



MiFID II/MiFIR

Following the last meeting of the EG-ESC on 3 July to discuss the final contents of the Covid-19 securities recovery package, which includes targeted amendments to MiFID II, the Commission has finalised its internal interservice consultation on the package ahead of its review by the College of Commissioners on 22 July 2020. The Covid-19 securities recovery package, following extensive consultation with Member State delegations, has been significantly paired back and, compared to the ambition of the Commission's initial proposal, is much diminished in scope. Amendments to MiFID II are now largely confined to uncontroversial aspects of the legislation and include the removal of RTS 27 'Best Execution' reports. More contentious and substantial reforms of the MiFID II/MiFIR regulatory framework will have to await the formal review. Changes to commodity markets rules were not discussed extensively at the EG-ESC meeting and it remains to be seen to what extent the proposals considered over the course of the 'quick fix' process will be reflected in the proposal. In the interim, despite its highly targeted nature, the securities recovery package may encounter opposition in the European Parliament which has expressed anger at not being consulted more thoroughly by the Commission.

BMR

On 17 July, the European Commission [adopted](#) the Delegated Acts specifying how ESG considerations should be taken into account by Benchmark Administrators (BMs) and NCAs. The Delegated Acts consist of; (i) the [Delegated Regulation](#) clarifying requirements in relation to the explanation of how ESG factors are reflected in each benchmark provided; (ii) the [Delegated Regulation](#) outlining the minimum content of the explanation of how ESG factors are reflected in the benchmark methodology, and; (iii) the [Delegated Regulation](#) elaborating the minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks. The formal adoption of the final Delegated Acts by the Commission initiates the two-month period during which the European Parliament and the Council can scrutinise and object to the Commission's drafting. In the absence of an objection from either of the co-legislators, the Delegated Acts will be published in the Official Journal of the EU in mid-September and enter into force 20 days thereafter.

EMIR

On 14 July, the European Commission adopted its Delegated Regulations supplementing EMIR 2.2 by specifying the [tiering criteria](#), [comparable compliance](#) requirements and [fees](#) chargeable to third-country CCPs (TC-CCPs). The three Delegated Regulations have been transmitted to the European Parliament and the Council initiating the two-month scrutiny period during which either of the co-legislators can raise objections to the Commission's drafting of the Delegated Acts. When sent to the co-legislators the Delegated Acts were accompanied by a letter from Executive Vice-President Dombrovskis requesting a swift non-objection procedure, citing concerns over the approach end of the transition period and the need to apply the new rules to TC-CCPs.

SFTR

On 9 July, ESMA opened a [consultation](#) on draft Guidelines on the calculation of SFT positions by trade repositories (TRs) under the SFTR. ESMA intends to issue final Guidelines upon the receipt of feedback to the consultation in the interest of ensuring consistency in how positions are calculated by TRs under the SFTR. ESMA underlines the importance of high-quality data on SFT positions to enable a proper assessment of systemic risks. The deadline for the submission of responses is the 15 September 2020.

I. ACTIVE PRIORITIES

Brexit	
CMCE priorities: Ancillary activity test, access to UK and EU trading venues, CCPs and TRs	
Latest developments & CMCE action	Next steps
<p>On 9 July, Commission Executive Vice-President Valdis Dombrovskis signalled (on Twitter) the Commission’s intention to adopt a time-limited equivalence decision for UK CCPs.</p> <p>This came as part of the publication of a Communication aimed to help authorities and businesses to prepare for the changes that will arise once the UK transition period will end by the end of this year.</p> <p>In the Communication, the Commission notes that it has identified CCPs as the only area which may present risks to financial stability if no equivalence decision is adopted in the short term and says that therefore “the Commission is considering the adoption of a time-limited equivalence decision for the United Kingdom in this area”. It further notes that “Such a time-limited decision would allow EU-based CCPs to develop further their capacity to clear relevant trades in the short and medium term and EU clearing members to take and implement the necessary steps, including by reducing their systemic exposure to UK market infrastructures.”</p> <p>The Communication also calls on insurance operators, banks, investment firms, trading venues and other financial services providers to finalise and implement their preparatory measures by 31 December 2020, to be ready for changes under all scenarios, including in areas where there is no equivalence decision taken by the EU or the UK.</p> <p>In addition, on 14 July the Commission issued a notice to stakeholders advising counterparties to derivatives and/or securities financing transactions, as well as stakeholders issuing financial instruments constituted under the law of a Member State in a UK CSD, to assess the consequences of the end of the transition period and take appropriate steps to ensure minimal disruption to their business and their compliance with applicable legal requirements.</p> <p>The notice highlights that, following the end of the transition period, derivatives traded on UK trading venues will no longer qualify as ETDs under EU law and will instead be regarded as OTC transactions. Accordingly, OTC trading activity will become subject to EMIR requirements, namely the clearing obligation and margin requirements.</p>	<p>July 2020 – Negotiations to intensify over the course of July in order to reach an agreement.</p> <p>31 December 2020 – <u>Expiry of transition period</u></p>

MiFID II

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

Latest developments & CMCE action

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Amendments to MiFID II are now largely confined to uncontroversial aspects of the legislation and include the removal of RTS 27 'Best Execution' reports. More contentious and substantial reforms of the MiFID II/MiFIR regulatory framework will have to await the formal review. Changes to commodity markets rules were not discussed extensively at the EG-ESC meeting and it remains to be seen to what extent the proposals considered over the course of the 'quick fix' process will be reflected in the proposal. In the interim, despite its highly targeted nature, the securities recovery package may encounter opposition in the European Parliament which has expressed anger at not being consulted more thoroughly by the Commission.

On 10 July, ESMA has published an updated [Opinion](#) on ancillary activity calculations, providing the estimation of the market size of commodity derivatives and emission allowances for 2019. ESMA has prepared these estimations based on data reported to the ESMA FITRS system as well as data reported to trade repositories under EMIR. Please see the Opinion for additional details on the methodology.

On 15 July, ESMA [published](#) the results of its annual transparency calculations for non-equity instruments, which will apply from 15 September 2020. ESMA's calculations include the liquidity assessment and the determination of the pre- and post-trade size specific to the instrument (SSTI) and large-in-scale (LIS) thresholds. These transparency calculations will apply from 15 September 2020 to 31 May 2021.

CMCE action

CMCE submitted its response to the European Commission's [consultation](#) on the Review of the MiFID II/MiFIR regulatory framework on 18 May 2020.

Next steps

22 July 2020 – Commission expected to table its formal securities recovery package proposal, including targeted amendments to MiFID II

EMIR	
<i>CMCE priorities: reporting, risk mitigation for uncleared trades, calculation of NFC's positions</i>	
Latest developments & CMCE action	Next steps
<p>On 8 July, ESMA published updated Q&As to clarify the correct application of EMIR reporting requirements for the benefit of market participants. The Q&As specify that when reporting a transaction to a trade repository, counterparties situated in different timezones should determine the deadline for reporting on the basis of local time.</p> <p>EMIR 2.2</p> <p>On 14 July, the European Commission adopted its Delegated Regulations supplementing EMIR 2.2 by specifying the tiering criteria, comparable compliance requirements and fees chargeable to third-country CCPs (TC-CCPs). The three Delegated Regulations have been transmitted to the European Parliament and the Council initiating the two-month scrutiny period during which either of the co-legislators can raise objections to the Commission's drafting of the Delegated Acts. When sent to the co-legislators the Delegated Acts were accompanied by a letter from Executive Vice-President Dombrovskis requesting a swift non-objection procedure, citing concerns over the approach end of the transition period and the need to apply the new rules to TC-CCPs.</p>	<p>3 July 2020 – Deadline for responses to ESMA consultation on EMIR Refit technical standards</p> <p>1 September 2021 – Initial Margin requirements to apply to counterparties with an AANA of uncleared derivatives above EUR 50 billion.</p> <p>1 September 2022 – Final implementation phase covering entities with an AANA of uncleared derivatives greater than EUR 8 billion.</p>
Benchmarks	
<i>CMCE priorities: commodity benchmarks, critical benchmarks, third-country equivalence</i>	
Latest developments & CMCE action	Next steps
<p>On 17 July, the European Commission adopted the Delegated Acts specifying how ESG considerations should be taken into account by Benchmark Administrators (BMs) and NCAs. The Delegated Acts consist of; (i) the Delegated Regulation clarifying requirements in relation to the explanation of how ESG factors are reflected in each benchmark provided; (ii) the Delegated Regulation outlining the minimum content of the explanation of how ESG factors are reflected in the benchmark methodology, and; (iii) the Delegated Regulation elaborating the minimum standards for EU Climate Transition Benchmarks and</p>	<p>7-8 July 2020 – Adoption of final Delegated Acts on EU climate benchmarks & sustainability-related disclosures for benchmarks</p> <p>22 July 2020 - Commission expected to table its formal securities recovery package proposal, including targeted amendments to the BMR</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</p>

<p>EU Paris-aligned Benchmarks.</p> <p>The formal adoption of the final Delegated Acts by the Commission initiates the two-month period during which the European Parliament and the Council can scrutinise and object to the Commission’s drafting. In the absence of an objection from either of the co-legislators, the Delegated Acts will be published in the Official Journal of the EU in mid-September and enter into force 20 days thereafter.</p>	<p>transition or cessation.</p> <p>7 December 2020 – Application of the SM&CR regime to benchmark administrators.</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 EBA opened a consultation on draft Regulatory Technical Standards (RTS) related to the implementation of a new prudential regime for investment firms with respect to the reclassification of investment firms as credit institutions under Article 8a(6) of the CRD, the prudential requirements for investment firms under Articles 7(5), 9(4), 13(4), point (a) to (c) of Article 15(5) and Article 23(3) of the IFR, and prudential requirements for investment firms under Article 5(6) of the IFD. The consultation will close on 4 September 2020. Following the conclusion of the consultation process, the EBA will submit the draft RTS to the European Commission for endorsement. Following their endorsement by the European Commission the RTS will be transmitted to the Council and the European Parliament for a scrutiny period. The technical standards will apply as of June 2021.</p> <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>3 September 2020 – Deadline for EBA consultation on draft RTS for prudential requirements for investment firms</p> <p>26 June 2021 – Application of IFR</p>

MAR

CMCE priorities: Insider dealing, MM indicators

Latest developments & CMCE action

There were no significant developments in the past 2 weeks.

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.

Next steps

Spring 2020 – ESMA to submit the final report providing technical advice to the European

SFTR

CMCE priorities: reporting obligations

Latest developments & CMCE action

On 9 July, ESMA opened a [consultation](#) on draft Guidelines on the calculation of SFT positions by trade repositories (TRs) under the SFTR. ESMA intends to issue final Guidelines upon the receipt of feedback to the consultation in the interest of ensuring consistency in how positions are calculated by TRs under the SFTR. ESMA underlines the importance of high-quality data on SFT positions to enable a proper assessment of systemic risks. The deadline for the submission of responses is the 15 September 2020.

Next steps

15 September 2020 – Deadline for ESMA consultation on draft Guidelines for SFT position calculation methodologies
1 January 2021 – Reporting obligation for non-financial counterparties

European Green Deal

CMCE priorities: monitoring developments

Latest developments & CMCE action

Next steps

On 8 May, The ESAs sent a joint letter to DG FISMA requesting that the Commission revisit the date of application for disclosures under the Regulation on sustainability-related disclosures in the financial sector (SFDR).

The current date of application foreseen in the Regulation is 10 March 2021, at which point entities in the scope of the SFDR will have to start disclosing if and how they take into account Principal Adverse Impacts (PAI) on sustainability factors.

The ESAs believe that the process of developing the regulatory technical standards needed to implement the Regulation will take longer than initially anticipated, in large part due to the disruption caused by the COVID-19 pandemic. This, in turn, will necessitate a later date of application.

The ESAs opened a [consultation](#) on the draft RTS on 23 April 2020. In view of the challenging circumstances for many potential respondents, the ESAs decided to have a longer than usual consultation period. Accordingly, the deadline for responses was set for 1 September 2020.

The prolonged consultation period will have an impact on the ESAs capacity to deliver the finalised RTS by 30 December 2020, as stipulated in the SFDR. As a consequence, the ESAs have indicated that they intend to deliver the final RTS by the end of January 2021.

This would in turn leave insufficient time for the Commission to review the RTS, adopt them and to allow the co-legislators (European Parliament and Council) to scrutinise these RTS. Therefore, the letter asks for a delay of the SFDR while not mentioning any specific new timeline.

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.

Other relevant developments

International role of the euro

There were no significant development in the past 2 weeks.

REMIT

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