

Financial Services Alerter

OCTOBER 2020



ESMA publishes Final Report on MAR

On 29 October 2020, the European Securities and Markets Authority (ESMA) published a [Final Report](#) containing amendments to the Market Abuse Regulation (MAR) to promote the use of SME growth markets. In the Final Report, ESMA proposes both draft regulatory technical standards (RTS) and draft implementing technical standards (ITS). ESMA notes that, although it submitted the proposed regulation to the Commission for endorsement, it is unlikely that the proposed instruments will be adopted by 1 January 2021.

ESMA publishes statement on credit ratings

On 27 October 2020, the European Securities and Markets Authority (ESMA) published a [statement](#) on the endorsement of credit ratings from the UK, clarifying that EU credit ratings agencies (CRAs) will be able to endorse credit ratings elaborated in the UK after the end of the transition period on 31 December 2020. Until the EU adopts an equivalence decision in respect of the UK legal and supervisory framework for CRAs, the credit ratings of UK-based CRAs must be endorsed to continue to be useable for regulatory purposes in the EU.

ESMA publishes statement on third country trading venues under MiFID II

On 27 October 2020, the European Securities and Markets Authority (ESMA) published a [statement](#) announcing that it has updated the list of third-country venues, in the context of opinions on post-trade transparency and position limits under the MiFID II and Markets in Financial Instruments, to add UK venues. ESMA published updates to its [guidance](#) on the Annex to ESMA's [opinion](#) determining third country-trading venues for the purpose of transparency under MiFIR.

ESMA publishes CP on draft RTS under EMIR 2.2

On 19 October 2020, the European Securities and Markets Authority (ESMA) published a [Consultation Paper](#) (CP) on draft regulatory technical standards (RTS) relating to central counterparties (CCPs) under EMIR 2.2. Under the draft RTS, ESMA proposes an approach that divides the conditions into criteria for an extension of authorisation and criteria for significant changes to the models and parameters. The consultation period closes on 15 November 2020. ESMA intends to publish a Final Report and submit the draft RTS to the European Commission for endorsement in Q1 2021.

ESMA publishes Q&A on Securitisation Regulation

On 5 October 2020, the European Securities and Markets Authority (ESMA) published an updated version of its [Q&A](#) on the Securitisation Regulation. The questions relate to:

- COVID-19 related debt moratoria and;
- Primary income in case of buy-to-let.

The Q&A were last updated in May 2020.

ESMA publishes final report on securitisation repositories

On 5 October 2020, the European Securities and Markets Authority (ESMA) published a [Final Report](#) on the portability of information between securitisation repositories under the Securitisation Regulation. ESMA expects securitisation repositories to carry out the transfer of securitisation information in accordance with a mutually agreed migration plan. The Final Report contains feedback received on the [consultation and policy decisions](#) taken by ESMA.

EIOPA publishes statement on the insurance sector

On 13 October 2020, the European Insurance and Occupational Pensions Authority (EIOPA) published a [statement](#) reminding the insurance sector to complete preparations for the end of the UK transition period on 31 December 2020. In the statement EIOPA:

- warns the insurance sector that the UK and Gibraltar insurance undertakings becoming third-country undertakings.
- Urges insurers to have in place measures to prevent insurance activity without authorisation
- Reminds insurance undertakings and intermediaries of their duty to inform customers about the possible impact of the withdrawal of the UK from the EU on insurance contracts.

EIOPA publishes report on supervision of IDD product oversight

On 8 October 2020, the European Insurance and Occupational Pensions Authority (EIOPA) published a [report](#) outlining its supervision approach on product oversight and governance (POG) requirements under the Insurance Distribution Directive (IDD). The report emphasises that the objective of POG is to ensure that manufacturers and distributors take a customer-centric approach to their product approval, distribution, monitoring and review processes.

EBA publishes monitoring report on TLAC-MREL instruments

On 29 October 2020, the European Banking Authority (EBA) published a [monitoring report](#) on total loss absorbing capacity (TLAC) and minimum requirement for own funds and eligible liabilities (MREL) instruments. The purpose of the report is to inform stakeholders about the implementation review performed by the EBA on TLAC and MREL instruments and to present recommendations on specific features commonly seen in the instruments. In total the report contains 15 recommendations in the following areas:

- subordination
- loss absorption
- maturity and;
- tax gross-up.

EIOPA publishes CP on climate change risk scenarios in ORSA

On 5 October 2020, the European Insurance and Occupational Pensions Authority (EIOPA) published a [Consultation Paper](#) (CP) on the draft Opinion on the supervision of the use of climate change risk scenarios in the Own Risk and Solvency Assessment (ORSA). Comments can be made on the CP until 5 January 2021 and the final opinion will be published in spring 2021 together with a feedback statement.

EP publishes statement on the adoption of its resolution on digital finance

On 8 October 2020, the European Parliament (EP) published a [statement](#) announcing that it had adopted a resolution on digital finance. The resolution contains recommendations to the European Commission (EC) addressing the supervisory and regulatory challenges associated with crypto assets. Regulatory gaps in EU legislation were identified by Members of the European Parliament, especially in relation to the existing provisions covering money laundering.

EC opens consultation on AIFMD review

On 23 October 2020, the European Commission (EC) published an [open consultation](#) on its review of the Alternative Investment Fund Managers Directive (AIFMD). The public consultation is the next stage of the Commission's formal review of AIFMD and follows the Commission's [report](#) to the European Parliament and Council. The Consultation also follows the recent intervention by ESMA with its [letter](#) to the Commission. The questionnaire focusses on the following topics:

- AIFM passport
- Investor protection
- International issues
- Financial stability
- Investment in private companies
- Sustainability
- UCITS

The consultation period will end on 29 January 2021.

EC opens consultation on ELTIF Regulation

On 19 October 2020, the European Commission (EC) published an [open consultation](#) on its review of the Regulation on European long-term investment funds (ELTIFs). The consultation focuses on the:

- scope of ELTIF authorisation
- investment universe, eligible assets and qualifying portfolio undertakings
- borrowing of cash and leverage and;
- rules on portfolio composition and diversification.

The consultation period closes on 19 January 2021.

EC publishes text of Implementing Regulation on ITS under MAR

On 5 October 2020, the European Commission (EC) published the [text](#) of an implementing Regulation containing implementing technical standards (ITS) on forms and procedures for co-operation under the Market Abuse Regulation (MAR). The EC also published [Annexes](#) to the implementing regulation. The Implementing Regulation is based on the draft ITS submitted by the European Securities and Markets Authority (ESMA) to the EC in February 2020..

ESRB recommendation on identifying legal entities

On 19 October 2020, the European Systemic Risk Board (ESRB) published [Recommendations](#) A and B on identifying legal entities. The ESRB has asked the European Commission (EC) to deliver a report on the implementation of Recommendation A by 30 June 2023 and has asked the addressees of Recommendation B to deliver a report on its implementation by 21 December 2021.

ECB publishes CP on Eurosystem oversight framework for electronic payments

On 27 October 2020, the European Central Bank (ECB) published a [Consultation Paper](#) (CP) on the draft Eurosystem oversight framework for electronic payment instruments, schemes and arrangements. The CP comes as a result of a comprehensive review considering regulatory and technological developments in recent years, as well as the experience of the Eurosystem in the oversight of payment schemes and instruments.

The consultation period closes on 31 December 2020.

ECB publishes statement announcing the new launch date for ECMS

On 23 October 2020, the European Central Bank (ECB) published a [statement](#) announcing the launch date for the Eurosystem Collateral Management System (ECMS). The ECMS will be delayed and launched in November 2023, rather than November 2022, to address a number of concerns raised by market participants. It is intended for the ECMS to be a unified system for managing assets and will replace the existing 19 individual systems of the euro area national central banks.

IAIS publishes a CP on supervision of climate-related risks

On 13 October 2020, the International Association of Insurance Supervisors (IAIS) published a [Consultation Paper](#) (CP) on the “Supervision of Climate-related Risks in the Insurance Sector” containing guidance on how the IAIS supervisory material can be used to manage the challenges and opportunities arising from climate-related risks. The consultation period closes on 12 January 2020 and the IAIS intends to hold a public background session to discuss the paper on 26 October 2020.

BIS publishes report on principles and features of central bank digital currencies

On 9 October 2020, the Bank for International Settlements (BIS) published a [report](#) on the foundational principles and core features of central bank digital currencies (CBDCs). The report sets out guidelines for central banks committed to issuing CBDC, such as:

- CBDCs should not compromise monetary or financial stability
- CBDCs need to co-exist with and complement existing forms of money and;
- CBDCs should promote innovation and efficiency.

ISDA publishes whitepaper on derivatives and SFT market

On 5 October 2020, the International Securities and Derivatives Association (ISDA) published a [whitepaper](#) exploring opportunities for collaboration between derivatives and securities financing transactions (SFT) markets. The whitepaper identifies efficiencies that could lead to reduced costs resulting from greater document standardisation and enhanced post-trade processing and automation.

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