



EMIR

On 4 May, the European Supervisory Authorities (ESMA, EBA, EIOPA) have published joint draft Regulatory Technical Standards (RTS) amending the Delegated Regulation on risk mitigation techniques for non-centrally cleared OTC derivatives under EMIR to take account of the delay in the final two implementation phases agreed upon by the BCBS-IOSCO in early April. The amendments made by the ESAs reflect the 12-month deferral of Phase 5 and Phase 6 of the implementation schedule for initial margin requirements for uncleared derivatives transactions in the EU's regulatory framework.

BMR

On 29 April, ESMA issued a [No Action Letter](#) instructing National Competent Authorities not to prioritise supervisory and enforcement actions against benchmark administrators with regard to environmental, social and governance (ESG) disclosure requirements. ESMA regards it as necessary to be lenient towards administrators that fail to apply the ESG disclosure requirements in the absence of the Delegated Acts specifying their exact content.

ESMA's No Action Letter was accompanied by an [Opinion](#) addressed to the European Commission stressing the need for the relevant Delegated Acts to be adopted without delay in order to provide clarity to administrators on how to apply these requirements.

European Green Deal

On 23 April, the ESAs (ESMA, EIOPA, & the EBA) launched a joint [consultation](#) on draft Regulatory Technical Standards (RTS) under the EU Sustainability related Disclosure Regulation. The consultation will remain open until **1 September 2020**.

The consultation provides detail as to the content, methodologies and presentation of the disclosures that firms will be required to make. The first set of disclosure obligations will apply as of March 2021. The ESAs are likely to need one to three months after the end of the consultation to process comments by stakeholders and draft the final technical rules for the European Commission. Thereafter, following the Commission's adoption of the technical standards the co-legislators will require an additional one to three months to scrutinise the rules before either objecting or endorsing them.

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>Following the conclusion of the second round of negotiations on the future relationship, the EU's chief negotiator Michel Barnier issued a public statement outlining the outcome of the virtual talks. Mr Barnier expressed regret that the UK is not pursuing progress on all issues in parallel, instead opting to focus on select issues. He also highlighted areas where fundamental divergences persist; such as on the issue of a level-playing field and fisheries. Arrangements for the governance of the future partnership also remain a sticking point alongside an agreement for policy and judicial cooperation in criminal matters.</p> <p>Despite limited progress during the second round of negotiations, UK Government is maintaining the position that it will not ask for an extension of the transition period. The deadline to jointly agree on an extension to the deadline is 1 July 2020. The EU has called for pragmatism and insists the pace of progress thus far is inadequate to allow an agreement to be reached by the end of the year.</p> <p>On 30 April, the first meeting of the Specialised Committee on the implementation and application of the Protocol on Ireland/Northern Ireland took place. The purpose of the Specialised Committee is to supervise the implementation of the Withdrawal Agreement as it pertains to arrangements in Ireland/Northern Ireland. During the meeting, which occurred virtually, the EU delegation stressed the importance of the UK outlining detailed plans with regard to all implementation measures prescribed by the Protocol in order to ensure it is fully operative by 1 January 2021.</p>	<p>11 May 2020 – Third negotiating round to begin.</p> <p>1 June 2020 – Fourth negotiating round to begin.</p> <p>1 July 2020 – Deadline to agree on an extension to the transition period</p>
MiFID II	
<i>CMCE priorities: AA exemption, position limits, reporting, physical forwards</i>	
Latest developments & CMCE action	Next steps

<p>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;</p> <ul style="list-style-type: none"> ▪ 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. 	<p>18 May 2020 – Deadline for the Commission consultation on the review of MiFID II/MiFIR.</p> <p>14 June 2020 – Deadline for the ESMA consultation on the transparency regime for non-equities under MiFID II/MiFIR.</p>
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EMIR

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

Latest developments & CMCE action	Next steps
<p>On 4 May, the European Supervisory Authorities (ESMA, EBA, EIOPA) published joint draft Regulatory Technical Standards (RTS) amending the Delegated Regulation on risk mitigation techniques for non-centrally cleared OTC derivatives to take account of the delay in the final two implementation phases agreed upon by the BCBS-IOSCO in early April.</p> <p>The changes made by the ESAs reflect the 12-month deferral of Phase 5 and Phase 6 of the implementation schedule for initial margin requirements for uncleared derivatives transactions in the EU's regulatory framework.</p>	

<p>According to the amended implementation schedule:</p> <ul style="list-style-type: none"> ▪ Phase 5, covering counterparties with an AANA of uncleared derivatives above EUR 50 billion, will take effect from 1 September 2021. ▪ Phase 6, covering counterparties with an AANA of uncleared derivatives above EUR 8 billion, will take effect from 1 September 2022. <p>The ESAs have submitted the draft RTS to the European Commission for endorsement. Following endorsement by the European Commission the draft RTS will be adopted as a Delegated Act and submitted to the European Parliament and the Council for scrutiny.</p> <p>The European Parliament and the Council will have two months to raise objections to the Delegated Act as proposed by the European Commission. In the absence of any objections, the Delegated Act will enter into force following the end of the two-month scrutiny period.</p>	
Benchmarks	
<i>CMCE priorities: commodity benchmarks, critical benchmarks, third-country equivalence</i>	
Latest developments & CMCE action	Next steps
<p>On 29 April, ESMA issued a No Action Letter instructing National Competent Authorities not to prioritise supervisory and enforcement actions against benchmark administrators with regard to environmental, social and governance (ESG) disclosure requirements. ESMA regards it as necessary to be lenient towards administrators that fail to apply the ESG disclosure requirements in the absence of the Delegated Acts specifying their exact content.</p> <p>ESMA's No Action Letter was accompanied by an Opinion addressed to the European Commission stressing the need for the relevant Delegated Acts to be adopted without delay in order to provide clarity to administrators on how to apply these requirements.</p> <p>On 8 April, the European Commission opened a consultation on three draft Delegated Acts relating to ESG disclosure requirements applicable to benchmark administrators with a deadline of 6 May 2020.</p> <p>The first of these draft Delegated Acts specifies the minimum standards that EU Climate Transition and Paris-aligned benchmarks should meet in order to be labelled as such.</p>	<p>1 October 2020 – 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>7 December 2020 – Application of the SM&CR regime to benchmark administrators.</p>

<p>The second sets out the explanation that is to be included in the benchmark statement about how ESG factors are reflected in each benchmark. The third clarifies the minimum content of the explanation of how the benchmark methodology takes account of ESG factors for each benchmark, with the exception of interest rate and foreign exchange benchmarks.</p> <p>In the last-mentioned draft Delegated Act, the European Commission decided not to adopt the recommendation from the TEG Final Report to focus on a commodity benchmark as relating only to “baskets” of futures, options etc. The European Commission chose to align the definition with the existing definition in article 3(1)(23) of the BMR itself. The text of the Delegated Act cannot be interpreted in conformity with the TEG Final Report</p> <p>Following the adoption of the final Delegated Acts the European Commission will submit them to the European Parliament and the Council for scrutiny. In the absence of any objections from the co-legislators during a two-month period the Delegated Acts will enter into force.</p>	
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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 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>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.</p>	<p>Spring 2020 – ESMA to submit the final report providing technical advice to the European</p>
SFTR	
<i>CMCE priorities: reporting obligations</i>	
Latest developments & CMCE action	Next steps
<p>On 6 May, ESMA extended the registrations of four trade repositories (TRs) to include securities financing transactions (SFT) reporting under the SFTR. The TRs concerned are DTCC Derivatives Repository plc, UnaVista TRADEcho B.V., Krajowy Depozyt Papierow Wartosciowych S.A. and REGIS-TR S.A.</p> <p>The broadened registrations took effect on 7 May 2020.</p> <p>On 19 March, in view of the extraordinary circumstances precipitated by the spread of COVID-19, ESMA released a public statement 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 13 July 2020. This effectively makes the 13 July 2020 the effective date of application for SFT reporting obligations for investment firms.</p>	<p>13 July 2020 – Reporting obligation for investment firms</p> <p>11 January 2021 – Reporting obligation for non-financial counterparties</p>

European Green Deal

CMCE priorities: monitoring developments

Latest developments & CMCE action

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The consultation provides detail as to the content, methodologies and presentation of the disclosures that firms will be required to make. The first set of disclosure obligations will apply as of March 2021. The ESAs are likely to need one to three months after the end of the consultation to process comments by stakeholders and draft the final technical rules for the European Commission. Thereafter, following the Commission's adoption of the technical standards the co-legislators will require an additional one to three months to scrutinise the rules before either objecting or endorsing them.

On 8 April, the European Commission opened a [consultation](#) on the Renewed Sustainable Finance Strategy. The consultation will remain open until **15 July 2020**. In the consultation, the Commission outlines that the Renewed Strategy will focus on three main areas;

- 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.
- Maximise the impact of the frameworks and tools to finance green projects and 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**.

Next steps

23 June 2020 – Deadline for the Commission consultation on 2030 greenhouse gas emission reduction targets.

15 July 2020 – Deadline for the Commission consultation on the Renewed Sustainable Finance Strategy.

1 September 2020 – Deadline for the Joint ESAs consultation on draft Regulatory Technical Standards under the Sustainability-related disclosures regulation.

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.	