



### **MiFID II/MiFIR**

On 9 April, ESMA [announced](#) its decision to further extend the response date for the [consultation](#) on the MiFID II non-equity transparency regime. The new deadline, now being extended for a second time, is **14 June 2020**. ESMA recognises the necessity of extending the deadline given the focus of market participants' on mitigating the consequences of the COVID-19 outbreak, which has placed significant demands on their available resources.

On 3 April, the European Commission took the decision to extend the deadline to its [consultation](#) on the Review of the MiFID II/MiFIR regulatory framework. The extended deadline is now **18 May 2020**, having been extended for a period of 4 weeks.

On 1 April, ESMA published the MiFID II [Review Report](#) on the position limits regime and position management controls. The report includes ESMA's assessment of the functioning of position limits and position management controls and their application on market abuse, orderly pricing and settlement conditions and commodity markets.

### **EMIR**

On 25 March, the CMCE was among the co-signatories to a letter addressed to the Basel Committee on Banking Supervision (BCBS) requesting that the implementation of Phase 5 of the Initial Margin (IM) requirements for uncleared derivatives transactions be delayed in view of the disruption caused by the spread of COVID-19. The letter was also sent to a host of supervisory authorities and central banks in multiple jurisdictions, including the ECB, ESMA, EBA, EIOPA, as well as the European Commission.

On 3 April, the BCBS-IOSCO [announced](#) the deferral of the final implementation phases, Phase 5 and Phase 6, of initial margin requirements for uncleared derivatives contracts. BCBS-IOSCO has extended the deadline for compliance with the final two implementation phases by one year. The extension is intended to provide firms with the additional operational capacity to respond to the immediate impact of COVID-19. With this extension, the intermediate Phase 5, covering entities with an AANA of uncleared derivatives greater than 50 billion EUR, will come into effect on **1 September 2021**. The final implementation phase, covering entities with an AANA of uncleared derivatives greater than 8 billion EUR will enter into effect on **1 September 2022**.

While the announcement by BCBS-IOSCO is encouraging, the EU is yet to implement the revised phase-in schedule. CMCE will continue to monitor the reaction from the European Commission and the ESAs and update the Members accordingly.

## 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 progress of the negotiations on the EU-UK future relationship has halted as the EU institutions and the UK Government divert their attention to the more urgent matter of containing the spread of COVID-19 and managing the economic and health repercussions.</p> <p>Nevertheless, contact between the EU Chief Negotiator, Michel Barnier, and his British counterpart David Frost has continued with the aim of establishing a schedule of negotiating rounds in April and May to be carried out remotely. Despite the delays to the talks on the future relationship implied by COVID-19, the UK Government has underlined that it will not seek an extension to the transition period. At present, the deadline for the conclusion of negotiations remains 31 December 2020.</p> <p>From the EU side, the Commission remains committed to completing the equivalence assessments by June. The Commission is adamant that the equivalence regime will provide for a stable relationship between the EU and the UK. The challenge in the context of Brexit is determining the tolerance for long-term divergences occurring on both sides and how flexible any UK equivalence decision would be in this regard.</p> <p>While the COVID-19 pandemic has diverted resources and political attention away from Brexit negotiations, UK and EU authorities are in close contact in order to coordinate their respective responses to the crisis. Thus far, the measures adopted by the UK are broadly aligned with those of the EU27, consisting largely of injecting liquidity into the system, easing capital requirements for banks and offering support for businesses that were commercially sound before the crisis.</p> <p>The UK has been directly involved in the EU's crisis response and has continued to participate in the ESAs, SRB and other EU fora during this extraordinary episode. The European Commission is hopeful that close coordination with the UK will continue in future in order to address the long-term economic ramifications of the crisis.</p>	<p>High-level talks between senior negotiators will be scheduled throughout April and May.</p>

## MiFID II

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

### Latest developments & CMCE action

On 3 April, the European Commission took the decision to extend the deadline to its [consultation](#) on the Review of the MiFID II/MiFIR regulatory framework. The extended deadline is now 18 May 2020, having been extended for a period of 4 weeks.

On 1 April, ESMA published the MiFID II [Review Report](#) on the position limits regime and position management controls. The report includes ESMA's assessment of the functioning of position limits and position management controls and their application on market abuse, orderly pricing and settlement conditions and commodity markets. Following from its analysis, the key proposals of ESMA are;

- ESMA advises the Commission to reconsider the quantitative test approach set out in Article 2(4) of MiFID II which determines eligibility for the ancillary activity exemption. ESMA believes that the quantitative assessment will have to be recalibrated to take account of the UK's departure from the EU.
- ESMA recommends that the Commission limit the application of position limits to a list of critical or significant contracts.
- ESMA recommends that the Commission introduce a hedging exemption for financial counterparties acting as the market facing entity of a commercial group for the positions held to reduce the risks of the commercial entities of the group.
- If the Commission decides against limiting the scope of the position limits regime to critical or significant contracts the, at the least, an exemption should be introduced for financial and non-financial counterparties for positions which are held as a consequence of obligations to provide liquidity on a trading venue.

On 9 April, ESMA [announced](#) its decision to further extend the response date for the [consultation](#) on the MiFID II non-equity transparency regime. The new deadline, now being extended for a second time, is **14 June 2020**. ESMA recognises the necessity of extending the deadline given the focus of market participants' on mitigating the consequences of the COVID-19 outbreak, which has placed significant demands on their available resources.

### Next steps

**18 May 2020** – Deadline for the Commission consultation on the review of MiFID II/MiFIR.

**14 June 2020** – Deadline for the ESMA consultation on the transparency regime for non-equities under MiFID II/MiFIR.

<p><b>CMCE action</b> On 8 April, the MiFID WG arranged a call to discuss the CMCE’s response to the ESMA consultation on the MiFID II non-equity transparency regime. MiFID WG Members will be provided with a targeted briefing highlighting elements of the consultation with the greatest relevance for CMCE.</p> <p>The MiFID WG has prepared the initial draft of the CMCE’s response to the Commission consultation. On 25 March, the MiFID WG held a call to discuss the CMCE’s draft response and reflect upon further additions that could be made. The MiFID WG will receive the next draft of the CMCE response by 20 April 2020.</p>	
<b>EMIR</b>	
<i>CMCE priorities: reporting, risk mitigation for uncleared trades, calculation of NFC’s positions</i>	
<b>Latest developments &amp; CMCE action</b>	<b>Next steps</b>
<p>On 3 April, BCBS-IOSCO <a href="#">announced</a> the deferral of the final implementation phases, Phase 5 and Phase 6, of initial margin requirements for uncleared derivatives contracts.</p> <p>BCBS-IOSCO has extended the deadline for compliance with the final two implementation phases by one year. The extension is intended to provide firms with the additional operational capacity to respond to the immediate impact of COVID-19.</p> <p>With this extension, the intermediate Phase 5, covering entities with an AANA of uncleared derivatives greater than 50 billion EUR, will come into effect on <b>1 September 2021</b>. The final implementation phase, covering entities with an AANA of uncleared derivatives greater than 8 billion EUR will enter into effect on <b>1 September 2022</b>.</p> <p>While the announcement by BCBS-IOSCO is encouraging, the EU is yet to implement the revised phase-in schedule. CMCE will continue to monitor the reaction from the European Commission and the ESAs and update the Members accordingly.</p> <p><b>CMCE action</b> On 25 March, the CMCE was among the co-signatories to a letter addressed to BCBS-IOSCO requesting that the implementation of Phase 5 of the Initial Margin (IM) requirements for uncleared derivatives transactions be delayed in view of the disruption</p>	

<p>caused by the spread of COVID-19. The letter was also sent to a host of supervisory authorities and central banks in multiple jurisdictions, including the ECB, ESMA, EBA, EIOPA, as well as the European Commission.</p>	
<p><b>Benchmarks</b></p>	
<p><i>CMCE priorities: commodity benchmarks, critical benchmarks, third-country equivalence</i></p>	
<p><b>Latest developments &amp; CMCE action</b></p>	<p><b>Next steps</b></p>
<p>ESMA has extended the deadline for the submission of responses to the <a href="#">consultation</a> on draft Regulatory Technical Standards (RTS) under the Benchmarks Regulation (BMR) relating to governance arrangements, methodology, and oversight functions for benchmark administrators, and the powers of competent authorities in the context of benchmark transition or cessation launched on 9 March. The deadline for the submission of responses is now <b>8 June 2020</b>.</p> <p>By way of background, the ESAs Review introduced changes to the BMR that require and mandate ESMA to provide draft RTS to further specify and elaborate on provisions relevant to benchmark administrators, methodology, oversight functions and competent authorities. These include;</p> <ol style="list-style-type: none"> <li>1. The requirements to ensure that the governance arrangements of an administrator are sufficiently robust;</li> <li>2. The conditions that ensure that the methodology used by an administrator to determine whether a benchmark complies with the relevant requirements in Article 12(1) of the BMR;</li> <li>3. The characteristics of the systems and controls established by an administrator to ensure the integrity of input data in order to be able to identify and report to the competent authority any conduct that may involve manipulation or attempted manipulation of a benchmark;</li> <li>4. The criteria that the competent authority applies when assessing how the benchmark is transitioned to a new administrator or ceases to be provided, and;</li> <li>5. The criteria under which competent authorities may require changes to the compliance statement.</li> </ol>	<p><b>1 October 2020</b> – Deadline for the Commission to adopt the draft RTS on governance arrangements, methodology, oversight functions and the power of competent authorities in the context of benchmark transition or cessation.</p> <p><b>7 December 2020</b> – Application of the SM&amp;CR regime to benchmark administrators.</p>

## II. WATCHING BRIEF

IFR	
<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 <a href="#">IFR/IFD</a> 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><b>26 June 2021</b> – 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><b>CMCE action</b> CMCE submitted its response to the ESMA consultation on MAR review on 28 November 2019. ESMA published on 13 December 2019 the <a href="#">responses</a> received to this consultation.</p>	<p><b>Spring 2020</b> – ESMA to submit the final report providing technical advice to the European</p>
SFTR	

<i>CMCE priorities: reporting obligations</i>	
<b>Latest developments &amp; CMCE action</b>	<b>Next steps</b>
<p>On 19 March, in view of the extraordinary circumstances precipitated by the spread of COVID-19, ESMA released a public <a href="#">statement</a> announcing the deferral of reporting obligations for securities financing transactions (SFTs) under the SFTR and MiFIR.</p> <p>In the statement, ESMA acknowledged that the precautionary measures introduced by national authorities and individual firms in response to the COVID-19 pandemic are impairing firms ability to ensure their readiness for the application of SFT reporting obligations in time for the deadline on 13 April 2020.</p> <p>ESMA has therefore instructed competent authorities to take no supervisory actions penalising counterparties, entities responsible for reporting, and investment firms for failure to comply with SFT reporting obligations from the go-live date of 13 April 2020 until <b>13 July 2020</b>. This effectively makes the 13 July 2020 the effective date of application for SFT reporting obligations for investment firms.</p>	<p><b>13 July 2020</b> – Reporting obligation for investment firms</p> <p><b>11 January 2021</b> – Reporting obligation for non-financial counterparties</p>
<b>European Green Deal</b>	
<i>CMCE priorities: monitoring developments</i>	
<b>Latest developments &amp; CMCE action</b>	<b>Next steps</b>
<p>On 8 April, the European Commission opened a <a href="#">consultation</a> on the Renewed Sustainable Finance Strategy. The consultation will remain open until <b>15 July 2020</b>. In the consultation, the Commission outlines that the Renewed Strategy will focus on three main areas;</p> <ul style="list-style-type: none"> <li>▪ Creating a framework with appropriate tools and structures to promote sustainable investment, while also aiming to shift the focus of financial and non-financial companies from short-term financial performance to long-term development.</li> <li>▪ Maximise the impact of the frameworks and tools to finance green projects and</li> </ul>	<p><b>23 June 2020</b> – Deadline for the Commission consultation on 2030 greenhouse gas emission reduction targets.</p> <p><b>15 July 2020</b> – Deadline for the Commission consultation on the Renewed Sustainable Finance Strategy.</p>

have a positive impact on sustainability.

- Manage and integrate climate and environmental risks into financial institutions and the financial system, also taking account of social risks where relevant.

On 31 March, the European Commission opened a [consultation](#) on its intention to propose an increase to the EU's 2030 target for greenhouse gas emission reductions to at least -50%, and towards -55% compared to 1990 levels. The consultation will remain open until **23 June 2020**.

The first part of the consultation questionnaire includes high-level questions on the opportunities and challenges, and sectoral potential for CO2 Reductions by 2030. The Second part includes questions on the design of specific climate and energy policies as well as EU policies towards third-countries on climate change.

On 4 March, the European Commission launched an Inception Impact [Assessment](#) on a carbon adjustment tax mechanism. The impact assessment aimed to inform citizens and provide an opportunity for stakeholders to offer feedback. The mechanism envisages a carbon border adjustment levy (CBA) applicable to certain imports as they enter the EU market. The measure is intended to mitigate the risk of carbon leakage. The feedback period ended on 1 April 2020. A legislative proposal is expected by mid-2021.

### Other relevant developments

**International role of the euro**

There were no significant development in the past 2 weeks.

**REMIT**

There were no significant development in the past 2 weeks.