

# Financial Services Alerter

2018





## Financial Services Alerter

Introduction

September 2018

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 2018.

- **UK developments**
- **EU developments**
- **International developments**
- **elexica and other client items**

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For updates on the developments covered in this newsletter as they happen, follow the Financial Services Alerter Twitter feed [@Simmons\\_FS](#).

For further information, please contact [Darren Fox](#), [Charlotte Stalin](#), [Jonathan Melrose](#), [Penny Miller](#), or your usual contact at Simmons & Simmons.



## Financial Services Alerter

UK developments

### HM Treasury publishes draft statutory instruments for payment services, e-money and SEPA Regulation

On 06 September 2018, HM Treasury published a [draft version](#) of the Payments and Electronic Money (Amendment) (EU Exit) Regulations 2018 and a [draft version](#) of the Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations, together with a [joint explanatory note](#).

### FCA publishes quarterly consultation 22

On 07 September 2018, the FCA published [consultation paper](#) CP18/24, “Quarterly Consultation No 22”. The consultation period closed on 07 October 2018 for chapter 3 and 07 November 2018 for chapter 2.

### HM Treasury publishes consultation on implementation of BRRD Insolvency Hierarchy Directive

On 12 September 2018, HM Treasury published a [technical consultation](#) on the draft Banks and Building Societies (Priorities on Insolvency) Order 2018, as well as a [draft version](#) of the Order. The consultation period closed on 10 October 2018.

### US-UK financial regulatory working group publishes joint statement after first meeting

On 18 September 2018, the US-UK financial regulatory working group published a [joint statement](#) announcing details of its first meeting on 12 September 2018. Areas of discussion included possible areas for deeper regulatory cooperation and the implications of Brexit on financial stability and cross-border financial regulation. The next meeting of the Working Group is scheduled for the first half of 2019 in Washington D.C.

### FCA publishes consultation on approach to RTS and EBA guidelines under PSD2

On 17 September 2018, the FCA published [consultation paper](#) CP18/25, “Approach to final Regulatory Technical Standards and EBA guidelines under the revised Payment Services Directive (PSD2)”. The consultation period closed on 12 October 2018.

## **FCA and Bank of England/PRA publish joint dear CEO letters on firms' preparations for transition from LIBOR to risk-free rates**

On 19 September 2018, the FCA and the Bank of England/PRA published the following joint 'Dear CEO' letters on banks and insurers' preparations for the transition from the London Interbank Offered Rate (LIBOR) to alternative risk-free rates (RFRs):

- [Letter to banking firm CEOs](#)
- [Letter to insurance firm CEOs](#)

The purpose of the letters is to seek assurance that firms' senior managers and boards understand the risks associated with the transition and are taking appropriate action to facilitate the transition to RFRs before the end of 2021.

## **Treasury Committee calls for introduction of regulation of cryptoassets and associated activities**

On 19 September 2018, the House of Commons Treasury Committee published a [report](#), "Crypto-assets". The Committee, concludes among other things that:

- the arguments put forward that crypto-assets could further financial inclusion are unconvincing
- crypto-assets are especially risky, particularly for inexperienced retail investors
- the FCA's consumer warnings are a feeble corrective to advertisements that only emphasise the upside opportunities of crypto-asset investing



## Financial Services Alerter

EU developments

### **Draft EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 laid before Parliament**

On 05 September 2018, HM Government published a [draft version](#) of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, together with an [explanatory memorandum](#), updating the draft published by HM Treasury in July 2018.

### **Joint Committee of ESAs publishes report on automation in financial advice**

On 05 September 2018, the Joint Committee of the European Supervisory Authorities (ESAs) published a [report](#), “Joint Committee Report on the results of the monitoring exercise on ‘automation in financial advice’”. The ESAs conclude that no immediate further action is necessary, but that a new monitoring exercise will be commissioned if changes in the market make this necessary.

### **OJ publishes Delegated Regulation amending Solvency II Delegated Regulation published**

On 10 September 2018, [Commission Delegated Regulation \(EU\) 2018/1221](#), amending Delegated Regulation (EU) 2015/35 on the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings was published in the OJ. The Delegated Regulation entered into force on 30 September 2018.

### **OJ publishes Delegated Regulation supplementing CSDR with RTS on settlement discipline**

On 13 September 2018, [Commission Delegated Regulation \(EU\) 2018/1229](#) supplementing CSDR with regulatory technical standards on settlement discipline was published in the OJ. The Delegated Regulation enters into force and applies from 13 September 2020.

### **FMLC publishes report on proposed Regulation amending EMIR supervisory regime for EU and third-country CCPs**

On 14 September 2018, the Financial Markets Law Committee (FMLC) published a [paper](#), “European Market Infrastructure Regulation: the European Commission’s Legislative Proposal to Amend Procedures for recognition of Third Country Central Counterparties” highlighting legal uncertainties arising from the legislative proposal for a Regulation amending EMIR on the procedures and authorities involved for the authorisation of central counterparties (CCPs) and requirements for the recognition of third-country CCPs.

## ESMA publishes Opinion on amendments to MiFIR RTS on systematic internalisers' quote obligations

On 20 September 2018, the European Securities and Markets Authority (ESMA) published an [Opinion](#), "Amendments to Commission Delegated Regulation (EU) 2017/587 (RTS 1)" agreeing to the European Commission's suggested alterations to ESMA's proposed amendments to RTS 1. ESMA has sent its Opinion and revised draft RTS to the European Commission for endorsement.

- regulation should be introduced to address consumer protection and anti-money laundering
- the UK is well placed to become a global centre for crypto-assets if an appropriate regulatory environment develops and future innovations in crypto-assets prove themselves beneficial to society and the wider economy.



## Financial Services Alerts

International  
developments

### **IOSCO publishes final report and guidance on conflicts of interest and associated conduct risks during equity capital raising**

On 18 September 2018, the International Organization of Securities Commissions (IOSCO) published a [final report](#), “Conflicts of interest and associated conduct risks during the equity capital raising process”, outlining the key stages of equity capital raising where the role of intermediaries might give rise to conflicts of interest. The guidance sets out standards of conduct for market intermediaries in the equity capital raising process.

## elexica and other client items

- 07 September 2018 [Irish regulator sets deadline of 30 November 2018 for review of UCITS performance fees](#)
- 13 September 2018 [GDPR and Blockchain](#)
- 13 September 2018 [10 big changes since Lehman](#)
- 14 September 2018 [The EU Securitisation Regulation - the clock is ticking but questions remain for US managers](#)
- 17 September 2018 [The Securitisation Regulation: key points for UCITS managers](#)
- 19 September 2018 [Understanding the structure and regulatory framework of the telecoms and media sectors - Getting the Deal Through](#)
- 19 September 2018 [Treasury Committee publishes report on crypto assets](#)
- 21 September 2018 [Belt and Road Initiative - Mining capital market reporting standards convergence and opportunities in the global mining industry](#)
- 25 September 2018 [HMRC challenged over CRS information exchange rules](#)
- 27 September 2018 [Irish UCITS investments in non-UCITS investment funds - Update](#)

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