



I. ACTIVE PRIORITIES

Brexit			
CMCE priorities	Status / latest developments	Next steps	CMCE action
Transitional arrangements Ancillary activity test	<p>On 7 November, ESMA published a final report with draft RTS which would amend 3 Commission delegated acts on the clearing obligation (CO) under EMIR. In the context of Brexit, the draft RTS propose, the introduction of a limited exemption in order to facilitate the novation of certain non-centrally cleared OTC derivative contracts to EU counterparties during a specific time-period (one year). This exemption would only apply in a no-deal scenario. More specifically, the draft RTS allows UK counterparties to be replaced with EU ones without triggering the CO. ESMA argues that such an exemption would ensure a level playing field between EU counterparties and the preservation of the regulatory and economic conditions under which the contracts were originally entered into.</p> <p>ESMA also released a press statement on 9 November regarding contingency plans of Credit Rating Agencies and Trade repositories. It confirms that without a deal derivatives subject to reporting obligations under EMIR must report to an EU-registered or recognized trade repository. Similarly, for credit ratings to be used for regulatory purposes, they must be issued by a legal entity registered in the EU and supervised by ESMA [link].</p> <p>Moreover, we understand that the UK and the US are currently holding preparatory discussions on a range of sectors, including agriculture, financial services and digital trade regarding a future bilateral trade agreement after the UK leaves the EU in March 2019. A meeting of the</p>	<p>7 December – Close of FCA consultation on changes to handbook and technical standards</p> <p>13 December – European Council to discuss Brexit</p>	<p>A call of the CMCE Brexit WG took place on 4 November and on the basis of that discussion as well as written feedback from members, a list of indicative questions was aggregated. This list was sent to representatives of the FCA, the AMF and AFM for the Brexit session which will take place at the CMCE AGM on 9 November in London.</p>

	US-UK Trade and Investment Working Group took place this week on that purpose.		
MiFID II			
CMCE priorities	Status / latest developments	CMCE action	
AA exemption Position limits Reporting Physical forwards	There were no significant developments in the past 2 weeks.	On the work around the classification of physical forwards the advisory team is to circulate suggested standardised language for a short paragraph that Members can choose to include in the circle-out notification emails linked to the OSN contract.	
EMIR REFIT			
CMCE priorities	Status / latest developments	Next steps	CMCE action
Reporting Risk mitigation for uncleared trades Calculation of NFCs positions	There were no significant developments in the last 2 weeks.	28 November – Trilogue	
Benchmarks			
CMCE priorities	Status / latest developments	Next steps	CMCE action
Commodity benchmarks	In the Council, France, Germany, Sweden and the Netherlands sent a letter to the Austrian Presidency aimed at convincing it to schedule negotiations on the sustainable finance package and seek a compromise in		The final CMCE letter to HM Treasury on ‘miscellaneous benchmarks persons’ was sent on 29 October.

<p>Critical benchmarks</p> <p>Third country equivalence</p>	<p>the Council before the end of 2018 on the low-carbon benchmarks proposal. The letter acknowledges that it should be fairly straightforward for the Member States to reach a compromise on this dossier. However, it will be quite challenging for the Austrian Presidency to schedule sufficient rounds of negotiations before the winter break to reach an agreement. If an agreement is not reached before Christmas, it will be difficult for the trilogue negotiations with the European Parliament and the Commission to be completed under the current mandate.</p> <p>In the European Parliament ECON MEPs have filed amendments on the low-carbon benchmarks proposal under the sustainable finance initiative. All political groups tabled amendments modifying the definition of low-carbon benchmarks (amendments 89, 90, 91, 92, 93, 94).</p> <p>Sirpa Pietikäinen (EPP, FI) in AM 39 would require BM administrators to evaluate and disclose the extent to which sustainability (ESG) considerations are reflected in the methodology of their BM. AM 41, also by Sirpa Pietikäinen would require BM administrators to include ESG references in the benchmark statement. Furthermore, in AM 62 she suggests that “all benchmark administrators should be required to disclose how their methodology incorporates circular economy indicators and ESG risks.”</p> <p>Markus Ferber (EPP, DE) in AM 45 wants to limit the scope of the regulatory framework for low carbon benchmarks to only those types of benchmarks and no other types.</p> <p>Paul Tang (S&D, NL) tabled an amendment requiring that in four years after the entry of force of this Regulation, benchmark providers shall ensure that all the benchmarks provided and published are fully aligned with the Paris Climate Agreement commitments, and have a positive carbon and impact, on the base of a standardised methodology which will be developed by the Commission in a delegated act (AM 105).</p> <p>The rapporteur, Neena Gill (S&D, UK) tabled a similar amendment by requiring that by 2022, the administrator of critical and significant benchmarks shall only use input data which are aligned with the Paris Agreement commitments as implemented in EU legislation (AM 106).</p> <p>Markus Ferber (EPP, DE) proposed to delete Art.19(a) of the Benchmark Regulation empowering the Commission to adopt delegated acts to specify further the minimum standards for low-carbon and positive carbon</p>	<p><u>European Parliament</u> 19 November – Consideration of amendments on low carbon benchmarks in the ECON Committee</p> <p>4 December – Vote in the ECON Committee on the ESAs review (tentative)</p> <p>3 December – Vote on low carbon benchmarks in the ECON Committee</p> <p><u>European Commission</u> November - Adoption of delegated acts under the BMR by the European Commission</p>	
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	<p>impact benchmarks. According to him, these are very far-reaching decisions that should not be done by means of a delegated act (AM 131).</p> <p>Sirpa Pietikäinen (EPP, FI) tabled an amendment requiring all benchmarks, and not only the ones which pursue or take into account ESG objectives, to have a benchmark statement which shall contain an explanation of how ESG factors are reflected for each benchmark or family of benchmarks provided and published (AM 150). This amendment is supported by the S&D (AM 151).</p> <p>With regard to Article 51 of the BMR on transitional provisions, the EPP and ALDE proposed to insert a new paragraph according to which an existing benchmark designated as critical by an implementing act adopted by the Commission may be used in existing and new financial instruments, financial contracts, or measurements of the performance of an investment fund until 31 December 2021 (AM 157 and AM 158).</p> <p>The Council Working Party on the ESAs review will meet on 12 November to discuss the Austrian Presidency's draft compromise proposal. The Working Party will also discuss a non-paper on the European Systemic Risk Board (ESRB).</p>		
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II. WATCHING BRIEF

IFR		
CMCE priorities	Status / latest developments	Next steps
Commodity dealer IF regime	FIA, Deutsches Aktieninstitut, AFME, EDMA, ICMA, Swiss Finance Council and ISDA sent on 8 November a letter to the Austrian Presidency of the Council, European Commission Vice-President Valdis Dombrovskis and MEPs Markus Ferber and Roberto Gualtieri to express their concerns about the French proposal to introduce an EU branch requirement for third country investment firms underwriting and dealing on own account.	Council of the EU: 15 November 2018 – Council WP on IFR/IFD 10 December 2018 – Council WP on IFR/IFD
MAR		
CMCE priorities	Status / latest developments	Next steps
Insider dealing MM indicators	There were no significant developments in the last two weeks.	
SFTR		
CMCE priorities	Status / latest developments	Next steps
Reporting Obligations	There were no significant developments in the past 2 weeks.	End of 2018 – Adoption of the SFTR Level 2 measures by the Commission