

European elections & priorities of the new Commission / Parliament

Ursula von der Leyen, Germany's former defense minister and longest-serving minister under Angela Merkel, was elected by the European Parliament on 16 July to be the next European Commission President to succeed Jean-Claude Juncker. She won the support of 383 MEPs, only nine votes more than required to secure the absolute majority she needed to be elected. She had the support of the EPP, Renew Europe (RE) and two thirds of the S&D group. The Greens, the far right and the far left voted against her. The thin majority by which she was elected is a reflection of the fragmentation of the political forces in this new legislature, as well as the discontent of MEPs about the way she was put forward by member states as the President candidate, entirely bypassing the lead candidates put forward by political groups.

Her next challenges include putting together the work program of the new Commission, on which she already had to make a number of concessions to political groups in the Parliament to secure their support for her election, notably endorsing more ambitious climate targets and a right of legislative initiative for the Parliament (this is currently a prerogative of the Commission only). She will also need to negotiate with Member States on Commissioner candidates and the distribution of portfolios. Ms von der Leyen will take over from Jean-Claude Juncker when he steps down on 31 October, provided that her College of Commissioners receives the approval of the Parliament.

In the European Parliament, during the ECON constitutive meeting that took place on 10 July, Roberto Gualtieri (S&D, Italy) was re-elected as ECON chair. Ludek Niedermayer (EPP, Czech Republic), Stephanie Yon-Courtin (RE, France), Derk Jan Eppink (ECR, Belgium) and José Gusmao (GUE, Portugal) were elected as Vice-Chairs. The ECON Coordinators – who have the influential task of coordinating the positions of their political groups on matters discussed on the committee - will be Markus Ferber (Germany) for the centre-right EPP, Jonas Fernandez (Spain) for the Socialists & Democrats, Derk Jan Eppink (Netherlands) for the conservative ECR, Luis Garicano (Spain) for the liberal Renew Europe, Sven Giegold for the Greens (Germany), Gunnar Beck (Germany) for the far-right ID and Manon Aubry (France) for the far-left GUE.

I. ACTIVE PRIORITIES

Brexit	
<i>CMCE priorities: Ancillary activity test, access to UK and EU trading venues, CCPs and TRs</i>	
Latest developments & CMCE action	Next steps
There were no significant developments in the last 2 weeks.	<p>Week of 22 July – Announcement of the winner of the Conservative Party leadership race</p> <p>31 October – Deadline for UK to adopt Withdrawal Agreement, subject to a further extension</p>
MiFID II	
<i>CMCE priorities: AA exemption, position limits, reporting, physical forwards</i>	
Latest developments & CMCE action	Next steps
<p>ESMA issued on 12 July a public statement addressing the misalignment between the scope of counterparties subject to the EMIR clearing obligation and those subject to the MiFIR derivatives trading obligation.</p> <p>Under MiFIR, the scope of counterparties subject to the derivatives trading obligation is defined with cross-references to the definition of financial and non-financial counterparties under EMIR. Since MiFIR was not amended by EMIR Refit, following the entry into force of EMIR Refit on 17 June 2019 there is a misalignment in the scope of counterparties: small financial counterparties (and potentially some non-financial counterparties) would be subject to the trading obligation while being exempted from the clearing obligation.</p> <p>ESMA recalls that EMIR Refit envisages a report that the Commission shall submit to the European Parliament and to the Council by 18 December 2020 assessing the necessity and appropriateness of aligning the trading obligation for derivatives under MiFIR with changes made under EMIR Refit to the clearing obligation for derivatives, in particular to the scope of the entities that are subject to the clearing obligation.</p>	<p>5 August – Entry into force of ESMA guidelines on application of C6 and C7 instruments</p> <p>January 2020 – Deadline for ESMA to provide input to the European Commission on MiFID II/MiFIR review report on C6 energy derivatives contracts</p> <p>March 2020 – Deadline for ESMA to provide input to the European Commission on MiFID II/MiFIR review report on position limits and reporting</p>

<p>Meanwhile, there remains a timing gap during which counterparties exempted from the EMIR clearing obligation, are subject to the MiFIR derivatives trading obligation. As neither ESMA nor National Competent Authorities (NCAs) possess any formal power to disapply an EU legal text or delay some of its obligations, this ESMA statement advises NCAs not to prioritise their supervisory actions in relation to the MiFIR derivatives trading obligation towards counterparties exempted from the clearing obligation following the entry into force of EMIR Refit.</p> <p>CMCE action A CMCE response to the ESMA call for evidence on position limits and position management in commodity derivatives was submitted on 5 July, and was published by ESMA on 12 July with all the responses it received to the call for evidence.</p>	
<p>EMIR</p>	
<p><i>CMCE priorities: reporting, risk mitigation for uncleared trades, calculation of NFC's positions</i></p>	
<p>Latest developments</p>	<p>Next steps</p>
<p>There were no significant developments in the last 2 weeks.</p>	
<p>Benchmarks</p>	
<p><i>CMCE priorities: commodity benchmarks, critical benchmarks, third-country equivalence</i></p>	
<p>Latest developments & CMCE action</p>	<p>Next steps</p>
<p>ESMA updated on 11 July the Benchmark Regulation Q&As, which clarify the commodity benchmarks definition. Question 14 clarifies that the scope of the definition of commodity benchmarks for the purposes of the BMR is not identical to the scope of the definition of commodity derivatives for the purposes of MiFID II and MiFIR. ESMA concludes that the underlying asset of a commodity benchmark should be a fungible physical commodity. As a consequence, the underlying referred to in Section C(10) of Annex I to MiFID II, for example freight rates, are not included within the scope of commodity benchmarks and therefore should not be considered as a commodity benchmark under the BMR.</p>	<p>2 August – Deadline for responding to the TEG call for feedback on its interim report on climate benchmarks and benchmarks' ESG disclosures</p> <p>September – Final TEG report on climate friendly benchmarks to be published</p> <p>ESAs review & low-carbon benchmarks: July or September plenaries – Plenary vote in new Parliament</p>

<p>CMCE action CMCE is currently preparing a response to the TEG's call for feedback on the interim report on ESG disclosure for benchmarks. A draft CMCE response focusing on commodity benchmarks has been circulated to members in the Benchmarks WG for comments and input by 24 July at the latest.</p>	<p>21 October - Signature of Council President and EP President (earliest possible date)</p> <p>Mid-November - Publication in the EU Official Journal (tentative timeline)</p> <p>December - Entry into force (20 days after publication)</p>
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II. WATCHING BRIEF

IFR	
<i>CMCE priorities: commodity dealer IF regime, scope of class I, changes to MiFID III/MiFIR third-country regime</i>	
Latest developments & CMCE action	Next steps
<p>There were no significant developments in the past two weeks.</p>	<p>September plenary – Plenary vote in new Parliament</p> <p>21 October - Signature of Council President and EP President (earliest possible date)</p> <p>Mid-November - Publication in the EU Official Journal (tentative timeline)</p> <p>December - Entry into force (20 days after publication)</p>
MAR	
<i>CMCE priorities: Insider dealing, MM indicators</i>	
Latest developments & CMCE action	Next steps
<p>There were no significant developments in the past two weeks.</p>	<p>31 December 2019 – Deadline for ESMA to provide technical advice to the Commission on the MAR review</p>

<p>CMCE action</p> <p>A discussion took place at the Geneva members' meeting on 28 June on market abuse enforcement trends and the recent ACER guidance on REMIT implementation and layering and spoofing in wholesale energy markets. It was concluded that it would be useful for members to have a forum in which to exchange experiences and learnings in this area. In the first instance, a CMCE members' only information sharing forum will be set up. A MAR working group could be set up in due course if the need for that emerges from these discussions.</p>	
<p>SFTR</p>	
<p><i>CMCE priorities: reporting obligations</i></p>	
<p>Latest developments & CMCE action</p>	<p>Next steps</p>
<p>ESMA held a public hearing on the consultation on the guidelines for reporting under art.4 and 12 of SFTR on 15 July.</p>	<p>29 July - close of ESMA consultation on the guidelines for reporting under art.4 and 12 of SFTR</p> <p>Q4 2019 - ESMA to publish a final report on the guidelines on reporting under SFTR</p>
<p>Other relevant developments</p>	
<p>International role of the euro</p>	<p>There were no significant developments in the past 2 weeks.</p> <p>Summer 2019 – European Commission to report on the results of the consultation on the international role of the euro</p>
<p>REMIT</p>	<p>ACER published on 17 July an updated version of the fourth edition of the guidance on the application of REMIT aimed at clarifying the obligation to disclose inside information. The changes introduced in Chapter 7 deal with the application of the obligation to disclose inside information. There are also additions introduced in Chapter 8, dealing with the application of the market abuse prohibitions and possible signals of potential insider dealing or market manipulation.</p> <p>It also published on the same day a public consultation on the definition of inside information, which will close on 16 September.</p> <p>16 September 2019 – ACER public consultation on the definition of inside information closes</p>

