



Brexit

On 29 January the European Parliament approved in plenary session the [Withdrawal Agreement](#) agreed between the EU and the UK. This means that the UK's withdrawal from the EU will take place today at midnight CET. Under the terms of the Withdrawal Agreement the UK will enter a transition period during which time Union law will be applicable in the UK. However, the UK will no longer be represented in the Council and the European Parliament.

On Monday, the European Commission will announce its new mandate for the upcoming negotiations over the future relationship between the EU and the UK. Member States are expected to agree on this negotiating mandate by 25 February, which will then be handed to Michel Barnier and his team. The UK has yet to set out its position on the negotiating mandate, also expected in February. Negotiations between the EU and the UK on their future relationship will then start in March.

European Strategy for data

The European Commission is in the process of drafting a [Communication](#) setting out its European Strategy for data. The strategy acknowledges that Europe must improve its infrastructure and governance frameworks for the collection and handling of data. Furthermore, Europe should strive to create a 'data-agile economy' in which data portability, usage and re-use is facilitated thereby maximising the benefits that data can offer to citizens and the economy. Key implications for the financial services sector are the following:

- According to the draft Communication, the European Strategy for data envisages the creation of a Common European financial data space. DG FISMA is yet to elaborate upon what this financial data space would consist of in the current draft (DG FISMA has been invited to add further comments). Planned initiatives such as the Consolidated Tape (CT), intended to reduce the cost of market data, could potentially be part of or complementary to this financial data space. In addition, disclosures regarding the cost of producing and distributing market data by trading venues, a measure recommended by ESMA, may form part of the financial data space.
- Greater access to data from businesses and commercial entities, alongside ESG and sustainability related disclosures, will likely render it easier for investors to assess the environmental impact and sustainability profile of companies. This could potentially influence investment decisions and facilitate the climate transition.
- The strategy aims to foster business-to-business data sharing (B2B). This could potentially involve sharing information on cyber or natural incidents relevant to risk modelling.
- In the context of the debate over market data, how the co-generated data is defined could have important implications for access and usage rights to market data conventionally controlled by trading venues. Any changes introduced in a refinement of Intellectual Property rights could also have interesting consequences for the data economy.

MiFID II/MiFIR

We understand that the publication of the consultation document with stakeholders on a review of MiFID II/MiFIR has been slightly delayed. It is expected to be published in the coming weeks.

Non-Financial Reporting Directive (NFRD)

The European Commission launched on 30 January an [inception impact assessment](#) on NFRD review. As indicated in the [Green Deal](#) issued in December, the European Commission intends to review in Q4 2020 the NFRD with the objective of bringing companies and financial institutions to increase their disclosure on climate and environmental data so that investors are fully informed about the sustainability of their investments. This may be relevant for CMCE members as it will have an impact on data by corporate issuers. The NFRD currently applies to large companies and groups with more than 500 employees. Feedback to the inception impact assessment can be provided until 27 February.

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 |
| <p>The official exit of the UK from the EU will take place today at midnight CET. This follows the adoption in the UK on 23 January of the EU (Withdrawal Agreement) Act 2020, which turns the Withdrawal Agreement negotiated with the EU into UK law. On the EU side, the European Parliament adopted the text in plenary on 29 January.</p> <p>Under the terms of the Withdrawal Agreement the UK will now enter a transition period during which time Union law will be applicable in the UK. However, the UK will no longer be represented in the Council and the European Parliament.</p> <p>On Monday, the European Commission will announce its new mandate for the upcoming negotiations over the future relationship. European Commission Brexit Chief negotiator Michel Barnier gave EU27 ambassadors a preview on Wednesday of what is going to be in there and how he intends to structure the upcoming talks. Provided Boris Johnson continues to refuse considering an extension of the transition period beyond December 2020, Brussels will have to prioritize certain sectors. Michel Barnier said the only thing both sides could negotiate in the available time was a basic agreement which could only cover trade in goods, level playing field [meaning a commitment to EU social, environmental and competition rules], the fisheries sector, and internal and external security.</p> <p>Member States are expected to agree on the negotiating mandate by 25 February, which will then be handed to Michel Barnier and his team. The UK has yet to set out its position on the negotiating mandate, also expected in February. Negotiations between the EU and the UK on their future relationship will then start in March.</p> | |

MiFID II

CMCE priorities: AA exemption, position limits, reporting, physical forwards

Latest developments & CMCE action

We understand that the publication of the consultation document with stakeholders on a review of MiFID II/MiFIR has been slightly delayed. It will be published in the coming weeks.

The Commission services are under pressure to start the impact assessment of different options as fast as possible. Apparently, at political level within the Commission, Vice-President Dombrovskis and his team seem to have decided that they want to publish a legislative proposal during the start of the German Presidency as Germany has taken a keen interest in the review of MiFID II/MiFIR and that would allow the Vice-President to get support from Germany in other dossiers.

This timetable is creating however tensions within the Commission, as well as with ESMA. The Commission Services launched a consultation on crypto-assets in December 2019 which might ultimately result in amendments being required to MiFID II and MiFIR to somehow include crypto assets in that framework. However, the unit dealing with crypto assets, headed by Jan Ceyskens (former Cabinet member of the Vice-President) is unlikely to be ready with its work in time to feed into the legislative proposal which is scheduled for July/September 2020. Separately, ESMA is drafting/consulting on a number of reports it is mandate to do under the Level I text of MiFID II/MiFIR. Some of these reports however will probably not be finalised in time to be taken fully into account into the legislative review, creating tensions between the Commission services and ESMA.

CMCE action

CMCE submitted on 8 January its response to the ESMA consultation on position limits. ESMA published on 14 January the [responses](#) to this consultation.

Next steps

January 2020 – Deadline for ESMA to provide input to the European Commission on MiFID II/MiFIR review report on C6 energy derivatives contracts

31 March 2020 – Deadline for ESMA to provide input to the European Commission on MiFID II/MiFIR review report on position limits and reporting

EMIR

CMCE priorities: reporting, risk mitigation for uncleared trades, calculation of NFC's positions

Latest developments

There were no significant developments in the past 2 weeks.

Next steps

| Benchmarks | |
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| <i>CMCE priorities: commodity benchmarks, critical benchmarks, third-country equivalence</i> | |
| Latest developments & CMCE action | Next steps |
| <p>On 9 December 2019 the low-carbon benchmarks regulation was published in the EU Official Journal.</p> <p>CMCE action CMCE submitted on 18 December 2019 its response to the European Commission consultation on BMR review. In addition, the BMR WG is currently preparing its response to the FCA consultation on extending SMR to benchmark administrators. On 20 January it also participated to the FCA roundtable on this issue.</p> | <p>28 February 2020 – FCA consultation on SM&CR closes</p> <p>7 December 2020 – Application of the SM&CR regime to benchmark administrators</p> |

II. WATCHING BRIEF

| IFR | |
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| <i>CMCE priorities: commodity dealer IF regime, scope of class I, changes to MiFID II/MiFIR third-country regime</i> | |
| Latest developments & CMCE action | Next steps |
| <p>The IFR/IFD texts were published on 5 December 2019 in the EU Official Journal. IFR will apply from 26 June 2021, except points (2) and (3) of Article 63 on tick sizes and systematic internalisers, which will apply from 26 March 2020, and point 30 of Article 62 on which will apply from 25 December 2019. Concerning IFD, Member States shall adopt the national transposition measures by 26 June 2021.</p> | <p>26 June 2021 – Application of IFR</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 2 weeks.</p> | <p>Spring 2020 – ESMA to submit the final report providing technical to the European Commission on MAR review</p> |

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| CMCE action CMCE submitted its response to the ESMA consultation on MAR review on 28 November 2019. ESMA published on 13 December 2019 the responses received to this consultation. | | |
| SFTR | | |
| <i>CMCE priorities: reporting obligations</i> | | |
| Latest developments & CMCE action | | Next steps |
| There were no significant developments in the past 2 weeks. | | 11 January 2021 – Reporting go-live for non-financial counterparties |
| Other relevant developments | | |
| International role of the euro | There were no significant developments in the past 2 weeks. | |
| REMIT | There were no significant developments in the past 2 weeks. | |