Financial Services Alerter

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FCA outlines strategy on asset management supervision

On 22 January 2020, the FCA published a Dear CEO letter, "Our Asset Management Strategy", providing the FCA's view of the potential harm that asset managers pose to their customers or the markets in which they operate. The letter also outlines the following key FCA supervisory priorities:

- liquidity management
- firms' governance
- Asset Management Market Study (AMMS) remedies
- product governance
- LIBOR transition
- operational resilience; and
- EU withdrawal

FCA outlines strategy on alternatives supervision

On 22 January 2020, the FCA published a Dear CEO letter, "Our Alternatives Supervision Strategy", providing the FCA's view of the potential harm that alternative investment firms pose to their customers or the markets in which they operate. The letter also outlines the following key FCA supervisory priorities.

- investor exposure to inappropriate products or levels of investment risk
- client money and custody asset controls
- market abuse
- market integrity and disruption
- anti-money laundering and anti-bribery and corruption; and
- EU withdrawal

HM Treasury publishes response to consultation on implementing MLD5

On 23 January 2020, HM Treasury published a consultation response, "Transposition of the Fifth Money Laundering Directive", outlining final rules and providing an overview of responses received to its April 2019 consultation..

FCA publishes Handbook Notice 73

On 31 January 2020, the FCA published Handbook Notice 73, setting out changes made to the FCA Handbook made by the FCA board on 12 December 2019, 10 January 2020 and 30 January 2020. The following parts of the Handbook were updated:

- COBS 19.5 and TP 2
- Glossary
- Fees App 3.1
- MCOB 4.1, 4.4A, 4.7A, 4.8A TP 4 and Sch 1
- PERG 4.6
- SYSC 3.2 and 4.1; and
- SUP 16 Annex 25G.

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ESMA clarifies SFTR reporting requirements

On 6 January 2020, the European Securities and Markets Authority (ESMA) published a final report, “Guidelines on reporting under Articles 4 and 12 SFTR” and associated guidelines. The final report provides, among other things, an overview of feedback received to proposed changes set out in a May 2019 consultation. The guidelines provide clarification on the implementation of several different provisions under SFTR.

ESMA publishes final report on CCPs' membership criteria and due diligence

On 7 January 2020, the European Securities and Markets Authority (ESMA) published a final report, “CCPs’ Membership Criteria and Due Diligence”. Following the default of a physical person acting as a Direct Clearing Member on the Nasdaq Commodities clearing segment in September 2018, ESMA initiated a survey on CCPs’ Membership Criteria and Due Diligence practices. The final report outlines ESMA’s analysis and next steps.

EBA report on use of big data and advanced analytics in the banking sector

On 13 January 2020, the European Banking Authority (EBA) published a report, “Big Data and Advanced Analytics”, providing a background and overview of the current uses of big data and advanced analytics, and suggesting key pillars and elements of trust that could be incorporated into their use in the banking sector.

ESMA publishes consultation on use of no data options in reporting under Securitisation Regulation

On 17 January 2020, the European Securities and Markets Authority (ESMA) published a consultation paper, “Guidelines on securitisation repository data completeness and consistency thresholds”. The consultation period closes on 16 March 2020.

ESMA introduces common supervisory action on supervision of UCITS liquidity risk management

On 30 January 2020, the European Securities and Markets Authority (ESMA) published a press release announcing that it would launch a Common Supervisory Action (CSA) with national competent authorities on the supervision of UCITS’ managers liquidity risk management across the EU. The CSA will be carried out during 2020.

ESMA publishes consultation on technical standards on MiFID2 third-country firm regime

On 31 January 2020, the European Securities and Markets Authority (ESMA) published a consultation paper, “Draft technical standards on the provision of investment services and activities in the Union by third-country firms under MiFID2 and MiFIR”. The consultation period closes on 31 March 2020. ESMA intends to publish a final report addressed to the European Commission in Q3 2020.

ESMA publishes statement on post-Brexit governance and reporting obligations

On 31 January 2020, the European Securities and Markets Authority (ESMA) published a statement, "Update on governance and reporting obligations following the UK's withdrawal from the European Union", noting that from 1 February 2019:

- the FCA will no longer be a member of ESMA's Board of Supervisors or take part in in ESMA's other governance bodies
- EU law will continue to apply to the UK from 1 February 2020 to 31 December 2020 (the Transition Period). During the Transition Period:
  - rights and obligations for UK entities under EU law will also continue to apply; and
  - ESMA will continue to directly supervise registered Credit Rating Agencies, Trade Repositories and Securitisation Repositories established in the UK.

ISDA publishes guide to cross-border application of US, EU and Japan non-cleared derivative margin rules

On 7 January 2020, the International Swaps and Derivatives Association (ISDA) published a report, “Guide to cross-border application of US, EU and Japan non-cleared derivative margin rules”, examining how cross-border and substituted compliance rules under selected different margin regimes function.

Central banks to assess cases for central bank digital currencies

On 21 January 2020, the Bank of England/PRA published a press release, “Central Bank group to assess potential cases for central bank digital currencies”, announcing that the central banks of Canada, Japan, the EU, Sweden, Switzerland, the UK and the Bank of International Settlements (BIS) have formed a group to assess potential cases for central bank digital currency in their home jurisdictions.

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