intermediation activities	<ul style="list-style-type: none"> – Dealing in cryptoassets as principal or agent – Arranging (bringing about) deals in cryptoassets – Making arrangements with a view to transactions in cryptoassets
Lending, borrowing and leverage activities	Operating a cryptoasset lending platform
Safeguarding and/or administration (custody) activities	Safeguarding or safeguarding and administering (or arranging the same) a cryptoasset other than a fiat-backed stablecoin and/or means of access to the cryptoasset ¹ (custody)

¹ e.g. a wallet or cryptographic private key

Issuance and disclosures – HMT’s response

Disclosure requirements for well-established tokens and tokens without identifiable issuers

- The preparer may use publicly available information when preparing relevant sections of disclosure / admission documents
- Must disclose where information originated and the level of due diligence they have performed

Responsibilities for defining detailed content requirements

- HMT is potentially supportive of a centralised body (e.g. industry association) coordinating more prescriptive rules on content requirements — with FCA oversight

Liability for disclosures

- Exchanges which take responsibility for the disclosures of cryptoassets with **no clearly identifiable issuer** (e.g. Bitcoin) should not be fully liable for all types of consumer losses
 - But the exchange must take reasonable care to identify and describe the risks
 - Liability for forward-looking statements (e.g. relating to the project, and future use cases of the cryptoasset) – recklessness / dishonesty standard
 - Liability for historical, factual statements (e.g. audits which have been conducted and vulnerabilities they identified) – negligence standard

Wholesale vs retail

- Government notes the call for clearer differentiation between venues which cater to retail consumers vs those which only admit institutional investors
- Government agrees, in principle, with the idea that disclosure requirements would be less prescriptive for venues which only admit institutional investors

Key findings of the HMT consultation in relation to custody

HMT's response concluded that the Government should proceed with a custody regime that was based on RAO Article 40, taking into account the specificities and challenges of cryptoassets.

New regime

The Government will legislate to define a new regulated activity for custody covering:

- Safeguarding
- Safeguarding and administration
- Arranging of safeguarding or safeguarding and administration

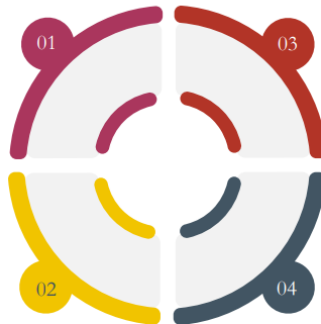
of cryptoassets, and will take a proportionate approach to liability

Detailed rules to follow

Areas including:

- Ownership
- Record-keeping
- Controls
- Governance
- FSCS treatment

will be covered in secondary legislation and regulator rules



Security tokens

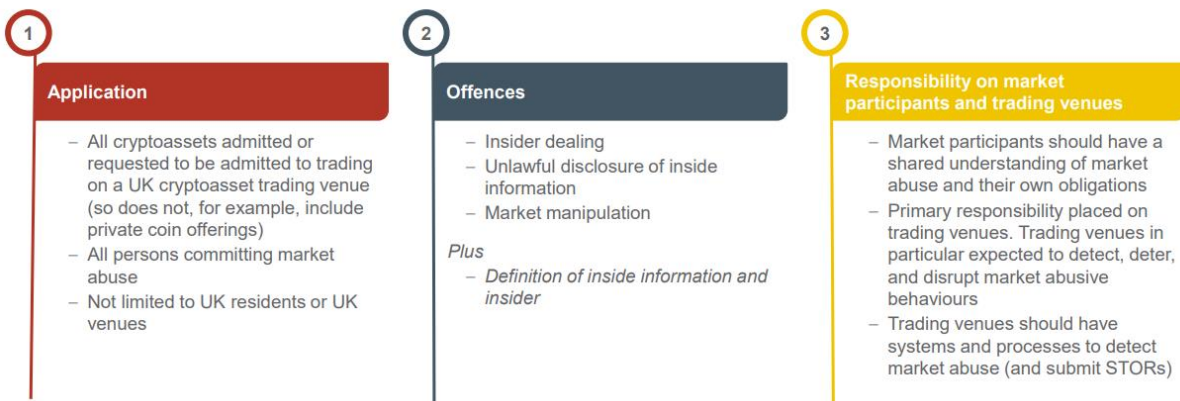
- Security tokens may have already been in scope of the regulatory perimeter where they already met the definition of financial instrument
- HMT's response confirms that security token custody will nevertheless be in scope of the new regime

Perimeter of arranging activities

- The consultation considered technology providers for self-hosted wallet services
- Perimeter-wise, these types of services are not intended to be caught by the adapted Article 40 activity (but, for example, secure asset storage services may be in scope)
- **However** operational and outsourcing requirements may still apply to such providers and services which fall outside the perimeter

Regulatory outcomes for market abuse

HMT consulted on a market abuse regime for crypto which would be based on the existing UK MAR regime.

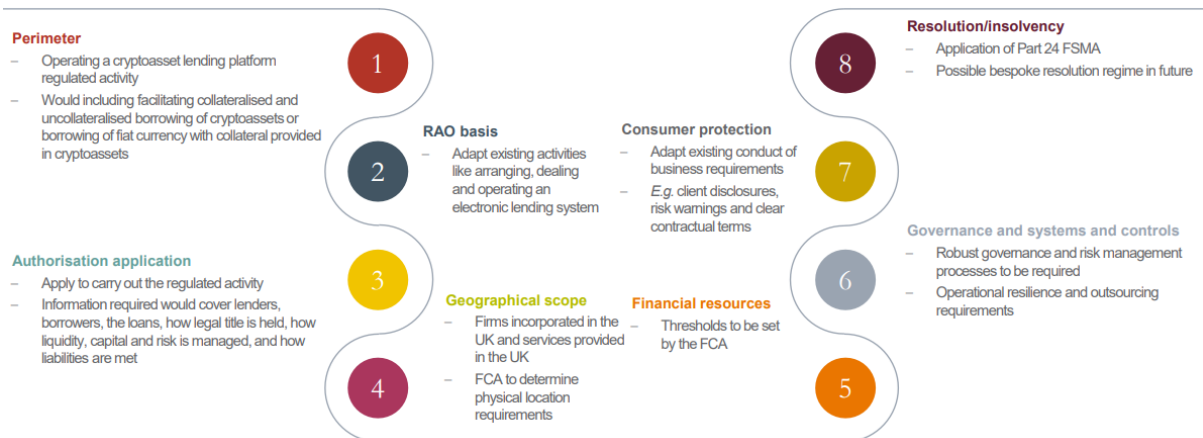


Argument for a cryptoasset lending and borrowing regime

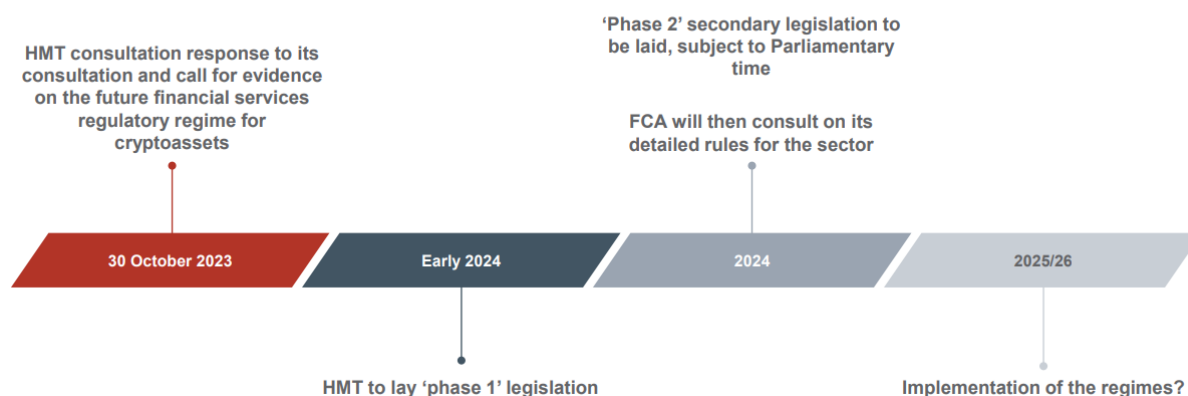


Proposed cryptoasset lending platform regime

Key elements of HMT’s proposal for a regime that regulates the lending and borrowing of cryptoassets:



Estimated timeline for regulators' next steps



Proposals to bring fiat-backed stablecoin activities within the UK regulatory perimeter and for oversight of systemic DSA payment systems

New Statutory Instruments

Tranche	SI	Policy intent	Accompanying regulator policy
1	Draft Data Reporting Services Regulations 2023	<ul style="list-style-type: none"> Replace REUL in relation to data reporting services providers (DRSPs) and establish a new legislative framework for the regulation of DRSPs Seeks to encourage the emergence of a consolidated tape in the UK 	FCA consultation on consolidated tape published July 2023. Policy statement anticipated in Q4 2023
1	Draft The Public Offers and Admissions to Trading Regulations 2023	<ul style="list-style-type: none"> Replace REUL relating to the prospectus regime and create a UK framework for public offers and admissions to trading 	FCA feedback on engagement papers anticipated Q4 2023 FCA anticipates consulting on rules in summer 2024
1	Draft The Securitisation Regulations 2023	<ul style="list-style-type: none"> Replace REUL relating to securitisation framework 	PRA consultation published July 2023 FCA consultation published August 2023

- The Financial Services and Markets Act 2023 (Resolution of Central Counterparties: Partial Property Transfers and Safeguarding of Protected Arrangements) Regulations 2023
- The Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023

Tranche	SI	Policy intent	Accompanying regulator policy
2	Draft Short Selling Regulations 2024	<ul style="list-style-type: none"> – Replace REUL related to short selling and create a new regulatory framework for short selling – Define and set out the Designated Activity of short selling of shares and related instruments – Provide FCA with related rule-making powers to specify firm facing requirements – Removes the requirements placed on investors when taking out short positions in sovereign debt or credit default swaps and the related reporting requirements, but the FCA's emergency intervention powers for short selling of these products will be retained 	FCA to consult in Q1 2024
2	Short Selling (Notification Threshold) Regulations 2023	<ul style="list-style-type: none"> – Increase the notification threshold for the reporting of net short positions to the FCA from 0.1% to 0.2% of total issued share capital 	
2	Draft Consumer Composite Investments (Designated Activities) Regulations 2024	<ul style="list-style-type: none"> – New UK retail disclosure framework for consumer composite investments to replace PRIIPs 	FCA consultation paper 'forthcoming' (2024)
2	Draft Money Market Funds Regulations 2024	<ul style="list-style-type: none"> – Restates provisions of the MMF Regulation, in some cases with modifications. The restated provisions were revoked by FSMA 2023. Most other provisions relating to MMFs are restated (where appropriate with modifications) in FCA rules 	FCA consultation published December 2023

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"The regulatory landscape will bring certain (fiat-backed) stablecoins within the remit of the Bank of England, Financial Conduct Authority (FCA) and Payment Systems Regulator (PSR), which altogether will aim to minimise potential for customer harm and mitigate the conduct, prudential, and financial stability risks arising from those stablecoins, particularly when used for payments."

- 1 Use of fiat-backed stablecoins (**FBSCs**) in payment chains will be regulated through amendments to the Payment Services Regulations 2017 (**PSRs 2017**)
- 2 Activities of issuance and custody of FBSCs where the coin is issued in or from the UK will be brought within the regulatory perimeter of the Financial Services and Markets Act 2000 (**FSMA 2000**) through the Regulated Activities Order (**RAO**)
- 3 Government has already started to implement this regime through the Financial Services and Markets Act 2023 (**FSMA 2023**)
- 4 FSMA 2023 also provides the Bank of England (**BoE**) and Payment Systems Regulator (**PSR**) with powers over systemic and recognised digital settlement asset (**DSA**) payment systems and service providers, subject to HMT's recognition and designation

digital retail payments in the UK. With this comes the need to make sure there is robust and clear regulation in place. Our proposals aim to support safe innovation so that firms can understand the risks they need to manage and ensure that the public can be confident in all forms of digital money and payments."

Sarah Breedon, Deputy Governor for Financial Stability, Bank of England

What FBSC activities will fall within scope of “Phase 1”?

FBSCs to be narrowly defined in secondary legislation	Issuance and custody of FBSCs and “arranging” payments in Overseas FBSCs	Use of a UK or Overseas FBSC “within a payment chain”
<p>HMT expects to define FBSCs as a “<i>cryptoasset that seeks or purports to maintain a stable value by reference to a fiat currency and by holding fiat currency, in whole or in part, as backing</i>”</p> <p>Includes those FBSCs:</p> <ul style="list-style-type: none"> – referencing any fiat currency – referencing a basket of currencies <p>Does not include:</p> <ul style="list-style-type: none"> – algorithmic / crypto-backed stablecoins – commodity-linked tokens <p>Tokenised deposits and electronic money to be defined more clearly in legislation to ensure “legal separation”</p>	<p>RAO to be extended to make regulated activities:</p> <ul style="list-style-type: none"> – issuance of FBSCs in or from the UK – custody of UK issued FBSCs, <i>i.e.</i> <ul style="list-style-type: none"> – safeguarding – safeguarding and administering – arranging of safeguarding and administering <p><u>Note:</u> Custody regime does not include custody of FBSCs issued outside the UK (“Overseas FBSCs”)</p> <p><u>Under discussion:</u> For Overseas FBSCs, any firm “initiating” or “arranging” payment(s) in Overseas FBSCs would need to be FCA authorised</p>	<p>PSRs 2017 to be amended to bring into regulation payment chains for:</p> <ul style="list-style-type: none"> – “mixed stablecoin payments” – “pure stablecoin payments” <p>Does not include:</p> <ul style="list-style-type: none"> – “[P2P] <i>stablecoin transfers where [the underlying payment service] is not offered on a commercial basis</i>” – the purchase of a stablecoin using fiat currency <p>“Arrangers” of Overseas FBSC payments:</p> <ul style="list-style-type: none"> – ensure an Overseas FBSC meets FCA standards – collect and report on the number of Overseas FBSC payment transactions

FCA Discussion Paper DP23/4 – Regulating cryptoassets Phase 1: Stablecoins (6 November 2023)

- 1 → Sets out the FCA’s proposed approach to regulating:
 - a. Issuance of a FBSC by a UK issuer
 - b. Custody of a UK issued FBSC by a UK custodian [Note: Overseas FBSCs “will not be captured under this regulated activity under the RAO”]
 - c. FBSC as a means of payment (whether issued by UK or overseas issuer)
 - by a UK firm or involving a UK consumer (including by non-UK firms)

Does not cover exchanges of crypto for FBSCs (this comes in phase 2)
- 2 → Discusses scope issues and operational requirements
- 3 → Deadline for comments is 6 February 2024

Requirements for issuers

Safeguarding – Issuers will need to:

- Segregate backing assets from their own assets
- Hold backing assets on statutory trust
- Maintain accurate books and records
- Perform daily valuations of backing assets and at least daily reconciliations

Backing assets – Issuers will need to:

- Hold backing assets that are:
 - Stable in value
 - Sufficiently liquid to support redemptions
 - Sufficient to back all issued stablecoins
- “Top-up” shortfalls in backing assets from own resources within one business day

Remuneration – Income and returns from backing assets:

- Can be retained by issuers
- Cannot be passed on to consumers

Redemption – Issuers will need to:

- Accept redemption requests from *any* holder (including consumers)
- Redeem at par by the end of the next UK business day following a redemption request
 - Clock starts once KYC information provided
- FCA may have powers to temporarily suspend redemption rights

Independent custodian?

- FCA seeking views on whether issuers must appoint an independent custodian to safeguard backing assets

Custody requirements

Rules modelled on CASS and likely to apply to all cryptoassets in phase 2



Other requirements for issuers and custodians



Regulating payments using stablecoins

- 01 Scope of PSRs 2017 to be extended to capture two types of stablecoins used for payment
- 02 **The hybrid model** – envisages that a stablecoin would be used at the entrance or exit of an existing fiat payment chain, but the actual transfer of value would be in fiat by way of a traditional payment service
- 03 **The pure stablecoin model** – envisages that both the payer and payee transact in stablecoin, and the transfer of stablecoins between them occurs “on-chain”
- 04 Payment providers (in both models) would require authorisation and be subject to the conduct rules, capital requirements and safeguarding requirements under the PSRs 2017

Overseas stablecoins used for payment in UK

- FCA discusses HMT’s idea of allowing overseas stablecoins access to UK payment chains
- Looks at whether overseas stablecoins should be assessed and approved by a “payment arranger” against a set of FCA standards equivalent to those required for fiat-backed stablecoins issued in the UK
- “Payment arrangers” would need to be authorised under the PSRs 2017 and have FCA approval
- FCA proposes that “payment arrangers” will be required to:
 - Appoint an independent third party (such as an auditor) to verify certain elements of their assessment
 - These third-party assessments should be made on a regular basis

BoE's proposed regime - Scope

BoE Discussion Paper on the Regulatory regime for systemic payment systems using stablecoins and related service providers (6 November 2023)

See also the Cross-Authority Roadmap on Innovation in Payments

- 1 → FSMA 2023 expands the BoE's powers over payment systems in Part 5 of the Banking Act 2009 to include (i) payment systems using new forms of digital money, referred to as digital settlement assets (**DSAs**), and (ii) service providers to such payment systems (**DSA Service Providers**)
- 2 → Regime applies to payment systems that use stablecoins as the DSA and which are recognised by HMT as systemic. BoE focus is on such systems as are "widely used and that may pose risk to financial stability"
- 3 → Regime focuses on systems for sterling-denominated stablecoins and retail uses of such systems. The BoE expects that stablecoins used in systemic payment systems will be backed by sterling denominated assets, with coins redeemable at par in that currency
- 4 → PSR will play its competition and innovation focused role
- 5 → Activities other than payments, such as lending or investment services, are not captured by these proposals, as they pose risks that are better captured within other regulatory regimes

BoE's proposed regulatory framework

- 01 Requirements will be consistent with recommendations, standards and guidance by international standard-setting bodies and the Financial Stability Board. In particular, the BoE will apply the PFMI, although further guidance may be needed around application of the PFMI in the stablecoins context
- 02 BoE will regulate the entity identified (and recognised by HMT) as the **payment system operator** *i.e.* the entity responsible for the robust operation of the transfer function
- 03 In view of its powers regarding DSA Service Providers, BoE will be able to regulate "any critical entity" in a systemic stablecoin payment chain, if recognised by HMT, in the light of the activity performed and the risks posed. The BoE considers that this could extend to certain payment service providers, such as wallet providers
- 04 BoE is examining potential risks around the resilience of systemic payment systems using stablecoins involving entities that undertake multiple functions and is considering how to mitigate these risks, including via legal separation of activities, if appropriate

Requirements of BoE's proposed regime

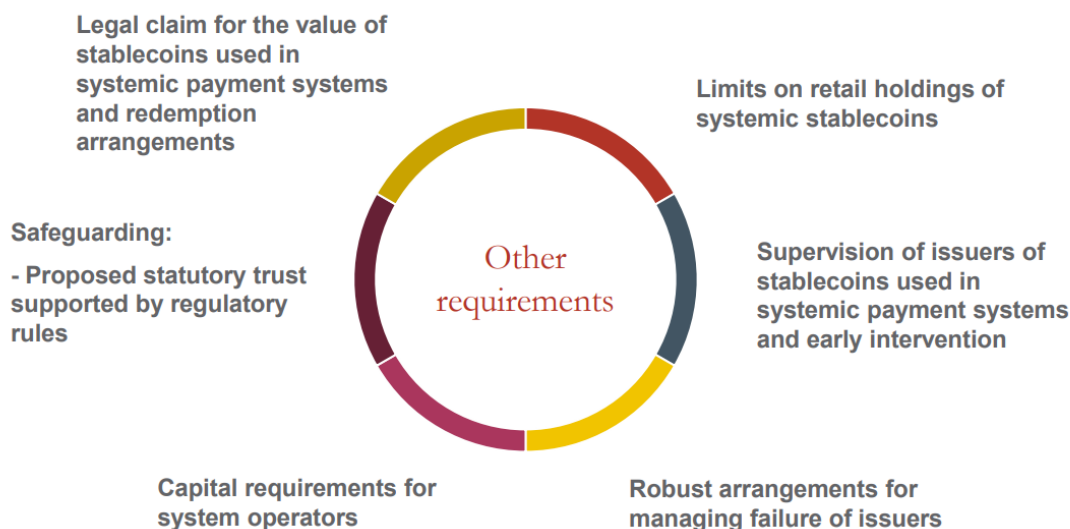
Transfer function

- Systemic payment systems using stablecoins will need to determine **an entity** that should be held **responsible** for the **safe and proper operation of the transfer function**
- BoE's approach to regulating systemic payment systems using stablecoins will aim to ensure that they deliver **end-to-end financial and operational resilience**
- Requirements for systemic payment systems using stablecoins should reflect their similarities with other payment systems, while accounting for their innovative nature
- **Ledgers** are critical to performing the transfer function in stablecoin payment chains
- Particular issues arise in the context of leveraging the benefits from, and addressing the risks of, innovative forms of ledgers, including public permissionless ledgers

Backing assets and restrictions on remuneration for the issuance of stablecoins used in systemic payment systems

- Requirements on backing assets and restrictions on remuneration need to ensure that stablecoins used in systemic payment systems are **always stable in value**
- **Backing assets:** BoE's preferred option is for systemic stablecoin issuers to back the stablecoins in issue fully with central bank deposits
- **Remuneration:** In line with the principle that stablecoins used in systemic payment systems should be primarily used for payments, the BoE proposes that **issuers should not receive interest on their central bank deposits or pay interest to coinholders**

Other requirements for the issuance of money used in systemic payment systems



Requirements for wallet providers

Wallet providers

- Possible BoE oversight as DSA Service Providers
- Wallet providers will need to ensure that coinholders' legal rights and ability to redeem the stablecoins at par in fiat are always protected

Custodial wallets

- FCA is developing a regime for the custody of stablecoins
- BoE does not expect to regulate stablecoin custodians directly
- BoE will seek assurances from the firms within its supervision
- BoE may, however, consider that a custodial wallet provider warrants recognition by HMT as a service provider

Unhosted wallets

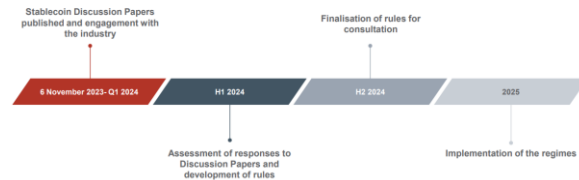
- FCA's proposed regulatory regime for stablecoin issuers will require issuers to carry out customer anti-money laundering checks, including when redemption requests are received from unhosted wallet owners
- Additional checks may not be sufficient to ensure the integrity of day-to-day payments and transfers
- BoE is still exploring the risks associated with unhosted wallets

PRA Dear CEO letter

Dear CEO letter: Innovations in the use by deposit-takers of deposits, e-money and regulated stablecoins (6 November 2023)

- 1 PRA sets out how it expects deposit-taking institutions to address risks to their customers' safety, and to the soundness of the financial system, while supporting innovation and competition
- 2 Focus is on the risks that may arise considering the parallel availability of deposits, e-money and (in due course) regulated stablecoins to retail customers
- 3 PRA notes that these can appear similar to customers, but each come with differing forms of legal protection
- 4 PRA is concerned that there is a risk of customer confusion, especially retail customers, if deposit-taking entities offer e-money or regulated stablecoins under the same branding as their deposits

Estimated timeline for regulators' next steps on stablecoins



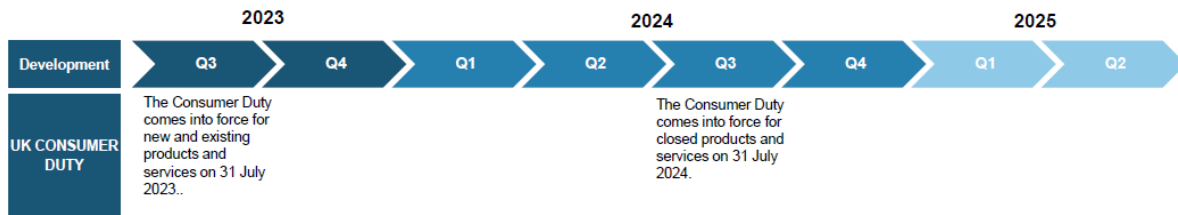
Mitigating risks

- 01 Deposit-taking entities should only provide innovations in digital money to retail customers in form of deposits (e.g. tokenised deposits)
 - If they wish to issue e-money or regulated stablecoins to retail customers, this should be done using separate entities
 - Those separate entities should be distinctly branded, and their failure should not adversely impact on the rest of the group
 - Where deposit-takers have already issued e-money to retail customers, need to engage ASAP with PRA on how will restructure and mitigate contagion risk
- 02 Where issuer of e-money or regulated stablecoins to retail customers seeks deposit-taking permission, must ASAP transition UK customers to deposits and engage with PRA on their plans to do so
- 03 Where deposit-taker intends to innovate how it takes deposits from retail customers (e.g. tokenised deposits), must:
 - Do so in a way that meets PRA rules for eligibility for depositor protection under the Financial Services Compensation Scheme
 - Meet single customer view and exclusions view requirements for protected deposits
 - Implement strong risk controls, including with regards to management of AML risks, liquidity risks and operational risk and resilience (including third party risk management)
 - Have appropriate Board/Senior Manager review and sign off
- 04 PRA reminds firms to keep their supervisor updated about any material developments in their planned innovations in the use of digital money or money-like instruments and how their plans meet the expectations set out in the letter

Sanctions

Conduct / Enforcement / Reporting

UK CONSUMER DUTY



Building Firm Culture: What to celebrate and what to work on

Figure 11. Actions to maintain good conduct

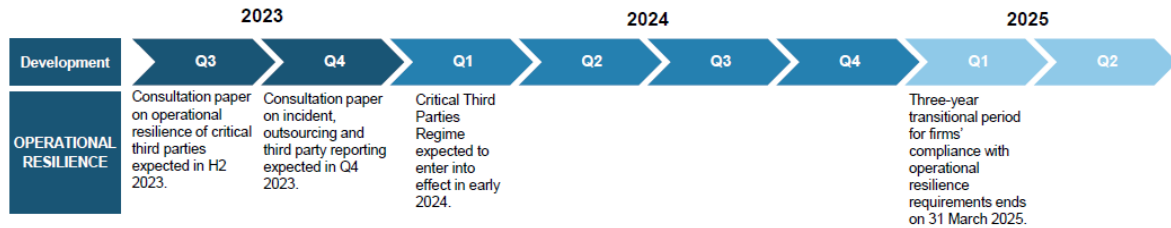
	Total	Total		
		Leading	Embedding	Developing
Revisiting core training programmes to ensure they adequately address organisational and risk culture and conduct themes	70%	92%	72%	59%
Ensuring firm values are embedded into all elements of the people strategy	69%	87%	81%	53%
Focus on wellbeing and psychological safety in the workplace	69%	89%	81%	52%
Ensuring the performance and talent management process supports the firm's values and risk culture	69%	89%	77%	55%
A diverse senior leadership team/board	68%	88%	80%	50%
Ensuring employees have adequate career development opportunities	66%	88%	74%	50%
Underscoring the importance of diversity, equity and inclusion	66%	83%	75%	51%

Type of question: single option per row. Scale: Rank on scale with the following options: completely uninvested; slightly uninvested; neither, slightly invested; fully invested; unable to say. Results in table show percentage of respondents who chose the two most favourable options on scale.

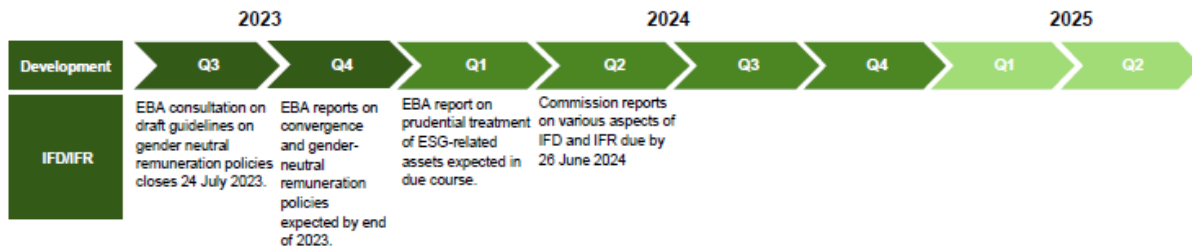
<p>Understand the present Gather information on where you are now including your culture goals, current areas of strength, and key themes to improve on. Understand what truly works well in your organisation.</p>	<p>Create the culture strategy An information-driven, holistic culture strategy aligned to the firm's values, objectives and strategic priorities.</p>
<p>Focus on ownership Engage with boards and management to discuss the importance of ownership, accountability and governance. Clarify what this looks like in your organisation and how they can be the best culture advocates.</p>	<p>Bring employees on the journey Rather than a top-down approach, all employees should feel invested in the culture strategy as if they are owners of the initiative themselves. Employee engagement sessions support embedment of culture change.</p>
<p>Leverage the research Consider self-assessment against the A&O research report, benchmark against others and see what it takes to move along the culture maturity curve.</p>	<p>Continuous improvement Engage with the workforce to gather feedback on how the cultural strategy is felt throughout the organisation. Focus on sustainability and creating an enduring approach to culture.</p>

Financial Stability, Operational Resilience

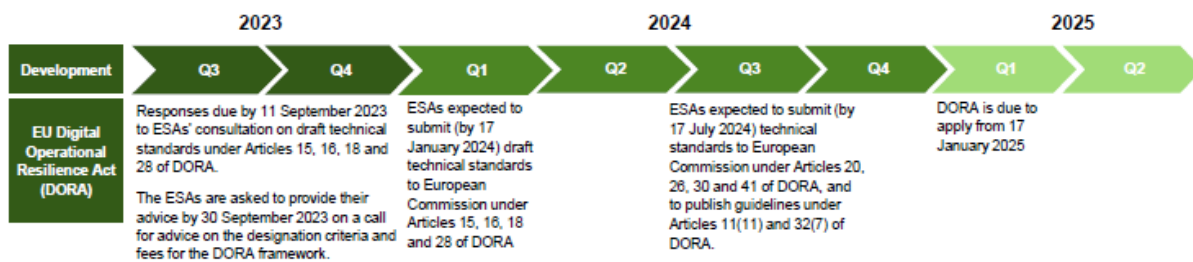
UK new operational resilience regime in 2021



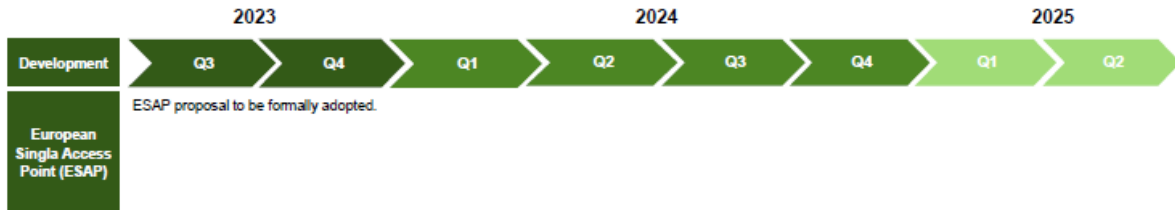
EU IFD/IFR



EU DORA

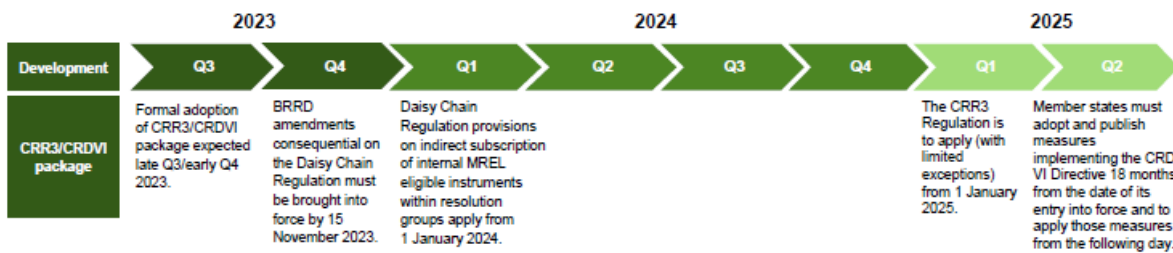


EUROPEAN SINGLE ACCESS POINT (ESAP)



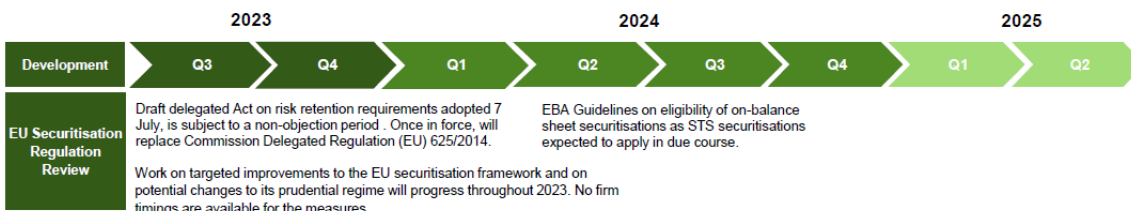
Prudential & Risk

CRR3/CRDVI



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EU SECURITISATION REGULATION REVIEW



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UPI Plus

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

- (To note that CDIDE (data WG of the FSB) has not formalised any concept of “UPI+” because it is bound to propagate a universal UPI. Rather, the concept stems from the replacement of ISIN for derivatives allied to necessary data fields for CTP fulfilment, and it is therefore currently a regional matter. There are multiple global derivatives reporting rewrites in 2024, all of which will mandate the use of UPI for at least a subset of reportable transactions. As such, the majority of market participants are already working on assigning UPIs to their existing reportable trade population.)
- The adoption of UPI+ as a replacement for OTC ISIN would mandate the use of the existing ISO4914 UPI for OTC derivatives in transparency reporting, supplemented with the addition of key trade-level attributes that would result in meaningful transparency data for recipients.
- There are likely to be in the region of 700,000 UPIs available to market participants when the service goes fully live by the end of 2023, in comparison to 112 million OTC ISINs that have been created since their inception.
- Clearly none of this addresses the current failings and complexities of Total Return Swap [“TRS”] reporting data sufficiency. That’s another matter.
- Earlier this month an ISDA “UPI+ working group” analysed trade level attributes in order to determine which have a material impact on Price and should therefore be included in the final proposal to augment UPI for transparency purposes.
- The working group also reviewed existing fields in Table 2 of RTS2 to confirm whether any further changes were needed.
- The below table details the attributes that were discussed and confirmed as being included in the final proposal to use UPI for transparency reporting, augmented with 5 additional trade level attributes. We have also included the reason agreed for inclusion for future reference.
- These are being advocated to the FCA via the attached letter.

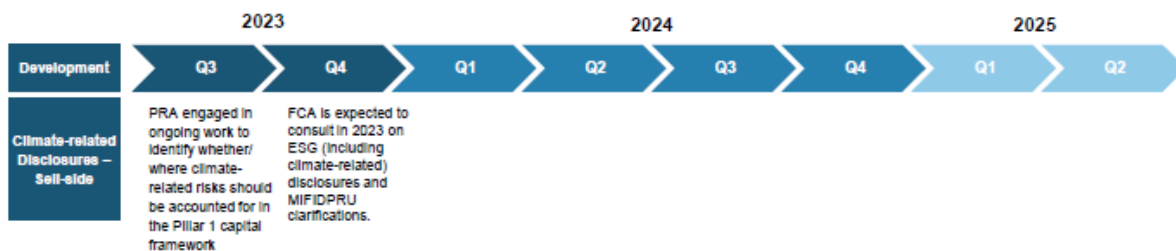
Type	Attribute	Financial Instruments	Comments
Amendments to Existing Fields	Instrument identification code type	For all financial instruments	This field should be updated to mandate the usage of UPI for OTC derivatives
	Instrument identification code	For all financial instruments	This field should be updated to mandate the usage of UPI for OTC derivatives
New Field to be added to Table 2 of RTS 2	Effective Date	For derivatives	The combination of Effective Date, Termination Date and the existing “Trading Date and Time” field will allow the tenor of the contract to be derived
	Termination Date	For derivatives	The combination of Effective Date, Termination Date and the existing “Trading Date and Time” field will allow the tenor of the contract to be derived
	Clearing House LEI	For derivatives	This field should be added to provide visibility of differing prices between CCPs

	Upfront payment	For CDS instruments	Only relevant in the context of CDS, the up-front payment is considered a price-impacting field and therefore warrants inclusion
	Spread	For derivatives	The spread for certain IRS trades containing a floating leg is considered a price-impacting field and therefore warrants inclusion. As this is only relevant for a subset of IRS, a value of 0 should be allowed where no spread exists

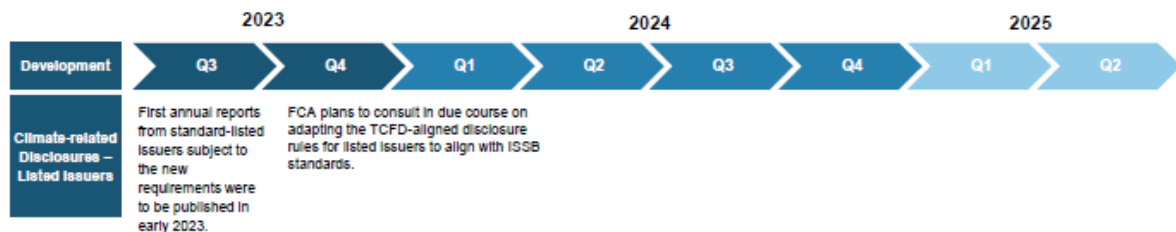
Proposed Attribute	Reason for descoping from UPI+
Term of Contract Value Term of Contract Unit Forward Starting Period Forward Starting Period Unit	The UPI+ working group agreed not to include these fields in the proposal as Effective date / termination date are preferable values for reporting due to ease of implementation and the fact that users of transparency data can derive tenor from the reported dates.
Execution Venue LEI	Details referring to the Execution venue are already included within the existing "Venue of Execution" field and therefore the LEI would not be required
Day Count Fraction	Due to the inclusion of whole year tenors, this field is not relevant. Where there are varying day count fractions there would not be a significant enough impact on price to justify inclusion in UPI+. This decision is based on the starting assumption of the inclusion of whole year tenors only - should this change, then the day count fraction would become a relevant attribute
Payment Frequency	This field has a relatively low impact on the price and non-standard instances of payment frequency are rare. Therefore, it was agreed not to include this field
Price Multiplier	The majority of products will have a Price Multiplier of 1 and therefore there is no value including this field within transparency reporting
Look Back	It was agreed not to include Look back in transparency reporting due to the low volume of trades with a non-standard look back period. The majority of trades analysed appeared to be of a "non-standard" nature which would bring them out of scope of transparency reporting
Standard / Non-Standard Flag	The proposal for UPI+ is centred on the inclusion of centrally cleared "standard" trades and therefore there is no need to differentiate by including a specific flag
Price Forming Flag	There are already provisions in RTS2 for market participants to report a flag of 'NPFT' to identify submissions which do not contribute to price formation
Package Flag	There are already provisions in RTS2 for market participants to report a flag of 'TPAC' to identify package transactions

Carbon Emissions, Green finance, ESG & Disclosures

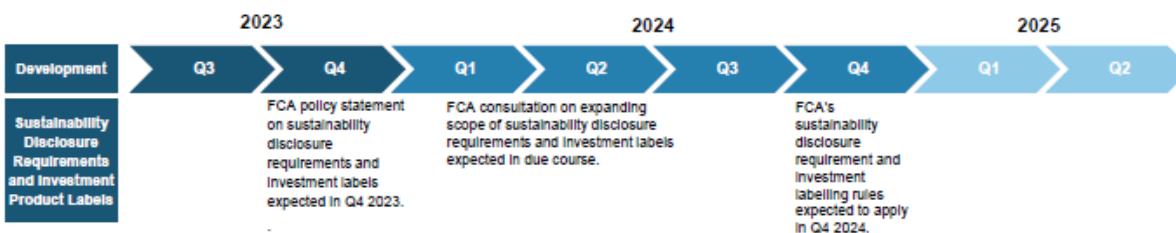
CLIMATE-RELATED DISCLOSURES – SELL-SIDE



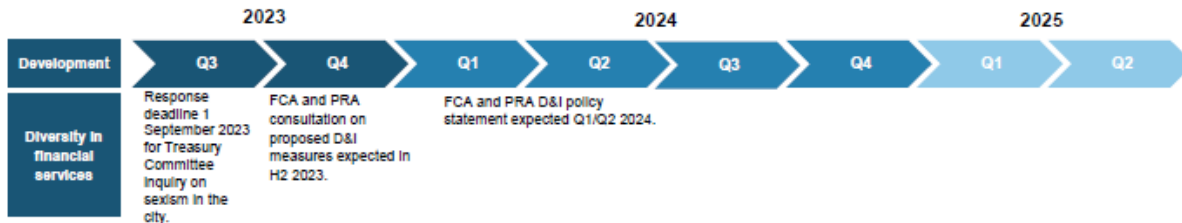
CLIMATE-RELATED DISCLOSURES – LISTED ISSUERS



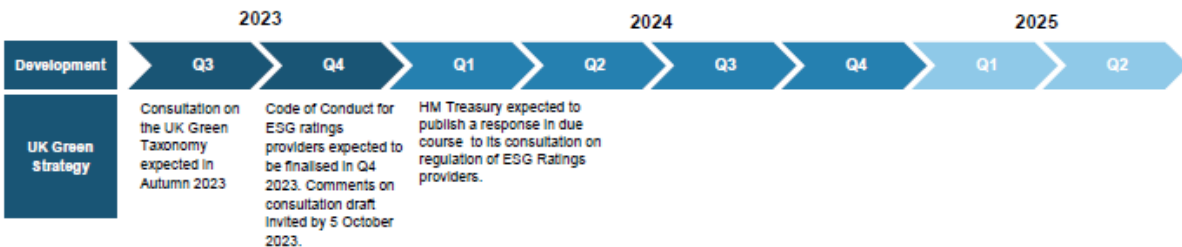
SUSTAINABILITY DISCLOSURES AND INVESTMENT PRODUCT LABELS



DIVERSITY IN FINANCIAL SERVICES



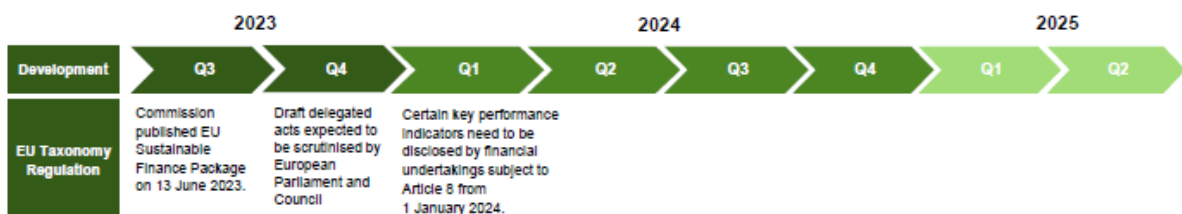
UK GREEN STRATEGY



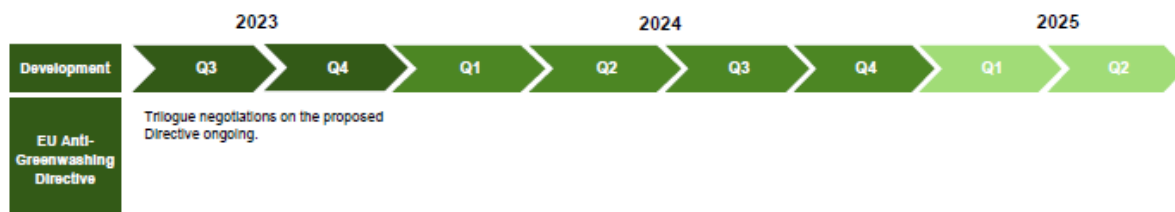
EU SUSTAINABLE FINANCE DISCLOSURE REGULATION (SFDR)



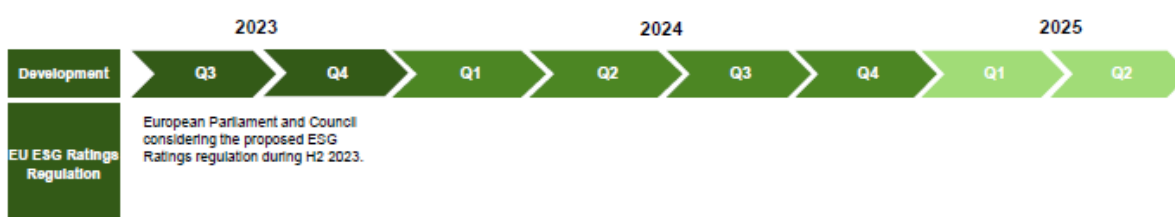
EU TAXONOMY REGULATION



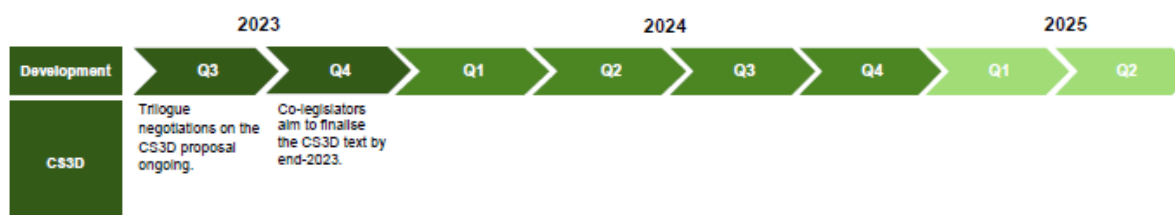
EU ANTI-GREENWASHING DIRECTIVE: AMENDMENTS TO UCPD



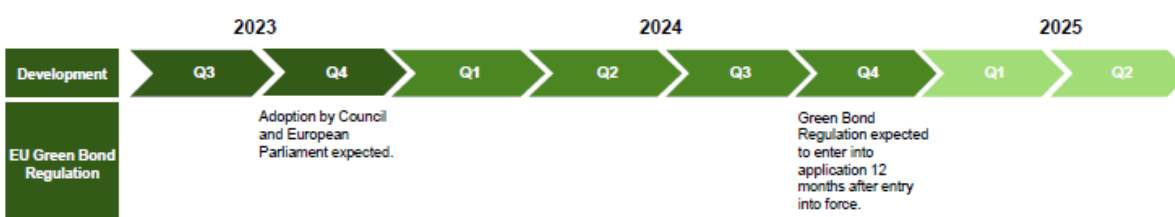
EU REGULATION OF ESG DATA AND RATINGS PROVIDERS



CORPORATE SUSTAINABILITY DUE DILIGENCE DIRECTIVE (CS3D)



EU GREEN BOND REGULATION



EVIA ESG Roundup Nov & Dec 2023; Before Xmas month, all eyes (and inboxes) were focused on developments from COP28 in Dubai. With reportedly close to 100,000 people attending from 197 countries, COP28 was by no means short on a diversity of views, particularly when it came to the ambition of the final legal text. COP fever did not mean the sustainability agenda stood still elsewhere. We saw a flurry of global updates including to the ICMA Guidance Handbook, the publication of the ICMA Code of Conduct for ESG ratings and data providers, and a live consultation from the Basel Committee on disclosure of climate-related financial risks, among others. We also received long-awaited regulatory gifts in the form of the UK's Sustainable Disclosure Rules, agreement on the EU Corporate Sustainability Due Diligence Directive and launch of multi-sector transition taxonomy in Singapore.

1. All eyes on COP28 (Global – multi-sector)

- Historic agreement was reached with the [“UAE Consensus”](#) at COP28, with nearly 200 countries agreeing to transition away from fossil fuels and reach net zero emissions globally by 2050. Despite the historic inclusion of fossil fuel language, many remain unconvinced by the outcome of the final negotiations. The voluntary language of “calling for” key mitigation action, including the transition away from fossil fuels and the tripling of renewable energy, was described by the Alliance of Small Island States (AOSIS) as not advancing us “beyond the status quo”.
- Beyond the official negotiations, there was much progress made on the climate mitigation front; with 130 national governments, including the European Union (EU), signing up to the [Global Renewables and Energy Efficiency Pledge](#); 25 countries endorsed a [Declaration to Triple Nuclear Energy Capacity by 2050](#); and the Netherlands led a group of 12 countries in releasing a new [joint statement](#) on the need to phase out fossil-fuel subsidies. Colombia also made a stand as the first major oil exporter to endorse the call for a [fossil fuel non-proliferation treaty](#), making a total of 11 countries supporting a legal agreement for ending new fossil-fuel projects.
- Some other key developments:
- **Loss and Damage:** the first day secured agreement on the operationalisation of the [loss and damage fund](#), followed by voluntary pledges totalling US\$792 million to support developing countries vulnerable to the adverse effects of climate change.
- **Food and Agriculture:** agreement was reached on the [first declaration on food system transformation](#), with 158 countries signing and committing to the declaration to cut carbon emissions in the global food system.
- **Nature, Land Use and Oceans:** \$186.6 million of new financing for nature and climate towards forests, mangroves, and the ocean was announced. There was also a [Joint Statement on Climate, Nature and People](#) made by the UAE and China, and an unexpected announcement that China was joining the [High Ambition Coalition for Nature and People](#), pledged to protect 30% of land and ocean by 2030.
- **Finance:** Alongside many financial pledges, COP28 also saw 13 national governments endorse the UAE Leaders’ Declaration on a [Global Climate Finance Framework](#). There was also the [Joint Declaration and Task Force on Credit Enhancement of Sustainability-Linked Sovereign Financing for Nature and Climate](#), which will aim to unlock sovereign debt for nature and climate through transactions like debt-for-nature swaps. Notably, agreement on Article 6 and carbon markets was not reached and will have to wait for COP29 in Azerbaijan in 2025 for the restart of negotiations.
- Simmons & Simmons [Global Insights webinar](#).

2. Updates to ICMA Guidance Handbook (Global – financial institutions)

- **What:** On 29 November, the International Capital Market Association (ICMA) and the Executive Committee of the Principles published an updated edition of the [Guidance Handbook](#).
- The Guidance Handbook was created with reference to; the ICMA Green Bond Principles (GBP); Social Bond Principles (SBP); Sustainability Bond Guidelines (SBG); Sustainability-Linked Bond Principles (SLBP) (together, “the Principles”); as well as the Climate Transition Finance

Handbook. The Guidance Handbook responds to calls from the market for additional information on how to interpret this guidance, especially regarding its practical application for transactions, as well as in the context of market developments and complementary initiatives.

- **Details:** The November updates of the Handbook integrate Q&As that were initially published on a stand-alone basis for Secured green, social or sustainability (GSS) Bonds, Sustainability-Linked Bonds and GSS bonds related to pandemic or to support fragile and conflict states. As well as this, it included further guidance on some additional topics including: Relabelling, Net Asset Value, Pure play companies, Impact reporting and Social Bonds.
- This publication is structured to support the development and integrity of the GSS Bond Market.

3. ICMA Code of Conduct for ESG ratings and data providers (Global – ESG ratings and data)

- **What:** On 14 December, the International Capital Markets Association (ICMA) published a [Code of Conduct](#) (Code) launched by the Data and Ratings Working Group (DRWG) for ESG ratings and data products providers.
- **Details:** The Code aims to promote market transparency and bolster governance, controls and conflict of interest management. The Code is grounded in the International Organization of Securities Commissions' (IOSCO) [recommendations](#) for ESG data and ratings, with a view to enabling the Code to be adopted internationally. The Code will be maintained by ICMA and is a voluntary, industry owned code which is intended to play a key role in increasing transparency and trust in the ESG data and ratings market. In an [announcement](#) made on the same day, the UK FCA encouraged all ESG data and ratings providers to engage with and sign up to the Code.
- **Key observations:** It is expected that the Code will provide a benchmark for any providers that fall outside the scope of potential future regulation and as the market evolves expectation will be that relevant firms adhere to the standards and have suitable systems and controls in place to meet their commitments. The launch of this Code follows shortly after the MAS launched a Code for ESG ratings providers in Singapore.

4. The Basel Committee consults on disclosure of climate-related financial risks (Global – financial institutions)

- **What:** On 29 November the Basel Committee on Banking Supervision (BIS) published a [consultation](#) on disclosure of climate-related financial risks. It forms part of its holistic approach to address climate-related financial risks to the global banking system.
- **Details:** The BIS is proposing a Pillar 3 disclosure framework for climate-related risks, which would require banks to provide information on their risk management and governance procedures. The proposals intend to complement the work of other standard setters, including the International Sustainability Standards Board (ISSB) and provide a common disclosure standard for internationally active banks. The proposals include disclosing scope 1, 2 and 3 emissions, covering direct bank emissions and indirect emissions.
- **Next steps:** The consultation is open until 29 February. BIS proposes a potential implementation date of 1 January 2026, and welcomes views on whether any transitional arrangements would be required and, if so, the rationale and duration. It also invites feedback on which elements of the framework should be mandatory and which would be subject to national discretion.

5. IOSCO report published on Supervisory Practices to Address Greenwashing (Global – multi-sector)

- **What:** On 4 December, IOSCO published a [final report](#) on supervisory practices to address greenwashing.
- **Details:** The report provides an overview of the initiatives undertaken in various jurisdictions to address greenwashing in line with the IOSCO [recommendations](#) published in 2021 and maps the current or planned regulatory and supervisory approaches and practices by regulators to address greenwashing in the areas of asset management and ESG ratings and data product providers. The main findings of the report indicate:
 - Most jurisdictions have in place supervisory tools and mechanisms to address greenwashing in asset management and their products.
 - The market for ESG ratings and data products is in a phase of rapid growth. The ESG ratings and data products market remains largely unregulated although some jurisdictions are developing mandatory or voluntary policy frameworks for ESG ratings and data products providers.
 - The cross-border nature of sustainable finance investments requires adequate cross-border cooperation, which has been observed in the case of some regulators using tools to assist each other (i.e., licensing, oversight, and enforcement).
 - Greenwashing will remain a high risk until the quality and reliability of information available to investors improve.
 - There is an expectation that all stakeholders support good practices aimed at preventing harm to consumers and markets. Industry engagement is therefore crucial to this goal.
- **Key observations:** The report sends a clear message that corporates, asset managers, ESG ratings and data products providers, investors, information providers, regulators and policy makers will need to act together to combat greenwashing risks and to build reliability and trust in sustainable finance markets.

6. Biodiversity and Nature Credit Markets continue to evolve at pace (Global – multi-sector); *This month has been significant for biodiversity and nature credit markets globally:*

- **International Advisory Panel on Biodiversity Credits (IAPB) call for views**
- **What:** The IAPB was created to facilitate the creation and growth of high-integrity biodiversity credit markets, and encourage enabling policy and regulatory mechanisms that are credible, timely and coherent on an international level. The IAPB has launched a [call for views](#) with 40 questions that will inform its working groups focused on the five key design challenges of high-integrity biodiversity credit markets: measurement, supply, demand, stewardship, and governance. Deadline for responding is 12 January 2024.
- **Australia's Nature Repair Market Bill receives Parliamentary approval**
- **What:** On 7 December, the Australian Parliament passed the long awaited [Nature Repair Market Bill](#), creating a framework for the world's first voluntary market for private investment in nature. [Approval was achieved with a few key trade-offs following political stagnation within the Senate. For example, under the finalised Bill, market participants will not be able to rely on nature repair projects to offset damage elsewhere.](#)
- **Next steps:** The Bill is now awaiting royal assent before it becomes law and it is expected to be operationalised next year. In the meantime, the Australian Government are looking to introduce

further reform to their [nature positive laws](#) and are consulting on their proposals until 30 March 2024. Responses can be submitted [here](#).

- **UK's Biodiversity Net Gain (BNG) and Marine Net Gain (MNG)**
- On 29 November, the government published [six draft statutory instruments](#) which set out some key details for the new mandatory biodiversity net gain (BNG) framework. In addition to the draft regulations, several pieces of draft guidance were also issued: [DEFRA guidance](#) and [Department for Levelling-up, Housing and Communities draft biodiversity net gain planning practice guidance](#).
- The new statutory requirements are expected to apply to developments that come forward in England following planning applications submitted 'from January 2024'. The exact date is yet to be confirmed.
- The current BNG framework does not include marine ecosystems as more work was needed to define an appropriate methodology and approach for marine spaces. On 9 December, the Department for Environment Food & Rural Affairs (DEFRA) published a [response to its MNG consultation outcome](#), that was conducted in 2022. Notably, in its response, DEFRA confirms MNG is intended to become a mandatory requirement for new in-scope development activities and the Government will be developing detailed policy and running further consultations in the future.

7. Agreement at long last: the EU corporate sustainability due diligence directive (EU – multi-sector)

- **What:** On 14 December, after months of negotiation, the European Council and Parliament reached a provisional agreement on the corporate sustainability due diligence directive (CSDDD) (see the EU Parliament [press release](#) and European Council [press release](#) for details). CSDDD will create obligations for large companies regarding actual and potential adverse impacts on human rights and the environment, with respect to its own operations, those of its subsidiaries, and those carried out by business partners.
- **Details:** Whilst the final text of the agreement is yet to be published, some key developments have been confirmed:
 - *Scope:* CSDDD will apply to large companies i.e. those that have more than 500 employees and a net worldwide turnover over €150 million. It will also impact certain non-EU countries three years from its entry into force. Notably, the financial sector will **not** be included in the scope of CSDDD but this will be reviewed for future inclusion.
 - *Transition plans:* Firms, including those in the financial sector, will have to adopt a plan ensuring their business model complies with limiting global warming to 1.5°C.
 - *Sanctions and supervision:* Each EU Member State will have a designated supervising authority that will be able to launch inspections and investigations and impose penalties on non-compliant companies, including "naming and shaming" and fines of up to 5% of their net worldwide turnover.
- **Next steps:** The provisional agreement reached now needs to be endorsed and formally adopted by both institutions before it can be published and enter into law. We will be sharing further details once the full text of the agreement is published, so watch this space.

8. The FCA publishes final SDR and greenwashing rules (UK – asset management)

- **What:** On 28 November the Financial Conduct Authority (FCA) published its long awaited [Policy Statement](#) (PS23/16) (the Policy Statement) setting out its final rules on UK Sustainability Disclosure Requirements (SDR) and investment labels. The Policy Statement follows the [FCA's](#) [64](#)

[Consultation Paper](#) (CP22/20) from 25 October 2022 (the Consultation Paper). The FCA also published general guidance for consultation ([GC23/3](#)) on the anti-greenwashing rule, alongside [information for consumers](#) on identifying sustainable investments. The deadline to respond to the consultation is the 26 January 2024.

- **Details:** [The FCA has made several changes to its original proposals, including introducing a new fourth “sustainability mixed goals” label](#). New rules and guidance for firms marketing investment funds based on their sustainability characteristics have been introduced along with consumer-facing information to enable consumers to understand the key sustainability features of a product and detailed information in pre-contractual, ongoing product-level and entity-level disclosures. It also contains requirements for distributors (for example, platforms and advisers. Portfolio management, pension products and overseas funds are excluded from scope at this stage. See [here](#) for our briefing note with more details.
- **Next steps:** In Q1 2024, the FCA will consult on the extension of the investment labelling and disclosure regime to discretionary portfolio strategies. From 31 July 2024 firms can begin to use labels, with accompanying disclosures and from 2 December 2024, the naming and marketing rules come into force, with accompanying disclosures.
- On the topic of sustainable funds, ESMA also released a [Public Statement](#) on 14 December updating its Guidelines on funds’ names using ESG or sustainability-related terms. Fund managers should refer to the updates announced in the statement and more specifically consider exclusions which ESMA has provided further clarity on.

9. Misleading claims cases against the airlines industry (UK – airline industry)

Whilst this month saw exciting news of the [first transatlantic flight using sustainable aviation fuel](#) (SAF), the airline industry has been in the spotlight this month over 'misleading' environmental claims.

- **What:** On 6 December, the UK Advertising Standards Agency (ASA) banned advertisements from [Air France](#), [Lufthansa](#) and [Etihad Airways](#) on the basis that the environmental claims made were misleading to customers. In both the Air France and Etihad cases, the ASA found insufficient evidence for the green claims made. The Lufthansa case was slightly different as the ASA acknowledged the use of sustainable aviation fuel among other things but stated that the basis of the claim in the advert that customers can “*Fly more sustainably*” had not been made clear. The ASA held that although the space in the advert was limited, this should not be a reason why ‘information of such relevance could be omitted’.
- **OECD complaint:** This month we have also seen a [complaint](#) brought by the charity Possible, to the Organisation for Economic Co-operation and Development (OECD) UK National Contact Point against British Airways and Virgin Atlantic. The complaint argues that the airlines are misleading consumers about their environmental credentials given analysis that suggests a continued failure to meet emissions targets and over reliance on technology like SAF that is not yet commercially viable as a climate-friendly solution.
- **Looking ahead:** The number of green claims in the UK shows no signs of stopping, with the Competition Markets Authority also [announcing](#) this month that it is looking into Unilever’s green claims.

10. A global first: MAS launches transition taxonomy (Singapore – multi-sector)

- **What:** On 3 December, the Monetary Authority of Singapore (MAS) launched the [Singapore-Asia Taxonomy for Sustainable Finance](#) (Singapore-Asia Taxonomy) which sets out detailed thresholds and criteria for defining green and transition activities that contribute to climate change mitigation across eight focus sectors. The eight focus sectors are: Energy, Real Estate, Transportation, Agriculture and Forestry/Land Use, Industrial, Information and Communication Technology, Waste/Circular Economy, Carbon Capture and Sequestration.
- The Singapore-Asia Taxonomy (amongst others) pioneered the concept of a “transition” category. Transition activities are comprehensively defined through two new approaches:
 - a traffic light system, in that the Singapore-Asia Taxonomy includes a list of economic activities and projects that are classified as “Green” (environmentally sustainable), “Amber” (transition) or “Ineligible” on the basis of their contribution to at least one of the Singapore-Asia Taxonomy’s five environmental objectives, whilst at the same time not causing any significant harm to the other four; and
 - a “measures-based approach” for certain sector(s) that seeks to encourage capital investments into decarbonisation measures or processes that will help reduce the emissions intensity of activities and enable the activities to meet the green criteria over time.
- MAS has also commenced an exercise to map the Singapore-Asia Taxonomy to the International Platform for Sustainable Finance’s Common Ground Taxonomy to enhance interoperability (details can be found in the MAS [press release](#)).

11. MAS Publishes Code of Conduct for Providers of ESG Rating and Data Products (Singapore- ESG Ratings and Data)

- **What:** On 6 December, MAS published its finalised [Code of Conduct for ESG Rating and Data Product Providers](#) (CoC) and an accompanying [Checklist for Providers](#) to self-attest their compliance to the CoC (Checklist).
- The CoC aims to establish baseline industry standards for transparency in methodologies and data sources, governance, and management of conflicts of interest that may compromise the reliability and independence of the products. It is largely modelled on the recommended good practices set out in the International Organisation of Securities Commissions’ Call for Action paper, with some additional Singapore specific requirements.
- The CoC is to be applied by Providers on a “Comply or Explain” basis and Providers are encouraged by the MAS to disclose their adoption of the CoC and publish their completed checklist within 12 months from the publication of the CoC.
- A list of Providers who adopt the CoC will be published on the International Capital Market Association’s (ICMA) website, to enable Users to identify such Providers with greater ease. Providers should inform ICMA when they have publicly published their Checklists in adoption of the CoC.

12. UAE Sustainable Finance Working Group publishes Principles for the effective management of climate-related financial risks (UAE – financial institutions)

- **What:** On 13 November, the UAE Sustainable Finance Working Group (SFWG) launched the [‘Principles for the Effective Management of Climate-related Financial Risks’](#) (the Principles). The SFWG was established in 2019 with the goal of developing sustainable finance in the UAE and facilitating co-operation between regulatory authorities. The Principles, the first initiative of its

kind in the Middle East region, set out minimum standards for considering and managing climate-related risk. They are the product of industry consultations earlier in the year and have been developed with international standards in mind.

- Key regulatory authorities that have adopted the Principles include the Central Bank of the UAE, Securities and Commodities Authority, Dubai Financial Services Authority (the Dubai International Financial Centre regulator) and Financial Services Regulatory Authority (the Abu Dhabi Global Market regulator).
- **Next steps:** These authorities will now formally issue the Principles to their respective licenced entities.

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