



Key highlights from the last two weeks:

MiFID II quick-fix. On 16 December, following the provisional political agreement reached with the European Parliament during the second trilogue on 9 December, COREPER [adopted](#) the final text of the MiFID II 'quick fix' following a 24-hour non-objection procedure. The final text reflects the compromises struck on the commodity markets piece – with ESMA and the Commission having committed to develop draft regulatory technical standards on the reformed ancillary activity test by 31 July 2021.

EMIR. On 17 December, ESMA published [draft RTS](#) and ITS on the registration of Trade Repositories (TRs), data reporting to TRs, procedures to reconcile and validate the data, and access by the relevant authorities to data under EMIR Refit. The draft technical standards aim to align EU and international standards, introduce end-to-end reporting in ISO 20022 XML, harmonise data quality requirements across TRs, standardize the process of data access for competent authorities and simplify rules for the extension and registration from SFTR to EMIR.

On 18 December, ESMA [registered](#) DTCC Data Repository (Ireland) PLC as a TR under EMIR and SFTR, with the registration taking effect from 23 December 2020. DTCC Data Repository PLC is based in Ireland in order to enable service continuity to EU clients after 31 December 2020.

CSDR. On 11 December, ESMA [recognized](#) Euroclear UK & Ireland Limited (EUI), a central securities depository established in the UK as a third-country CSD eligible to continue providing services after the end of the UK transition period on 31 December 2020. ESMA's decision is based on the European Commission's limited equivalence decision adopted on 25 November 2020 that establishes the UK's regulatory and supervisory framework as applicable to CSDs as equivalent to that of the EU.

IFR/IFD. On 2 December, a [Corrigendum](#) to the IFR/IFD extending the exemptions for commodity derivative investment firms in relation to own funds requirements and large exposures requirements until 26 June 2020 was published in the Official Journal of the EU with immediate effect. The Corrigendum ensures that commodity derivatives investment firms can continue to benefit from exemptions under CRR/CRD that were due to expire at the end of 2020, prior to the application of IRF/IRD requirements on 26 June 2020.

I. ACTIVE PRIORITIES

| Brexit | |
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| <i>CMCE priorities: Ancillary activity test, access to UK and EU trading venues, CCPs and TRs</i> | |
| Latest developments & CMCE action | Next steps |
| <p>Despite some alarming rhetoric from both the UK and the EU last week – there have been signals that an agreement is within reach with some form of compromise on the level-playing field and fisheries in sight.</p> <p>A successful outcome for the negotiations was put in doubt last week when the EU proposed a mechanism for policing regulatory divergence that would enable Brussels to unilaterally impose punitive sanctions on the UK. At such a late stage in the negotiations – the mere suggestion of such a governance mechanism being introduced was reported to seriously anger UK negotiators.</p> <p>The negotiations were escalated to political level – with Prime Minister Boris Johnson and Commission President von der Leyen meeting one another on two separate occasions last week. The unsuccessful outcome of these talks prompted Boris Johnson to claim that there was a strong possibility that no agreement would be reached in time.</p> <p>The Commission also released a statement announcing targeted contingency measures to prepare for a no-deal scenario – the contingency measures related primarily to maintaining basic road and air connectivity between the EU and the UK for the first half of 2020. More significantly, the contingency measures attempt to extend reciprocal access to fisheries for an additional 12 months in the absence of an agreement.</p> <p>Despite the rhetoric and posturing, the outlook this week is more positive. In part the deadlock has been overcome by the suggestion of a so-called ‘rebalancing mechanism’ to govern the agreement – whereby either side – subject to arbitration – could introduce sanctions in the event the agreement is breached in relation to level-playing field.</p> <p>Interestingly, probably because of the symbolic significance it has assumed, fisheries is said to be the most difficult issue at the moment.</p> <p>In terms of ratification – the UK Parliament has made provision to scrutinise the agreement over a 6-day period next week. The European Parliament has also set aside time for emergency plenary sessions to enable scrutiny and ratification of the agreement.</p> <p>However, members of both the UK Parliament and European Parliament have indicated that there will be inadequate time to subject the agreement to proper scrutiny. That being said – it is highly unlikely that either the UK or European Parliament would vote against a</p> | <p><u>31 December 2020 – Expiry of transition period</u></p> |

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| <p>deal. Significantly, Eurosceptic MEPs in the House of Commons have signalled that they would be willing to support the agreement currently taking shape.</p> <p>CMCE action</p> <p>On 2 December, CMCE sent a letter to several European Commissioners and senior staff within the European Commission on the urgent need to adopt an equivalence decision with regard to UK trading venues pursuant to Article 2a of EMIR. The letter, which was prepared by both the EMIR & Brexit WGs, emphasized the adverse, real-economy impact that the absence of an equivalence decision would imply.</p> | |
| <p>MiFID II</p> | |
| <p><i>CMCE priorities: AA exemption, position limits, reporting, physical forwards</i></p> | |
| <p>Latest developments & CMCE action</p> | <p>Next steps</p> |
| <p>On 16 December, following the provisional political agreement reached with the European Parliament during the second trilogue on 9 December, COREPER adopted the final text of the MiFID II ‘quick fix’ following a 24-hour non-objection procedure. The European Parliament is expected to adopt the final text in January 2021. The final text reflects the compromises struck on the commodity markets piece – with ESMA and the Commission having committed to develop draft regulatory technical standards on the reformed ancillary activity test by 31 July 2021.</p> <p>On 25 November, ESMA issued a public statement on the application of the EU Derivatives Trading Obligation (DTO) post-Brexit. In the absence of an equivalence decision for UK trading venues, ESMA has decided against adapting the EU DTO despite the risk of substantial market dislocations. ESMA notes that the majority of UK trading venues have established new trading venues in the EU – which ESMA believes will enable trading volume to migrate at the end of the transition period.</p> <p>CMCE action</p> <p>CMCE, alongside other trade associations, undertook intensive engagement with the Commission, the DE Presidency, and Member States to express concern over the Parliament’s approach to the AAE. This included circulating a letter to the attaches of Member States providing alternative drafting for the provisions on the AAE and a number of meetings with the Securities Markets Unit in DG FISMA to explain the concerns of commodity traders.</p> | <p><i>MiFID II quick-fix:</i></p> <p>January 2021 – European Parliament vote on final text of MiFID II ‘quick fix’</p> <p><i>ESMA consultation on MiFIR transaction reporting:</i></p> <p>Q1 2021 – Estimated submission of ESMA final report to EC</p> |

EMIR

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

Latest developments & CMCE action

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On 23 November, in two separate draft [regulatory technical standards](#) (RTS) the joint ESAs have extended the derogation from the EMIR clearing obligation and bilateral margin requirements for intragroup transactions. The exemptions were both due to expire on 21 December 2020. The ESAs have proposed that they be extended until 30 June 2022 citing concerns over the potential for market disruption.

CMCE action

On 2 December, CMCE sent a letter to several European Commissioners and senior staff within the European Commission on the urgent need to adopt an equivalence decision with regard to UK trading venues pursuant to Article 2a of EMIR. The letter, which was prepared by both the EMIR & Brexit WGs, emphasized the adverse, real-economy impact that the absence of an equivalence decision would imply.

Next steps

1 September 2021 – Initial Margin requirements to apply to counterparties with an AANA of uncleared derivatives above EUR 50 billion.

1 September 2022 – Final implementation phase covering entities with an AANA of uncleared derivatives greater than EUR 8 billion.

Benchmarks

CMCE priorities: commodity benchmarks, critical benchmarks, third-country equivalence

Latest developments & CMCE action

Next steps

On 30 November, following only one political trilogue, the European Parliament and the Council reached a preliminary political agreement on the BMR 'quick fix proposal. In order to reach a compromise, the European Parliament and the Council introduced a more complex process to extend the transitional period for the use of third-country benchmarks by supervised entities in the EU. According to the political agreement, the transitional period is extended until 31 December 2023. Thereafter, in order to further extend the transitional period, the Commission will be required to submit an assessment by 15 June 2023 demonstrating that a further extension is warranted. The transitional period cannot be extended beyond 31 December 2025.

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>On 2 December, a Corrigendum to the IFR/IFD extending the exemptions for commodity derivative investment firms in relation to own funds requirements and large exposures requirements until 26 June 2020 was published in the Official Journal of the EU with immediate effect. The Corrigendum ensures that commodity derivatives investment firms can continue to benefit from exemptions under CRR/CRD that were due to expire at the end of 2020, prior to the application of IRF/IRD requirements on 26 June 2020.</p> <p>On 3 December, the European Banking Authority published final draft technical standards on the treatment of non-trading book positions subject to foreign-exchange risk or commodity risk under the FRTB framework. The technical standards specify how credit institutions should calculate the own funds requirements for foreign-exchange and commodity risk stemming from banking book positions.</p> <p>On 16 November, HM Treasury, the PRA and the FCA announced the deferral of CRR2 AND IFPR implementation dates to a target date of 1 January 2022.</p> <p>On 28 September, ESMA submitted draft technical standards to the Commission elaborating additional information requirements for the registration and annual reporting of third-country investment firms that provide investment services or engage in investment activities in the EU. The Commission has a period of three months to adopt the technical standards with or</p> | <p>26 June 2021 – Application of IFR</p> |

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| <p>without amendments. Thereafter, they will be submitted to the co-legislators in accordance with the correct non-objection procedure.</p> <p>CMCE action</p> <p>On 25 September, CMCE submitted a response to the FCA Discussion Paper on prudential requirements for investment firms (DP20/2), following a discussion of the Regulatory Capital WG on 17 September. The DP sets out the FCA's approach to adapting the EU IFR/IFD framework for the UK market following Brexit.</p> | |
| <p>MAR</p> | |
| <p><i>CMCE priorities: Insider dealing, MM indicators</i></p> | |
| <p>Latest developments & CMCE action</p> | <p>Next steps</p> |
| <p>On 29 October, ESMA submitted its final report on two draft technical standards for the promotion of the use of SME Growth Markets to the European Commission. The final report includes both regulatory technical standards (RTS) on liquidity contracts and implementing technical standards on insider lists.</p> <p>On 24 September, ESMA published its final report on MAR Review, which provides technical advice to the Commission on a number of areas under MAR. The report sets out recommendations in a number of areas, including the treatment of spot FX contracts, the definition of inside information, the EU framework for cross-market order book surveillance and the scope of application of the MAR benchmarks provisions. The Report is submitted to the European Commission and is expected to feed into their review of MAR.</p> <p>CMCE action</p> <p>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>SFTR</p> | |
| <p><i>CMCE priorities: reporting obligations</i></p> | |

| Latest developments & CMCE action | | Next steps |
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| <p>On 5 November, ESMA published the first Q&As related to reporting under the SFTR consisting of 5 questions and answers. The Q&As clarify the reporting of fields related to time and applicable calendars, the reporting of settlement legs, reporting SFTs collateralised initially at transaction and then net exposure level, reporting of SFTs concluded off-venue and cleared on the same day, and the reporting of zero collateral for margin loans.</p> | | <p>11 January 2021 – Reporting obligation for non-financial counterparties</p> |
| <p>European Green Deal</p> | | |
| <p><i>CMCE priorities: monitoring developments</i></p> | | |
| Latest developments & CMCE action | | Next steps |
| <p>The European Commission released its plan on how to achieve emissions reductions of at least 55 per cent by 2030, in order to become climate neutral by 2050. The Commission's proposal is based on a thorough impact assessment and confirms that reducing emissions by at least 55% by 2030 is a realistic and feasible course of action.</p> <p>On 7 October, the European Parliament adopted its negotiating mandate on the EU Climate Law that reflects greater ambition than the initial Commission proposal. MEPs would like emission reductions of 60% by 2030 and a legally binding obligation placed on all Member States to be carbon neutral by 2050. The Parliament's negotiating mandate received the backing of 392 MEPs, with 161 voting against and a further 142 abstaining.</p> <p>In July, the UK Government published draft legislation on the UK's Emissions Trading Scheme (ETS) which should be operational by 1 January 2021. The UK ETS is intended to encourage cost-effective emission reductions that will contribute to the attainment of the UK's emission reduction targets. Another key aim of the draft legislation is to ensure continuity with the EU ETS and facilitate the linking of the two schemes in future.</p> | | <p>The European Parliament had adopted its negotiating mandate. Negotiations between Member States in the Council are continuing in order to agree upon a compromise text.</p> |
| <p>Other relevant developments</p> | | |
| <p>International role of the euro</p> | <p>There were no significant development in the past 2 weeks.</p> | |

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