



Key highlights from the last two weeks:

MiFID II 'quick fix'. On 10 February, the plenary of the European Parliament voted to adopt the MiFID II 'quick fix' by 339 votes in favour, 294 against with 57 abstentions. As anticipated, the Socialists & Democrats (S&D) and the Greens voted against the MiFID II 'quick fix' citing concerns over amendments that effectively deregulate securities trading in a manner that does not directly contribute to the post-pandemic economic recovery. The ECOFIN Council – composed of EU Finance Ministers – still need to approve the MiFID II 'quick fix' before it can be published in the Official Journal. This is largely a formality. The ECOFIN Council is due to meet on 16 February 2021 to discuss pending financial services legislation and other recovery related issues. While the MiFID II 'quick fix' is not featured on the [agenda](#) – it is likely to be approved by finance ministers over the course of their deliberations.

In the interim, the FT has [reported](#) that trading volume in euro-denominated derivatives has migrated from London to venues in New York, Amsterdam and Paris. In July 2020, London accounted for 40% of trading volume. This share has fallen to 10% in January 2021 as the US, Dutch and French markets competed for the outflow.

ICE Futures Europe has also announced that it is transitioning Emission Allowance Contracts to ICE Endex Markets once the relevant regulatory and governance processes have been concluded. The transitioning contracts are ICE EUA Futures and Options, ICE EUA Daily Futures and ICE EUAA Futures. ICE intends to effect this transition during Q2 2021 and will engage with Members to set an appropriate date.

SFDR. On 4 February, the Joint ESAs published the final [Regulatory Technical Standards](#) (RTS) specifying the content, presentation and methodologies for sustainability-related disclosures under the SFDR. The final RTS detail the number of mandatory Principal Adverse Impact (PAI) indicators (14 in total) required for disclosures at entity-level as well as the product-level disclosures for Article 8 and Article 9 products at the pre-contractual stage, in periodic reports and on the website of financial market participants.

CCPs. ESMA has [announced](#) that it is organising a workshop on CCP margins and procyclicality on 17 February 2021. The workshop is intended to facilitate an exchange of views among members of the clearing and regulatory community on the functioning of the current CCP ecosystem in Europe.

ESMA. On 2 February, ESMA issued a call for candidates to renew the Consultative Working Group (CWG) for the ESMA Post Trading Standing Committee (PTSC). The PTSC-CWG is expected to provide insight from industry during the development of technical standards or guidance relating to clearing and risk mitigation requirements for OTC derivatives contracts. Industry experts have until 8 March to submit their application to join the PTSC-CWG.

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Benchmarks. On 2 February, ESMA published [advice](#) to the European Commission on fees payable by benchmark administrators subject to ESMA supervision as of January 2022. The administrators of critical benchmarks and third-country benchmarks will both be liable to pay supervisory fees. In the case of third-country benchmark administrators – one-off recognition fees will be payable upon applying for recognition as well as annual supervisory fees to cover the costs of ESMA oversight.

On 29 January, ESMA sent a [letter](#) to DG FISMA stressing the need to regulate ESG ratings so as to assure their quality and reliability. According to ESMA, as the demand for ESG-sensitive products increases it will be all the more essential to ensure the integrity of ESG ratings, benchmarks and assessment tools. At present, ESMA notes that the comparability between ESG ratings is poor and there is limited transparency in relation to the methodologies underlying such ratings. More fundamentally, there is no legal definition for ESG ratings – rendering it difficult to establish and assess the size and nature of the market in such products.

I. ACTIVE PRIORITIES

General Developments	
<i>CMCE priorities: Ancillary activity test, access to UK and EU trading venues, CCPs and TRs</i>	
Latest developments & CMCE action	Next steps
<p>On 4 February, the Joint ESAs published the final Regulatory Technical Standards (RTS) specifying the content, presentation and methodologies for sustainability-related disclosures under the SFDR. The final RTS detail the number of mandatory Principal Adverse Impact (PAI) indicators (14 in total) required for disclosures at entity-level as well as the product-level disclosures for Article 8 and Article 9 products at the pre-contractual stage, in periodic reports and on the website of financial market participants.</p> <p>On 2 February, ESMA issued a call for candidates to renew the Consultative Working Group (CWG) for the ESMA Post Trading Standing Committee (PTSC). The PTSC-CWG is expected to provide insight from industry during the development of technical standards or guidance relating to clearing and risk mitigation requirements for OTC derivatives contracts. Industry experts have until 8 March to submit their application to join the PTSC-CWG.</p> <p>ESMA has announced that it is organising a workshop on CCP margins and procyclicality on 17 February 2021. The workshop is intended to facilitate an exchange of views among members of the clearing and regulatory community on the functioning of the current CCP ecosystem in Europe. Registration is open until 15 February.</p> <p>On 29 January, ESMA sent a letter to DG FISMA stressing the need to regulate ESG ratings so as to assure their quality and reliability. According to ESMA, as the demand for ESG-sensitive products increases it will be all the more essential to ensure the integrity of ESG ratings, benchmarks and assessment tools. At present, ESMA notes that the comparability between ESG ratings is poor and there is limited transparency in relation to the methodologies underlying such ratings. More fundamentally, there is no legal definition for ESG ratings – rendering it difficult to establish and assess the size and nature of the market in such products. Consequently, ESMA recommends that the Commission consider introducing a dedicated regulatory framework for ESG ratings including a clear and legally binding definition. This framework should also ensure minimum organisational, conflict of interest and transparency requirements are applied to ESG ratings providers. Finally, ESMA believes that it should be designated as the supervisory authority with direct oversight over the larger ESG rating providers.</p>	<p>8 March 2021 – Deadline for applications to the CWG-PTSC</p> <p>7 March 2021 – Deadline for applications to the CWG-CDTF</p>

MiFID II

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

Latest developments & CMCE action

On 10 February, the plenary of the European Parliament voted to adopt the MiFID II 'quick fix' by 339 votes in favour, 294 against with 57 abstentions. As anticipated, the Socialists & Democrats (S&D) and the Greens voted against the MiFID II 'quick fix' citing concerns over amendments that effectively deregulate securities trading in a manner that does not directly contribute to the post-pandemic economic recovery. The ECOFIN Council – composed of EU Finance Ministers – still need to approve the MiFID II 'quick fix' before it can be published in the Official Journal. This is largely a formality. The ECOFIN Council is due to meet on 16 February 2021 to discuss pending financial services legislation and other recovery related issues. While the MiFID II 'quick fix' is not featured on the [agenda](#) – it is likely to be approved by finance ministers over the course of their deliberations.

On 31 December 2020, the FCA [announced](#) that it would exercise its Temporary Transitional Power (TTP) to suspend the UK's Derivatives Trading Obligation (DTO). The FCA's decision was taken in the absence of mutual equivalence between the EU and the UK. Accordingly, branches of EU firms in London will not be subject to the UK DTO so as to avoid a conflict between EU and UK requirements that would cause significant market disruption. The FCA clarified that the relief does not apply to trades with non-EU clients, proprietary trading conducted, for example, to hedge a firm's own risk exposure, and trades between UK branches of EU firms.

CMCE action

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.

Next steps

MiFID II quick-fix:

Q1 2021 – European Parliament vote on final text of MiFID II 'quick fix'

ESMA consultation on MiFIR transaction reporting:

Q1 2021 – Estimated submission of ESMA final report to EC

EMIR

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

Latest developments & CMCE action	Next steps
<p>On 28 January, ESMA published updated EMIR Q&As amending prior entries providing instructions to Trade Repositories (TRs) on appropriate data inputs for the reporting of derivatives in specific cases. The Q&As also includes detail on the procedure to be followed when terminating so-called 'dead trades' by TRs which arises when a counterparty to the trade ceases to exist.</p> <p>On 27 January, the European Commission adopted an equivalence decision establishing the US Securities and Exchange Commission (SEC) regime for US central counterparties (CCPs) as compatible with EU rules under EMIR. Therefore, this decision will allow US CCPs registered with SEC to operate in the European Union, following their formal recognition by ESMA. The SEC regime for US CCPs has satisfied the three main conditions established in EMIR: i) compliance with binding requirements equivalent to EMIR; ii) effective supervision and iii) legal framework to allow recognition of foreign CCPs. The equivalence decision applies to so-called SEC-regulated 'covered clearing agencies'. The equivalence decision is conditional on US CCPs adhering to certain risk management requirements.</p> <p>On 25 January, the ECON Committee voted in favour of an early non-objection to two Delegated Acts under EMIR amending the application of the clearing obligation to intragroup transactions and margin requirements in order to minimise post-Brexit market disruption and facilitate the novation of contracts from UK counterparties to the EU.</p> <p>On 22 December 2020, the European Commission adopted two Delegated Acts under EMIR concerning the application of the clearing obligation to intragroup transactions, and margin requirements and exchange of collateral (in the case of OTC derivative contracts not subject to central clearing) to minimise potential disruption arising due to the end of the Brexit transition period. The Delegated Acts also address the treatment of new contracts arising from novations from UK counterparties from a risk management perspective. The legal texts were transmitted to the Council and the European Parliament with a letter from Commissioner Mairead McGuinness requesting that they be subject to an early non-objection procedure so as to ensure swift application.</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>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

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

Latest developments & CMCE action

On 2 February, ESMA published [advice](#) to the European Commission on fees payable by benchmark administrators subject to ESMA supervision as of January 2022. The administrators of critical benchmarks and third-country benchmarks will both be liable to pay supervisory fees. In the case of third-country benchmark administrators – one-off recognition fees will be payable upon applying for recognition as well as annual supervisory fees to cover the costs of ESMA oversight.

Next steps

II. WATCHING BRIEF

IFR

CMCE priorities: commodity dealer IF regime, scope of class I, changes to MiFID II/MiFIR third-country regime

Latest developments & CMCE action

On 21 January, the EBA published final [Regulatory Technical Standards](#) (RTS) establishing the criteria to identify all categories of staff whose professional activities have a material impact on the investment firm's risk profile and to specify the instruments that can be used for the purposes of variable remuneration

On 2 December 2020, 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 IFR/IRD requirements on 26 June 2020.

Next steps

26 June 2021 – Application of IFR

<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>	
<p>Latest developments & CMCE action</p>	<p>Next steps</p>
<p>On 28 January, ESMA published updated Q&As in relation to SFTR data reporting to provide additional clarifications on; (i) the delayed reporting of events; (ii) updates to</p>	

<p>records of outstanding SFTs by the Trade Repositories based on reports made by the counterparties; and, (iii) guidance on operational considerations for financial counterparties when reporting on behalf of small non-financial counterparties.</p> <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>European Green Deal</p>	
<p><i>CMCE priorities: monitoring developments</i></p>	
<p>Latest developments & CMCE action</p>	<p>Next steps</p>
<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>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>On 19 January, the European Commission published a Communication emphasizing the need for the EU to enhance what the Commission refers to as 'open strategic autonomy'.</p> <p>Effectively, this will entail increasing the role of the Euro globally – particularly in energy and commodity markets. As a result, the Commission will promote the use of the Euro and Euro-denominated investments through engagement and trade negotiations with international partners and foster the use of the Euro as a reserve currency and means of</p>

	<p>exchange.</p> <p>Perhaps more directly for financial markets – the Commission highlights that, in some instances, EU market participants are dependent on third-country market infrastructures. For example, a large volume of Euro-denominated contracts are cleared and settled by CCPs outside the EU.</p> <p>In response to this, the Commission would like to reduce the systemic significance of third-country market infrastructure and their fundamental role in the functioning of EU financial markets. Accordingly, the Commission intends to build the capacity of EU market infrastructure to allow a greater volume of euro-denominated financial contracts to be cleared by EU CCPs.</p>	
REMIT	There were no significant development in the past 2 weeks.	