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EU Parliament adopts position on framework to facilitate sustainable investment

The EU Parliament has adopted at first reading its position on the EU Commission's proposed regulation on the establishment of a framework to facilitate sustainable investment.

The proposed regulation aims to develop an EU taxonomy for climate change, environmentally and socially sustainable activities to provide investors with clarity on which activities are considered sustainable, allowing them to take more informed decisions.

The proposal will now be forwarded to the EU Council for adoption.

European System of Financial Supervision: EU Council publishes compromise texts

The EU Council Presidency has published the final compromise texts on the EU Commission's proposed European System of Financial Supervision review package, comprising an Omnibus Regulation, Omnibus Directive, and a proposed regulation amending the European Systemic Risk Board Regulation.

Amongst other things, the package includes:

- changes to the existing system for supervisory convergence, including the elaboration of a strategic supervisory plan at EU level and reinforcing existing mechanisms such as peer reviews and consultations;
- reinforcing the role and powers of a management board within the European Supervisory Authorities' (ESAs') governance structure, which would be accountable to the EU Parliament and EU Council;
- giving the European Securities and Markets Authority (ESMA) direct supervisory powers over critical benchmarks and consolidated tape providers; and
- strengthening the role and powers of the European Banking Authority (EBA) as regards anti-money laundering supervision for financial institutions.

The Council Presidency has invited the Permanent Representatives Committee (Coreper) to approve the final compromise texts and confirm that, if the EU Parliament adopts the proposals at first reading, the Council will approve its position.

Brexit: Commission Implementing Decisions determining equivalence for UK CSDs and CCPs published in Official Journal

Two Implementing Decisions on the UK legal and supervisory frameworks for central counterparties (CCPs) and central securities depositories (CSDs) have been published in the Official Journal.

In December 2018, two Decisions establishing temporary equivalence for the UK legal and supervisory frameworks for CCPs and CSDs with the European Market Infrastructure Regulation (EMIR) and the Central Securities Depositories Regulation (CSDR) respectively were published in the Official Journal. The Commission has amended these Implementing Decisions so that they will apply in the event of a no-deal Brexit.

The following Decisions have been published in the Official Journal:

- Commission Implementing Decision (EU) 2019/544 amending Implementing Decision (EU) 2018/2031 determining that, for a limited time, the regulatory framework applicable to UK CCPs is equivalent in accordance with EMIR; and
- Commission Implementing Decision (EU) 2019/545 amending Implementing Decisions (EU) 2018/2030 determining that, for a limited time, the regulatory framework applicable to UK CSDs is equivalent in accordance with the CSDR.

Both Decisions will enter into force on 5 April 2019.

MiFIR: EU Commission adopts decision on equivalence of Singaporean derivatives trading venues

The EU Commission has adopted an Implementing Decision on the equivalence of the legal and supervisory framework applicable to approved exchanges and recognised market operators in Singapore in accordance with MiFIR. The Implementing Decision will allow EU investment banks that operate as swap dealers in Asia to comply with the EU trading obligation under MiFIR and in line with G20 reforms for standardised derivatives when executing derivatives transactions with counterparties in Singapore.

The Monetary Authority of Singapore (MAS) has concurrently adopted regulations exempting certain EU multilateral trading facilities and organised trading facilities from the MAS' markets licensing requirements.

The decision will enter into force the day after its publication in the Official Journal.

CRR: EU Commission equivalence decision on supervisory and capital requirements in Argentina published in Official Journal

Commission Implementing Decision (EU) 2019/536 as regards third countries and territories whose supervisory and regulatory requirements are considered equivalent for the purposes of the treatment of exposures in accordance with

the Capital Requirements Regulation (CRR) has been published in the Official Journal.

The Implementing Decision extends third country equivalence to Argentina, which the EU Commission has concluded has in place supervisory and regulatory arrangements which comply with a series of operational, organisational and supervisory standards reflecting the essential elements of the EU's supervisory and regulatory arrangement applicable to credit institutions.

The Decision will enter into force on 21 April 2019.

CRD 4: Benchmarking ITS published in Official Journal

Commission Implementing Regulation (EU) 2019/439 amending Commission Implementing Regulation (EU) 2016/2070 as regards implementing technical standards (ITS) on benchmarking under the Capital Requirements Directive (CRD 4) has been published in the Official Journal.

The ITS update the reporting requirements for benchmark portfolios by institutions using internal approaches for market and credit risk in annual benchmarking exercises, specifying definitions, reporting templates and reporting instructions.

The Regulation will enter into force on 18 April 2019.

Brexit: ESMA adopts new recognition decisions for UK CCPs and CSD in the event of a no-deal scenario

ESMA has adopted two new recognitions decisions for the three CCPs and the CSD established in the UK.

ESMA had preciously adopted decisions recognising UK CCPs and CSDs in the event of a no-deal Brexit without an extension of the Article 50 period. The extension of Article 50 means that the ESMA recognition decisions would not apply on 30 March 2019.

Following the adoption of amended equivalence decisions by the EU Commission on 3 April 2019, ESMA has issued new recognition decisions to ensure that the UK CCPs and CSD are recognised in the event a no-deal Brexit occurs on 12 April 2019.

The recognition decisions would take effect on the date following Brexit date in a no-deal scenario.

Brexit: SIs under the EU (Withdrawal) Act for 1 – 5 April 2019

HM Government published new draft statutory instruments (SIs) under the EU (Withdrawal) Act 2018 last week.

The draft Financial Services (Miscellaneous) (Amendment) (EU Exit) (No. 2) Regulations were laid before Parliament. The draft SI sets out changes relating to, among other things, transitional provisions, that are not intended to change the policy intent or effect of the following financial services EU exit SIs:

- the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 (SI 2018/1149), as amended by the Financial Service Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019 (SI 2019/405);

- the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (SI 2018/1201);
- the Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/264); and
- the Long-term Investment Funds (Amendment) (EU Exit) Regulations 2019 (SI 2019/336).

The draft SI also amends Delegated Regulation (EU) 2015/61 supplementing the Capital Requirements Regulation (CRR) regarding the liquidity coverage requirement.

The Government also published and laid for sifting the draft Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) (No.2) Regulations, the draft REACH etc. (Amendment etc.) (EU Exit) (No. 2) Regulations and the draft Competitiveness of Enterprises and Small and Medium-Sized Enterprises (Revocation) (EU Exit) Regulations.

For information on all draft SIs under the EU (Withdrawal) Act, visit www.gov.uk and www.legislation.gov.uk.

Brexit: FCA and SEC sign updated MoUs on continued supervisory cooperation

The Financial Conduct Authority (FCA) and Securities and Exchange Commission (SEC) have signed two updated memoranda of understanding (MoUs) to ensure continued supervisory cooperation and information exchange after the UK's withdrawal from the EU.

The first MoU, originally signed in 2006, sets out supervisory arrangements for regulated entities that operate across the UK and US. Amongst other things, it has been updated to expand the scope to cover firms that conduct derivatives, credit rating and derivatives trade repository business. This is to reflect the FCA's responsibility for the oversight of credit rating agencies and trade repositories once the UK leaves the EU, as well as reforms made after the financial crisis.

The second MoU, originally signed in 2013, provides a framework for cooperation and information exchange relating to the supervision of covered entities in the alternative investment fund (AIF) industry. It has been updated in order to ensure entities in the AIF industry that are regulated by the SEC and FCA will be able to continue to operate on a cross-border basis post-Brexit.

Both MoUs will come into force on the date on which the laws of the EU cease to apply to the UK

FCA publishes policy statement on product intervention measures for retail binary options

The FCA has published PS19/11 setting out its final policy position and Handbook rules on product intervention measures for retail binary options.

In its statement, the FCA sets out its final position and Handbook rules to permanently prohibit the sale, marketing and distribution of binary options to retail clients by firms carrying out activity in or from the UK. The FCA's rules cover all binary options, including securitised binary options which the FCA

believes are as risky to consumers as other types of binary options. The FCA consulted on its proposed rules in CP18/37 in December 2018.

ESMA has prohibited the sale of binary options on a temporary basis since July 2018. The FCA's rules will apply alongside these temporary measures, and eventually replace them when the UK leaves the European Union or ESMA's measures expire.

The Handbook rules will come into force on 2 April 2019. The FCA advises firms that are currently authorised to offer binary options to retail clients to request a variation of permission (VoP) to remove this investment type or apply for a requirement to limit their permissions to offer these products to professional clients only as soon as possible.

FCA publishes final instruments, directions and guidance for no-deal Brexit

The FCA has published final instruments, directions and guidance that will apply in the event the UK leaves the EU without a deal.

Originally published alongside the FCA's Brexit Policy Statement (PS19/5) in February, the final Handbook instruments have been subject to only minor amendments, including updated references to statutory instruments (SIs) and an 'exit day' commencement date to reflect the decision of the EU Council to extend the Article 50 period.

The final transitional direction, final prudential transitional direction and an explanatory note have also been published, along with annexes on the application of the 'standstill' (which allows firms to continue to comply with the pre-exit version of an obligation) in relation to SIs, instruments and the FCA Handbook. The FCA notes that as well as the minor amendments mentioned above, the directions have been amended in relation to:

- UK managers of EEA UCTIS funds;
- the application of the Client Assets sourcebook (CASS) to activities carried on from an EEA branch; and
- the distance marketing provisions.

The finalised guides are on:

- the FCA's approach to EU non-legislative materials;
- the FCA's approach to non-Handbook guidance where it relates to EU law or EU-derived law; and
- completing FCA forms after Brexit.

The FCA intends to publish information on technical standards under EU legislation relating to capital requirements, banking resolution and financial conglomerates once the PRA publishes similar information.

The FCA also notes that the SMCR and APR (Amendments) (Solo-Regulated Firms) Instrument has not yet been made as it requires the Government to first pass SM&CR-related legislation.

AMF enhances cooperation with China Securities Regulatory Commission

The Autorité des Marchés Financiers (AMF) has signed a new agreement with the Chinese regulator, with the shared objective of promoting innovation in financial services in France and in China. The bilateral agreement will enable the AMF and the China Securities Regulatory Commission (CSRC) to exchange information on the current innovation trends in their respective markets, on new categories of market participants as well as on advanced technologies applied to financial services. This will enable the AMF and the CSRC to share their knowledge on the use of artificial intelligence, of big data-type techniques, or on the expansion of robo-advisory and blockchain technologies. The agreement will also establish a dialogue on the regulatory challenges posed by these innovations and the responses adopted in each jurisdiction. The agreement is also intended to enable both authorities to provide support to those involved in innovative projects when examining and understanding the regulations in both countries, thereby assisting them with their international development.

Consob issues communication on protection of investors of UK financial institutions operating in Italy after Brexit

The Italian securities regulator (Consob) has issued a communication concerning the protection of investors of UK financial institutions operating in Italy in case of a no-deal Brexit.

Pursuant to Law Decree 22 of 25 March 2019 (Italy's Brexit Law Decree), the day the UK leaves the EU branches of UK banks and institutions that operate in Italy shall adhere by law to the Italian investor compensation scheme (ICS). The same applies to UK banks and institutions operating under the freedom to provide services regime unless they submit a UK ICS statement assuring that their investors will continue to be protected by the UK ICS itself.

According to the communication, both categories of UK institutions shall provide their investors with information concerning which ICS will protect them. This duty should be complied with as soon as possible or, in any event, within 40 days from the entry into force of Law Decree 22 of 2019. UK institutions should also inform Consob of their disclosure within 55 days of the date of entry into force of Law Decree 22 of 2019.

The above regime applies to institutions ceasing their operations as well.

Bank of Italy implements new anti-money laundering and counter terrorist financing regulatory measures

The Bank of Italy has issued new regulatory measures concerning the organisation, procedures and internal controls aimed at preventing the use of intermediaries for the purpose of money laundering and terrorist financing.

Firstly, the measures implement the provisions set out in Legislative Decree No. 231 of 21 November 2007, as modified by Legislative Decree No. 90 of 25 May 2017, which transposed Directive (EU) 2015/849 of 20 May 2015 (AMLD 4). Secondly, they provide for instructions on the requirements, the procedures, the control systems and the functions of the central contact point, in accordance with Delegated Regulation (EU) 2018/1108 of 7 May 2018. Thirdly, the measures transpose the European Supervisory Authorities' Joint Committee guidelines on the measures payment service providers should take

to detect missing or incomplete information on the payer or the payee, and the procedures they should put in place to manage a transfer of funds lacking the required information of 22 September 2017.

The targeted entities should take appropriate steps to ensure full compliance with the above regulatory regime by 1 June 2019.

Further obligations will enter into force on 1 January 2020. In particular, the duty on behalf of corporate bodies to establish a policy outlining the choices in terms of organisational structures, procedures, internal controls, data audit and data storage; the duty, on behalf of the holdings, to establish a common information basis; the duty to carry on a self-evaluation of money laundering risks.

CSSF issues circular on cloud computing

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued a circular (CSSF 19/714) updating CSSF circular 17/654 (the Cloud Circular) on IT outsourcing relying on a cloud computing infrastructure.

The purpose of the new circular is to make substantial amendments to the Cloud Circular, taking into account the experience gained by the CSSF and the supervised entities since its entry into force in May 2017. The CSSF notices that since then:

- many authorisation or notification requests for cloud computing outsourcing have been addressed to the CSSF (two third relating to non-critical or non-material activities);
- a significant number of questions about this topic has been addressed to the CSSF, leading the CSSF to the conclusion that more guidance is needed;
- EBA guidelines on outsourcing to a cloud service provider (EBA/REC/2017/03) have been published, which are less strict and more flexible than the Cloud Circular; and
- CSSF circular 18/698 has been published and has made the Cloud Circular (applicable to credit institutions, professionals of the financial sector, payment institutions and electronic money institutions) also applicable to investment fund managers.

For these reasons, the new circular (i) adds investment fund managers to the scope of the Cloud Circular (in line with CSSF circular 18/698), (ii) emphasises the proportionality principle and in this context introduces optionality for some requirements for non-material activities only, (iii) introduces a register to be maintained by the supervised entities which includes all the cloud computing outsourcing, be it relating to material or to non-material activities, (iv) repeals the necessity to notify the CSSF of a cloud computing outsourcing relating to non-material activities, (v) replaces the 'compliance table' with more specific and pragmatic forms, and (vi) rewords and reorganises some paragraphs of the Cloud Circular for more clarity.

Finally, the circular announces that the CSSF will publish on its website two documents providing assistance for the understanding of the topic, namely (i) a guide to assist entities in qualifying the materiality of activities, and (ii) an FAQ to assist entities in their analyses and procedures.

A blackline version of the Cloud Circular reflecting the amendments is included in the circular.

Poland's preparations for no-deal Brexit: three Acts published in Journal of Laws

Three acts intended to address a no-deal Brexit scenario have been published in the Journal of Laws.

The first act sets out the terms on which business may be conducted in Poland by certain financial market entities if the UK leaves the EU without an agreement under Art. 50 (2) of the Treaty on European Union.

The second act sets out the terms of recognition in Poland of professional qualifications obtained in the UK.

The third act sets out the terms on which UK citizens and their family members may reside in Poland in the event of a no-deal Brexit.

The new legislation would come into force on the day the UK leaves the EU without an agreement.

APRA consults on draft Financial Sector (Shareholdings) Rules 2019

The Australian Prudential Regulation Authority (APRA) has launched a public consultation on the draft Financial Sector (Shareholdings) Rules 2019, which are intended to provide clarity to owners of new entrant financial sector companies on whether they are likely to be approved under the Financial Sector (Shareholdings) Act 1998 (FSSA).

The FSSA was amended by the Australian Parliament in 2018 to introduce a new streamlined 'fit and proper' test for shareholders of new or recently established authorised deposit-taking institutions and life insurers with assets below AUD 200 million, and general insurers with assets below AUD 50 million.

The rules prescribe matters relating to the recent changes to the FSSA. In particular, APRA has proposed rules setting out:

- the matters that must be considered in determining if a person is 'fit and proper' for the purposes of the FSSA;
- the calculation used to determine if an entity's assets are within the relevant threshold; and
- the information to be reported to APRA annually if an application under the 'fit and proper' test is approved.

Comments on the consultation are due by 27 May 2019.

ASIC re-issues practical guidance for foreign financial services providers in Information Sheet 157

The Australian Securities and Investments Commission (ASIC) has re-issued Information Sheet 157: Foreign financial services providers – practical guidance (INFO 157) for foreign financial services providers (FFSPs) intending to provide financial services only to wholesale clients in Australia.

The INFO 157 explains what an FFSP must do if it wishes to rely on 'class' relief under an ASIC instrument, or apply for individual relief under the

Regulatory Guide 176: Foreign financial services providers (RG 176). Specifically, it provides updated practical guidance about:

- the relief available for FFSPs under ASIC instruments;
- how to apply for registration as a foreign company;
- the documents which an FFSP must lodge and fees it need to pay if it is applying to rely on relief;
- notifications required under the relief;
- how to apply for individual relief; and
- how to lodge forms and documents.

The 'class' relief available under the ASIC instruments on which an FFSP may rely for relief from the requirement to hold an Australian Financial Services licence when providing specified financial services is due to expire on 30 September 2019. ASIC has indicated that the details of its proposals for the regulation of FFSPs after 30 September 2019 are available in its 'Consultation Paper 268: Licensing relief for foreign financial services providers with a limited connection to Australia' (CP 268) and 'Consultation Paper 301: Foreign financial services providers' (CP 301).

Australian Parliament passes Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2019

The Australian Parliament has passed the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2019.

Amongst other things, the Bill amends the Corporations Act to introduce design and distribution obligations in relation to financial products, which are intended to improve consumer outcomes by ensuring that financial services providers have a customer-centric approach to making initial offerings of products to consumers.

Under the Bill, the new obligations will be applicable to offers of financial products about which the offeror must make disclosure under the Corporations Act. This consists of products that require a disclosure document, such as a product disclosure statement or prospectus. There are, however, exceptions for products and distribution methods where there are existing similar regimes or other competing policy priorities. The new obligations will also applicable to financial products that are not regulated under the Corporations Act, but are regulated under the ASIC Act, which includes credit.

The Bill also gives ASIC powers to enforce the new arrangements, which include the ability to request necessary information, issue stop orders where there is a suspected contravention of the law and to make exemptions and modifications to the new arrangements. These powers are similar to those that ASIC has under the current disclosure regime.

The new design and distribution obligations will be applicable 24 months after the Bill receives the Royal Assent.

Further, the Bill amends the Corporations Act and the Credit Act to introduce a product intervention power for ASIC to prevent or respond to significant consumer detriment, which allows ASIC to make a range of orders prohibiting

specified conduct in relation to products regulated under those Acts and the ASIC Act, as well as proactively reduce the risk of consumers suffering significant detriment from financial and credit products. However, it provides that, to ensure appropriate accountability, ASIC must satisfy consultation and notification obligations before an intervention order is made.

HKMA announces launch of enhanced competency framework for credit risk management

The Hong Kong Monetary Authority (HKMA) has issued a circular to announce the launch of its enhanced competency framework on Credit Risk Management (ECF-CRM).

The ECF-CRM is a collaborative effort of the HKMA, the Hong Kong Institute of Bankers (HKIB) and the banking sector in establishing a set of common and transparent competency standards for raising and maintaining the professional competence of relevant practitioners of the credit risk management function in authorised institutions.

As the supervisory policy manual module CG-6 'Competence and Ethical Behaviour' emphasises the importance of ensuring the continuing competence of staff members, the HKMA encourages authorised institutions to adopt the ECF-CRM as a benchmark for enhancing the level of professional competence of credit risk management practitioners. Apart from supporting their staff to attend trainings and examinations that meet the ECF certification, authorised institutions have also been advised to keep records of the relevant training and qualifications of their staff and to provide them with necessary assistance in relation to applications for grandfathering and certification, and fulfilment of continuing professional development training under the ECF-CRM.

The HKMA has indicated that it will take into account the progress of implementation of the ECF-CRM by authorised institutions and authorised institutions' efforts in enhancing staff competence and on-going development during its supervisory process.

SFC launches survey on integrating environmental, social and governance factors in asset management

The Securities and Futures Commission (SFC), as part of the strategic framework for green finance it published in September 2018, has launched a survey on integrating environmental, social and governance factors in asset management.

The survey has been launched to gain a better understanding of whether and how asset managers integrate environmental and climate change-related factors into their investment and risk management processes, post-investment ownership practices and disclosures, and gauge asset managers expectations for listed companies' environmental, social and governance disclosures.

The SFC has indicated that it will conduct a similar survey of asset owners that participate in Hong Kong's markets.

The survey results, along with other engagement with the industry, will form the basis for the SFC to consider appropriate policies, codes and guidance.

The SFC has requested all licensed corporations engaged in asset management to complete the online survey on or before 23 April 2019.

SFC concludes consultation on proposed guidelines for securities margin financing activities

The SFC has concluded its August 2018 public consultation on the proposed guidelines for securities margin financing activities, which are intended to clarify, codify and standardise the risk management practices expected of brokers conducting securities margin financing activities. Respondents generally supported the SFC's initiative to provide guidance on the risk management practices expected of brokers when they provide securities margin financing.

Under the guidelines, the maximum total margin loans-to-capital multiple brokers can adopt is five times to avoid excessive leverage. They should also control the concentration risks posed by holding individual or connected securities as collateral and by significant exposure to margin clients. In addition, brokers are required to set prudent triggers for margin calls and strictly enforce margin call policies. Guidance is provided to help brokers set prudent haircut percentages for securities acceptable as collateral and conduct stress testing to assess the financial impact of their securities margin financing activities.

The guidelines were gazetted on 4 April 2019 and will take effect on 4 October 2019.

The SFC has indicated that, to facilitate its monitoring, the returns under the Securities and Futures (Financial Resources) Rules will be revised to collect additional financial data from brokers engaged in securities margin financing activities. The revised requirements will be published in due course.

Treasury Markets Association consults on issues relating to alternative reference rate for Hong Kong interbank offered rate

The Treasury Markets Association (TMA) has launched a public consultation on issues relating to the alternative reference rate (ARR) for the Hong Kong interbank offered rate (HIBOR).

The TMA, in order to fulfil Hong Kong's obligation as a Financial Stability Board (FSB) member, has set up a Working Group on Alternative Reference Rates (WGARR) to engage relevant stakeholders in identifying an appropriate ARR for the HIBOR. The WGARR, after reviewing the characteristics of the ARRs for the London Inter-bank Offered Rate currencies and taking into account the FSB's guiding principles, has identified the HKD Overnight Index Average (HONIA) as the ARR for the HIBOR and proposed the following technical refinements to the HONIA to enhance its robustness and representativeness as an ARR to the HIBOR:

- data source – currently, the HONIA captures overnight interbank funding transactions routed through a number of money brokers. Following similar practices adopted by other major currency areas for their ARRs, transaction data for the HONIA may be directly collected from the primary source, i.e. the banks;
- reporting window – under the current methodology for the HONIA, all eligible transactions between 09:00 and 16:00 on every Hong Kong business day should be reported. To better reflect the local market

conditions, the WGARR suggests extending the reporting window to 08:00 – 17:00 on each Hong Kong business day; and

- publication time – the HONIA is currently published on a same-day basis. In light of its proposed extension of the reporting window to 08:00 – 17:00 on each Hong Kong business day, the WGARR proposes changing the publication time of the HONIA to the following business day so as to allow more time for compilation, which is in line with international practice.

Under the consultation, the TMA is inviting feedback on the WGARR's proposed technical refinements.

Comments on the consultation are due by 30 April 2019.

RECENT CLIFFORD CHANCE BRIEFINGS

A Guide to Anti-Corruption Legislation in Asia Pacific – 6th Edition

Clifford Chance has prepared the latest edition of the Guide to Anti-Corruption Legislation in Asia Pacific. Businesses need to ensure that they are compliant with applicable anti-corruption laws in each of the countries in which they operate as well as with applicable international anti-corruption legislation with extraterritorial reach, such as the US Foreign Corrupt Practices Act and the UK Bribery Act.

https://www.cliffordchance.com/briefings/2019/04/a_guide_to_anti-corruptionlegislationinasi.html

Brexit – UK Parliament rejects Withdrawal Agreement for third time. What happens next?

The UK government has failed to secure the approval by the House of Commons of the Withdrawal Agreement on its third attempt (though the previous two included the Political Declaration).

The UK will now leave the EU with 'no deal' on 12 April 2019 unless an alternative route is found. This briefing paper sets out the next steps, possible alternatives and their implications.

https://www.cliffordchance.com/briefings/2019/03/brexit_-_uk_parliamentrejectswithdrawa.html

£1 billion+ state aid to be recovered from UK corporates with finance subsidiaries – How should businesses react?

The Commission has now issued its final decision in its State aid investigation into the Group Finance Exemptions from the UK's controlled foreign companies (CFC) rules, concluding that the exemptions constitute unlawful State aid.

UK parented groups which benefitted now face significant retrospective tax bills dating back to 2013 and should take immediate steps to protect their position. Groups with finance companies in EU/EEA states will have a stronger basis to resist enforcement against them, based on EU law.

This briefing paper discusses the decision.

https://www.cliffordchance.com/briefings/2019/04/p1_billion_stateaidtoberecoveredfromu.html

Consumer loans – early termination clauses after the most recent developments

On 26 March 2019, the European Court of Justice issued the long-expected judgment regarding early termination clauses in Spanish mortgage-secured loans. This, together with the recent publication of the Real Estate Financing Act, opens up a whole new dimension of one of the great hot topics of the Spanish foreclosure market.

This briefing paper discusses the implications of the European judgment and the Real Estate Financing Act.

https://www.cliffordchance.com/briefings/2019/04/consumer_loans_earlyterminationclausesafte.html

CFIUS stonewalls Chinese investor, unwinds gay dating app investment

The Committee on Foreign Investment in the United States (CFIUS) has reportedly told Beijing Kunlun Tech Co. Ltd. to sell Grindr, the world's largest gay dating app. CFIUS' post-closing action in this case shows that it is not afraid to disrupt a completed transaction if it perceives a national security risk. This action is the latest example of the US government treating Chinese technology investments – particularly when big data is involved – as a national security risk.

This briefing paper discusses the action.

https://www.cliffordchance.com/briefings/2019/03/cfius_stonewallschineseinvestorunwindsga.html

Federal Trade Commission proposes new amendments to safeguards and privacy rules amidst calls for federal legislation and internal dissent

Last month, the Federal Trade Commission issued notices requesting comments on proposed amendments to its Financial Privacy and Safeguards Rules, regulations promulgated under the Gramm-Leach-Bliley Act that aim to protect the privacy and security of customer information held by financial institutions. While the proposed revisions to the Financial Privacy Rule are relatively minor, the revisions to the Safeguards Rule will have significant impacts on covered financial institutions if they are adopted. The proposed amendments draw heavily from the cybersecurity regulations issued by the New York Department of Financial Services and the insurance data security model law issued by the National Association of Insurance Commissioners and enumerate specific requirements for security measures covered financial institutions are required to take, such as having a data incident response plan. The notices also seek comment on whether to adopt certain additional requirements such as requiring entities that suffer a data security incident to report it to the FTC. The proposed amendments are the latest in a string of developments aimed at strengthening the patchwork of data privacy and cybersecurity laws that protects data in the US.

This briefing paper discusses the proposed amendments.

https://www.cliffordchance.com/briefings/2019/04/federal_trade_commissionproposesnewamendment.html

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