

# Financial Services Alerter

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# Introduction

## February 2020

Welcome to Simmons & Simmons' Financial Services Alerter, our monthly bulletin containing brief details of significant legal and regulatory developments of relevance to the fund management and investment banking communities.

Although the primary focus of Financial Services Alerter is the UK, we also cover EU and other international developments of relevance to the UK.

The information contained in Financial Services Alerter is based exclusively on publicly available sources and relates to developments taking place in September 2019.

- UK developments
- EU developments
- International developments

## FCA publishes Handbook Notice no 74

On 28 February 2020, the Financial Conduct Authority (FCA) published [Handbook Notice 74](#), setting out changes made to the FCA Handbook by the FCA board on 30 January 2020 and 27 February 2020. The following parts of the handbook were updated.

- Glossary
- ICOBS 1 Annex 1, 6A.4, 5.1, 6.1, 6.5
- FEES 3 Annex 9, 4.2, 4 Annex 5R, 4 Annex 11R, 4 Annex 13G, 4 Annex 14R, 13.2 and App 3.1
- COBS 19.5, 19.8 and TP 2

## FCA publishes FS20/2 on DP18/10 Patient Capital and Authorised Funds

On 28 February, the Financial Conduct Authority (FCA) published [Feedback Statement FS20/2](#), (“Patient Capital and Authorised Funds on DP18/10”), outlining the areas that the industry identified unnecessary barriers to investing in long-term assets.

## FCA publishes response to Quarterly Consultation No 25 on Standards of Lending Practice

On 11 February 2020, the Financial Conduct Authority (FCA) published a [response](#) to [QCP 19/27](#) on the recognition of the Lending Standards Board’s Standards of Lending Practice for business customers. FCA recognises that LSB’s Standards of Lending Practices also apply to unregulated activities.

## FCA Publishes Policy Statement on costs and charges to workplace pension scheme members

February 2020, the Financial Conduct Authority (FCA) published [PS20/2](#) (“Publishing and disclosing costs and charges to workplace pension scheme members and amendments to COBS 19.8”). The PS provides details of the final rules and guidance on their implementation and updates the following parts of the handbook:

## HM Treasury updates Policy Paper on Financial Reporting

On 26 February 2020, HM Treasury published a [review](#), “Government financial reporting review: best practice examples from 2018-2019”, which updated its Policy Paper on Financial Reporting.

## HM Treasury publishes Advisory Notice on Money Laundering and Terrorist Financing controls

On 24 February 2020, HM Treasury published an [Advisory Notice](#) in relation to the Money Laundering and Terrorist Financing (Amendment) Regulations 2019, identifying certain risks posed by unsatisfactory money laundering and terrorist financing controls in a number of jurisdictions.

## RPC opinion on HMT's impact assessment of the Transposition of the Fifth Anti-Money Laundering Directive

On 5 February 2020, the Regulatory Policy Committee (RPC) published an [opinion](#) regarding the final stage of HMT's impact assessment on the transposition of the EU's Fifth Anti Money Laundering Directive. The RPC concluded that the impact assessment is now fit for purpose, contrary to the results obtained at the first submission.

## ESMA consults on MiFIR Transparency Regime for Systematic Internalisers

On 3 February 2020, the European Securities and Markets Authority (ESMA) published a [consultation paper](#) on the MiFIR pre-trade transparency regime for systematic internalisers (SI) active in non-equity instruments.

## ESMA consults on MiFIR transparency regime for equity instruments

On 4 February 2020, the European Securities and Markets Authority (ESMA) published a [consultation paper](#) to review the MiFIR transparency regime for equity, ETFs and other related instruments.

## ESMA amends guidelines to further harmonise the enforcement of financial information by national regulators

On 4 February 2020, the European Securities and Markets Authority (ESMA) amended its [guidelines](#) on enforcement of financial information under the Transparency Regulation. The guidelines apply NCAs enforcement of financial information which issuers, listed on regulated markets, are required to publish under the Transparency Directive.

## ESMA sets out its strategy on sustainable finance

On 6 February 2020, the European Securities and Markets Authority (ESMA) published its [Strategy on Sustainable Finance](#), setting out the way in which it will place sustainability at the core of its activities by embedding ESG factors in its work.

## ESMA publishes the final report on MiFIR Alignments following the introduction of EMIR Refit

On 7 February 2020, the European Securities and Markets Authority (ESMA) published a [final report](#), "Alignment of MiFIR with the changes introduced by EMIR Refit", setting out proposed amendments to the trading obligations under MiFIR following the introduction of the revised EMIR.

## ESMA issues opinions on Position Limits under MiFID II

On 7 February 2020, the European Securities and Markets Authority (ESMA) published a [number of opinions](#) on position limits regarding commodity derivatives under the MiFID/MiFIR. ESMA found that the proposed position limits are consistent with the objectives in MiFID II and with the methodology developed for setting those limits.

## **FATF Identifies High-Risk Jurisdictions subject to a Call for Action**

On 21 February 2020, the Financial Action Task Force (FATF) published two statements identifying jurisdictions with strategic deficiencies in their AML/CTF regimes. The FATF calls on such countries to apply counter-measures to protect the international financial system from the ongoing money laundering, terrorist financing, and proliferation financing risks emanating from the country.

## **BIS Benchmark Reforms**

On 27 February 2020, the Bank for International Settlements (BIS) published a [newsletter](#) encouraging banks that use IBORs to include in their contracts robust fallback language that determines how the replacement of a discontinued reference rate would be handled.

## **EBA issues updated list of validation rules and related taxonomy to improve data quality**

On 4 February 2020, the European Banking Authority (EBA) issued an updated list of validation rules and XBRL taxonomy related to its Implementing Technical Standards (ITS) on supervisory reporting. This update aims to improve data quality issues for the reporting framework v 2.9.

## **EBA acknowledges adoption of amended supervisory reporting standards by the European Commission**

On 14 February 2020, the European Banking Authority (EBA) acknowledged the adoption by the European Commission of the [Implementing Act](#) amending Regulation (EU) No 680/2014 (Implementing Technical Standards on Supervisory Reporting) with regard to COREP and FINREP changes.

## **EBA reviews its RTS on Professional Indemnity Insurance for mortgage credit intermediaries**

On 28 February, the European Banking Authority (EBA) published a report on the review of the Regulatory Technical Standard (RTS) specifying the minimum monetary amount of the professional indemnity insurance (PII) or comparable guarantee for mortgage credit intermediaries. The EBA assessed the information obtained from national authorities, from a sample of intermediaries and through desk-based research and concluded that no amendments to the RTS are currently required.

## FSB Chair's letter to G20 Finance Ministers and Central Bank Governors: February 2020

On 19 February 2020, the Financial Stability Board (FSB) published a [letter](#) noting that the global financial system is constantly facing new challenges. Technology is changing the nature of traditional finance; the non-bank sector has grown and requires deeper understanding and coordination among the supervisory and regulatory community. It identified the following areas as working areas for the Saudi Arabian G20:

- Libor Transition
- Technology
- Stable-coins
- Cross-boarder payments
- Non-Bank financial intermediation (NBFI)
- Evaluating the post-crisis regulatory framework
- Implementation monitoring

## FSB survey on implementation reports

On 25 February 2020, the Financial Stability Board (FSB) published a [survey](#) to learn implementation reports readers find most useful and what we can do to improve their content.

## IOSCO publishes key considerations for regulating crypto-asset trading platforms

On 12 February 2020, International Organisation of Securities Commissions (IOSCO) published a [report](#) that describes the issues and risks associated with crypto-asset trading platforms (CTPs) and sets out key considerations to assist regulatory authorities in addressing these issues.

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