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## European System of Financial Supervision: Review package published in Official Journal

The Regulations and the Directive forming the European System of Financial Supervision (ESFS) review package have been published in the Official Journal.

The package, consisting of the Omnibus Regulation ((EU) 2019/2175), the Regulation amending the ESRB Regulation ((EU) 2019/2176), and the Omnibus Directive ((EU) 2019/2177), 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 Regulations and the Directive entered into force on 30 December 2019.

## Brexit: Commission Implementing Decision for UK CCPs published in Official Journal

Commission Implementing Decision (EU) 2019/2211 amending Implementing Decision (EU) 2018/2031 determining, for a limited period of time, that the regulatory framework applicable to central counterparties (CCPs) in the UK is equivalent, in accordance with the European Market Infrastructure Regulation (EMIR) has been published in the Official Journal.

The modified Decision will now expire 12 months after a no-deal Brexit. ESMA has extended the recognition decisions for three CCPs established in the UK to reflect the extended expiry date.

The Decision entered into force on 24 December 2019.

## ESMA reports on EU issuers' use of APMs and their compliance with APM guidelines

ESMA has published a report on EU issuers' use of alternative performance measures (APMs) and on their compliance with ESMA's APM guidelines issued in October 2015.

ESMA assessed the compliance with the APM guidelines of more than 100 issuers and found out that only a minority of them complied with all the principles in their annual earnings results, management results and prospectuses.

ESMA therefore calls on issuers to improve the transparency of the disclosures regarding APMs and in particular compliance on reconciliations, definitions and explanations as well as subtotals and ratios included in financial statements.

In its assessment ESMA also found out that the most commonly used APMs across all sectors include:

- earnings before interest & tax (EBIT);
- operating results;
- earnings before interest, taxes, depreciation and amortisation (EBITDA); and
- net-debt.

ESMA intends to continue monitoring the application of the APM guidelines.

## ESMA publishes follow up to thematic report on fees charged by credit rating agencies and trade repositories

ESMA has published a follow-up report to its 2018 thematic report which reviewed how credit rating agencies (CRAs) and trade repositories (TRs) had implemented the fees provisions in the CRA Regulation and EMIR.

The follow-up report examines developments in industry practices and highlights good practices that have been implemented as well as areas where further improvements are needed to ensure compliance with the fees provisions of the CRA Regulation and EMIR.

While improvements have been made in the areas of transparency, fee setting and costs monitoring, ESMA has found that further improvements need to be made with regard to costs recording and monitoring. ESMA expects all supervised firms to be able to record costs at a sufficient level of granularity to be able to demonstrate the fees charged are costs-based (for CRAs) and cost-related (for TRs).

In response to the limited access to and use of credit ratings published on the websites of the three largest CRAs operating in the EU the CRAs have proposed changes to the terms of their websites which should allow individual credit ratings to be used for regulatory reporting in the future. ESMA will monitor the implementation of these changes and their impact on users of

credit ratings, but remains concerned that users still need to enter into licence agreements for credit ratings data feeds which are distributed by information services companies affiliated to CRAs. ESMA is concerned that CRAs do not exercise any direct control over the credit ratings distribution and licence services provided by these companies.

ESMA expects CRAs and TRs to consider how they can implement the good practices and areas for improvement identified in the report if they have not already done so. ESMA will continue to monitor how supervised firms develop their practices in these areas and to assess their compliance with the regulatory requirements on fees.

## Technical Expert Group on Sustainable Finance publishes handbook on climate transition benchmarks and ESG disclosures

The Technical Expert Group on Sustainable Finance (TEG), a stakeholder group designed to assist the EU Commission in developing elements of green finance policy, has published a handbook on climate transition benchmarks, Paris-aligned benchmark and benchmarks' environmental, social and governance (ESG) disclosures.

The handbook is intended to answer frequently asked questions that the TEG encountered in relation to EU climate benchmarks and it provides clarification on:

- the 7% reduction trajectory;
- terminology;
- anti-greenwashing measures;
- data sources and estimation techniques;
- related classifications; and
- ESG disclosure matters.

The handbook follows the publication in September 2019 of the final report and recommendations on the methodology of EU climate benchmarks.

## MLD5: Money Laundering and Terrorist Financing (Amendment) Regulations 2019 made

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (SI 2019/1511) have been made and laid before Parliament according to the negative resolution procedure.

SI 2019/1511 amends the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017/692) in order to transpose the Fifth Money Laundering Directive ((EU) 2018/843) (MLD5) in the UK.

Changes include:

- expanding the scope of regulated sectors by creating new categories of 'relevant persons', including letting agents, art market participants, and cryptoasset exchange providers and custodian wallet providers, as well as extending the definition of tax adviser to those who offer material aid or assistance on tax matters;

- new provisions relating to risk assessments, policies, controls and procedures for regulated businesses;
- establishment of a bank account portal to enable the UK Financial Intelligence Unit (FIU) and competent authorities to access details pertaining to UK bank accounts, building society accounts, certain credit union accounts and safe-deposit boxes; and
- amendments relating to the duties of supervisory authorities, information sharing and requirements for certain businesses to register with HMRC or the FCA.

SI 2019/1511 comes into force on 10 January 2020, except for:

- the amendment relating to anonymous prepaid cards (regulation 5(5)(c)), which comes into force on 10 July 2020; and
- the new part on requests for information about accounts and safe-deposit boxes (regulation 6), which comes into force on 10 September 2020.

## BaFin consults on revised fund categories directive

The German Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin) has published a draft of the revised Fund Categories Directive (Fondskategorien-Richtlinie) for consultation. In particular, the revision consists of adapting the rules for money market funds to Regulation (EU) 2017/1131 of 14 June 2017. The other amendments are mainly of an editorial nature.

Comments on the revised directive are due by 31 January 2020.

## BaFin publishes circular on high-risk countries

BaFin has published its Circular 14/2019 (GW) on third countries which present strategic deficiencies in their regimes on anti-money laundering and countering terrorist financing that pose significant threats to the international financial system. The circular is addressed to all obliged entities under the German Anti-Money Laundering Act (Geldwäschegesetz, GWG) that are subject to BaFin's supervision.

The circular makes reference to a number of publications where high-risk third countries are specified, with consequences for the respective obligations under the GWG, and sets out certain further measures to be taken.

## BaFin publishes guidance notice on dealing with sustainability risks

BaFin has published a guidance notice on dealing with sustainability risks (Merkblatt zum Umgang mit Nachhaltigkeitsrisiken).

The objective of the guidance notice is to provide entities supervised by BaFin with guidance on dealing with the increasingly important issue of sustainability risks. The principles and processes set out in the guidance notice are intended as good practice guidelines with which entities can align their in-house handling of sustainability risks including with regard to the supervisory review and evaluation process. Supervised entities are, however, free to choose alternative or additional approaches if they lead to adequate risk handling.

The guidance notice's central focus is risk management. It considers risk identification, management and control processes together with traditional methods and procedures, with specific reference to sustainability risks. It further deals with issues regarding internal stress tests, including scenario analyses, particularly with regard to entity-specific tests, and considers transition and impact scenarios.

The guidance note also addresses questions relating to outsourcing, group issues and the use of sustainability ratings.

## BaFin publishes new general decree on common equity tier 1 instruments for cooperative banks

BaFin has published a new general decree (Allgemeinverfügung) regulating the extent to which newly issued shares in cooperative banks can be classified as common equity tier 1 instruments with the permission of BaFin. It also specifies the conditions under which the redemption of share capital based on terminated cooperative shares must be approved in advance.

The general decree is valid until the end of 2020 and only applies to cooperative banks that are not subject to direct supervision by the European Central Bank (ECB). The general decree has been issued against the background of the specifications of CRR2 and Commission Delegated Regulation (EU) No 241/2014 with regard to regulatory technical standards for own funds requirements for institutions.

The previous general decree act on common equity tier 1 instruments for cooperative banks was limited until 31 December 2019.

## BMF publishes draft bill on transfer of supervision of financial investment brokers to BaFin

The German Federal Ministry of Finance (Bundeministerium der Finanzen, BMF) has published a draft bill for a law regarding the transfer of the supervision of financial investment brokers to BaFin.

Currently, commercial financial investment brokers and fee-based financial investment advisors are regulated under sections 34f and 34h of the German Commerce and Industry Code (Gewerbeordnung, GewO) and the Financial Investment Brokerage Regulation (Finanzanlagenvermittlungsverordnung, FinVermV). The enforcement of the GewO is the responsibility of the federal states. In this respect, nine federal states have transferred the responsibility for implementing sections 34f and 34h of the GewO to the trade authorities, seven federal states to the chambers of industry and commerce.

In order to address the resulting organisational fragmentation of supervision, which can be detrimental to its uniformity and quality, and to respond to the increasing complexity of the applicable supervisory law, the new draft law provides for the transfer of the supervision of financial investment brokers and fee-based financial investment advisors to BaFin as the central specialist authority.

In this context, the relevant provisions of the GewO and the FinVermV will largely be incorporated into the German Securities Trading Act (Wertpapierhandelsgesetz, WpHG). Transitional provisions, particularly with regard to existing permits and the necessary cooperation between the previous supervisory authorities and BaFin, are intended to ensure a smooth transfer of supervision.

## Consob publishes report on initial coin offers and cryptoassets

The Italian securities regulator Consob has published its final report on initial coin offers and cryptoassets. The report is the result of a public debate involving market operators, conducted through a public consultation launched on 19 March 2019.

The document is intended as a contribution to the debate, drawn up with a view to the possible definition of a regulatory regime at national level governing the conduct of public offers of cryptoactivities and related negotiations.

The report clarifies the defining aspects of cryptoactivities for the purposes of the proposed legislation, focusing on the regime of platforms for the offer of newly issued cryptoassets, trading systems and what are known as 'digital portfolio services' for the custody and transfer of cryptoactivities.

Consob's objective is to identify possible regulatory solutions to regulate certain cryptoactivities that cannot be assimilated to financial instruments and that therefore require a specific regime suitable to provide a new framework for operators and investors.

## Bank of Italy publishes new regulation implementing MiFID2

The Bank of Italy has published a new regulation intended to implement Articles 4-undecies and 6, paragraph 1, letters b) and c-bis) of Legislative Decree no. 58/1998 (the Italian Financial Act) and MiFID2/MiFIR.

The regulation applies to investment firms, other intermediaries providing investment services and investment managers engaging in the provision of collective asset management services.

Amongst other things, the new provisions cover corporate governance and general organisational requirements (including rules on internal systems for reporting violations, compliance, risk management and internal audit functions), remuneration and incentive schemes, business continuity, administrative and accounting aspects, responsibility of senior management, outsourcing of essential or important operational functions, and deposit and sub-deposit of clients' assets.

The new regulation will come into force progressively (with different timeframes applicable to different parts or sections).

## CSSF issues communiqué regarding Benchmarks Regulation

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued a communiqué on the EU Benchmarks Regulation. The communiqué is addressed to all entities that are subject to the CSSF's supervision and use benchmarks. The CSSF draws the addressees' attention to the fact that the transitional provisions provided for by the Benchmarks Regulation have been extended until 31 December 2021 with respect to the use of benchmarks provided by third country administrators and benchmarks which have been declared as critical by the EU Commission.

In respect of fallback provisions, the CSSF strongly urges the addressees to be prepared for the cessation of EONIA and LIBOR which is expected at the turn of the year 2021/2022, or the cessation of other important interbank offered rates. For this purpose, the CSSF advises the addressees regularly to monitor the developments and actions of the relevant European working groups and consider their recommendations.

The communiqué also reminds the addressees that where the object of a prospectus to be published under Directive 2003/71/EC or Directive 2009/65/EC is transferable securities or other investment products that reference a benchmark, the prospectus must include clear and prominent information stating whether the benchmark is provided by an administrator included in the ESMA Register.

Finally, the communiqué provides a summarising list of index categories which the addressees are restricted to use as of 1 January 2020.

## IORP2 Directive implementation package published

A new Law of 15 December 2019 implementing Directive (EU) 2016/2341 on the activities and supervision of institutions for occupational retirement provision (IORP2 Directive) has been published in the Luxembourg official journal (Mémorial A).

The Law amends (i) the law of 13 July 2005 on institutions for occupational retirement provision in the form of pension savings companies with variable capital (SEPCAVs) and pension savings associations (ASSEPs) which are licenced and supervised by the CSSF and (ii) the law of 7 December 2015 on the insurance sector (by, among others, introducing a new Title IIbis (Pension Funds) therein) for pension funds licenced and supervised by the Luxembourg insurance sector supervisory authority Commissariat aux Assurances (CAA). The Law also amends (iii) the law of 13 July 2005 concerning the activities and supervision of IORPs in order to adapt it to the requirements under the IORP2 Directive.

The Law is intended to reinforce the legal framework for IORPs, to foster the internal market for IORP regimes, and to encourage cross-border activities in this area. For instance, a new procedure for the cross-border transfer of pension scheme portfolios is put in place.

The Law further amends the Luxembourg IORPs framework by introducing additional requirements, including, among others: (i) specific internal governance obligations, such as a risk-based governance system with internal risk assessment procedures for long- and short-term risks, and other risks which could have an impact on the IORP's capacity to honour its obligations, (ii) an obligation to communicate to its affiliated members and beneficiaries clear and useful information, allowing the latter to take well-informed decisions, and (iii) detailed rules and requirements with respect to margin of solvability and outsourcing.

Finally, the Law provides the supervisors, namely the CSSF, the CAA, and the General Social Security Inspection (Inspection Générale de la Sécurité Sociale), with the necessary powers to fulfil their IORP supervisory functions.

In addition to the Law, a Grand Ducal Regulation of 15 December 2019 has been published in the Luxembourg official journal (Mémorial A). The Regulation abolishes the Grand Ducal Regulation of 31 August 2000 which

sets out the implementing rules and requirements in relation to pension funds supervised by the CAA.

The Law and the Regulation both entered into force on 23 December 2019.

## Polish Financial Supervision Authority publishes supplement to December 2018 standpoint with regard to documenting inducements

The Polish Financial Supervision Authority has published another supplement to its December 2018 standpoint on inducements. In its bulletin, the Polish Financial Supervision Authority sets out explanations concerning:

- the possibility of charging a margin as an element of inducements;
- the types of costs to be taken into account for the purpose of calculating inducements;
- the possibility of specifying inducements as a percentage of the value of a fund's assets; and
- an interpretation of the term 'broad range of financial instruments'.

## Royal Decree on legal regime regarding payment services and payment institutions published

Royal Decree 736/2019, of 20 December, on the legal regime on payment services and payment institutions has been published. The revised Payment Services Directive (PSD2) was partially implemented in Spanish law through Royal Decree-Law 19/2018, of 23 November, on payment services and other urgent financial measures, and the new Royal Decree is intended to continue the implementation of PSD2 by developing certain aspects regulated by the Royal Decree-Law.

In particular, the Royal Decree covers:

- the regulation of the incorporation of payment institutions as well as the fundamental aspects of their activity, such as their authorisation, the amendment of their bylaws and the extension of their activities, and structural changes involving a payment institution;
- the cross-border activity of payment institutions;
- recourse to agents and the outsourcing of functions by payment institutions;
- the development of the provisions of the Royal Decree-Law regarding the solvency guarantees and the protection of service users;
- hybrid payment institutions (i.e., those institutions offering other types of services in addition to payment services); and
- the sanctions and supervisory regime in terms of capital structure and conduct, applicable to payment institutions.

In addition, the Royal Decree includes two amendments to the following regulations:

- Royal Decree 778/2012, of 4 May, on the legal regime of electronic money institutions, developing Lay 21/2011, of 26 July, on electronic money; and

- Royal Decree 84/2015, of 13 February, developing Law 10/2014, of 26 June, on the regulation, supervision and solvency of credit institutions. This amendment aims to regulate the information obligations in terms of conduct for credit institutions.

The Royal Decree entered into force on 25 December 2019.

## Debt Assumption Regulation amended

The Debt Assumption Regulation has been amended to introduce two major changes to the debt assumption mechanism in relation to build-operate-transfer (BOT) projects in Turkey. Previously, the Debt Assumption Regulation made a distinction in respect of the principal amount of the senior debt to be assumed by the Turkish Treasury depending on the grounds for termination of the relevant concession agreement. Accordingly, the Turkish Treasury would assume 100% of the principal amount of the senior debt if the concession agreement was terminated on a ground not attributable to the appointed company, whereas a 15% haircut (over the principal amount of the senior debt) was applied if the relevant concession agreement was terminated due to an appointed company default. With the recent amendments, the Turkish Treasury will assume 100% of the principal amount of the senior debt irrespective of the grounds for termination of the relevant concession agreement. There has been no change in respect of the financing costs or hedging costs and the Turkish Treasury will continue to assume all financing costs and, subject to a certain threshold, hedging costs in addition to 100% of the principal amount of the senior debt.

In addition to the above, the Debt Assumption Regulation now also requires that the equity injected into the relevant appointed company shall not be less than 30% of the total investment amount throughout the term of the relevant concession agreement. Previously, the 20% threshold set out under the BOT Decree was also applied to BOT projects subject to the Debt Assumption Regulation.

According to the Debt Assumption Regulation, both amendments set out above will be applicable to (i) all new projects and (ii) new debt assumption agreements to be entered into in respect of existing projects that were not tendered before the entry into force of Article 8/A of the Public Finance and Debt Management Law (Law No. 4749) which introduced the debt assumption mechanism.

## PBoC requires banks to use loan prime rate for existing floating rate loans

The People's Bank of China (PBoC) has announced that any existing floating rate loans referencing benchmark lending rates will need to be converted into either a fixed rate loan or a loan prime rate (LPR)-referenced floating rate loan, with a special arrangement for individual residential mortgage loans.

Among other things, the following points are worth noting:

- from 1 January 2020, financial institutions may not extend any floating rate loan which is priced based on benchmark lending rates;
- from 1 March 2020, financial institutions should negotiate with their clients to convert existing floating rate loans into either a fixed rate loan or an LPR-referenced floating rate loan, unless it is already in the last interest

setting period for the relevant loans. The conversion should be completed by 31 August 2020 in principle;

- where an existing floating rate loan is converted into an LPR-referenced floating rate loan, the spread added to the referenced LPR should be agreed by the parties, except for individual residential mortgage loans;
- where an existing floating rate loan is converted into a fixed rate loan, the interest rate after the conversion should be agreed by the parties, except for individual residential mortgage loans; and
- for individual residential mortgage loans, the post-conversion interest rate should be a rate equal to the last effective interest rate prior to conversion (if converted to a fixed rate loan), or the LPR plus the margin that is the difference between the last effective interest rate and the LPR of December 2019 (if converted to an LPR-based loan).

## HKMA consults on common assessment framework on green and sustainable banking

The Hong Kong Monetary Authority (HKMA) has issued a consultation letter to the banking industry on a common assessment framework on green and sustainable banking. The framework is intended to assess the 'greenness' of authorised institutions and facilitate authorised institutions in setting appropriate strategies, plans or targets in managing climate and environment-related risks.

In particular, the framework assesses authorised institutions' readiness and preparedness for managing climate (both physical and transition) and environment-related risks. It consists of two parts which collect information surrounding 21 sub-elements grouped under six elements that represent the major areas on which an institution would focus in managing climate and environment-related risks, and are usually found in those standards, initiatives or recommendations of international bodies and regulators of other jurisdictions.

Considering the diversity of authorised institutions in terms of size, nature and complexity of business, the HKMA intends to implement the framework for selected authorised institutions initially.

Comments on the consultation are due by 21 January 2020.

## HKMA revises SPMs in response to BCBS regulatory consistency assessment programme and implementation of banking exposure limits rules

The HKMA has issued revised supervisory policy manuals (SPMs) 'Large Exposures and Risk Concentrations' (CR-G-8), 'Exposures to Connected Parties' (CR-G-9), 'Consolidated Supervision of Concentration Risks: BELR Rule 6' (CR-L-1), 'Letters of Comfort: BELR Rule 57(1)(d)' (CR-L-3) and 'Underwriting of Securities: BELR' (CR-L-4).

The revisions in SPM CR-L-1 have been made in response to recommendations by the Basel Committee on Banking Supervision (BCBS) regarding its regulatory consistency assessment programme. The HKMA's current policy will be amended so that it is more apparent that the HKMA's regulations conform to the relevant standards.

The revisions of the other four SPMs are incidental to the implementation of the Banking (Exposure Limits) Rules (BELR), which have replaced the provisions relating to exposure limits formerly set out in Part XV of the Banking Ordinance. The majority of the revisions in these SPMs relate to replacing cross references to obsolete Banking Ordinance provisions with those of the BELR.

## SFC announces launch of investor identification regime for southbound trading under Mainland-Hong Kong Stock Connect

The Securities and Futures Commission (SFC) has announced that the Mainland China and Hong Kong exchanges and clearing houses have been making technical preparations for the investor identification regime for southbound trading under the Mainland-Hong Kong Stock Connect, which is scheduled for implementation on 13 January 2020.

On 11 October 2019, the SFC and the China Securities Regulatory Commission jointly announced the commencement of preparations for the regime. Under the regime, the identification codes of investors who conduct southbound trading will be transferred to the SFC and the Stock Exchange of Hong Kong Limited from the Shanghai Stock Exchange, the Shenzhen Stock Exchange and their respective subsidiaries as well as the China Securities Depositary and Clearing Corporation Limited pursuant to their rules.

## SFC proposes changes to open-ended fund companies regime

The SFC has launched a consultation on enhancements to the open-ended fund companies (OFC) regime. The proposed enhancements are intended to encourage more private funds to set up in Hong Kong.

In particular, the SFC proposes to allow intermediaries licensed or registered for the regulated activity of dealing in securities to act as custodians of private OFCs provided that the intermediary meets certain requirements as set out in the consultation paper, as well as to expand the investment scope for private OFCs to include loans as well as shares and debentures of Hong Kong private companies.

The SFC also proposes to introduce a statutory mechanism for the re-domiciliation of overseas corporate funds to Hong Kong and to require OFCs to keep a register of beneficial shareholders to enhance anti-money laundering and counter-terrorist financing measures.

The SFC has clarified that the proposed enhancements will be effected by way of amendments to the Code on Open-ended Fund Companies, the Securities and Futures Ordinance and the Securities and Futures (Open-ended Fund Companies) Rules.

Comments on the consultation are due by 20 February 2020.

## MAS consults on proposed amendments to Payment Services Act 2019

The Monetary Authority of Singapore (MAS) has launched a public consultation on proposed amendments to the Payment Services Act 2019 (PS Act) relating to anti-money laundering and countering the financing of

terrorism (AML/CFT), other amendments in respect of digital payment token (DPT) services and certain technical amendments in the PS Act.

The MAS proposes to amend the PS Act to align with the enhanced Financial Action Task Force AML/CFT standards applicable to DPT service providers, by expanding the scope of the DPT service providers' activities to include the following:

- transfer of DPTs;
- provision of custodian wallets for or on behalf of customers;
- brokering of DPT transactions without possession of money or DPTs by the DPT service provider; and
- brokering of cross-border money transfer services without moneys accepted or received in Singapore by the payment service provider.

In addition, the MAS is also seeking comments on the following:

- the proposed provisions to empower the MAS to impose user protection measures on certain DPT service providers (e.g. safeguarding of customer money), as well as to impose additional measures on certain DPT service providers;
- the proposed expansion of domestic money transfer service; and
- the proposed expansion of the general duty to use reasonable care not to provide false information to the MAS.

Comments on the consultation are due by 28 January 2020.

## MAS consults on scope of e-money and digital payment tokens under Payment Services Act 2019

The MAS has launched a public consultation on the scope of money, e-money, and digital payment tokens (DPTs), as well as the regulation of payment services based on these emerging forms of payment under the Payment Services Act 2019.

Amongst other things, the MAS is seeking comments on:

- the scope of e-money and DPTs, and whether their definitions remain appropriate in view of the emerging class of stablecoins;
- the regulation of stablecoins, particularly whether the holders of stablecoins deserve the same regulatory protections as e-money (e.g. float protection) if stablecoins fulfil the functions of money in the way e-money does;
- whether the user protection framework for holders of e-money and holders of DPTs are still appropriate, particularly whether the holders of certain types of DPTs should be afforded protection of their assets or the value of their assets in the same way that e-money holders are protected; and
- the thresholds for application of user protection requirements, particularly whether DPT service providers that issue custody wallets should be required to comply with user protection measures if the service providers hold DPTs above a certain threshold.

The MAS has clarified that it is not proposing to amend the definitions of e-money or DPT during this consultation, and will study the feedback from the public before assessing if it is necessary to amend these definitions.

Comments on the consultation are due by 28 January 2020.

## MAS updates guide to digital token offerings

The MAS has published an updated version of its guide to digital token offerings, which was originally published in November 2017 to provide general guidance on the application of the laws administered by the MAS in relation to offers or issues of digital tokens in Singapore.

Case study 11 of the guide has been updated to clarify the MAS' policy stance with respect to digital tokens that could potentially be regulated under both the Securities and Futures Act (Cap. 289) (SFA) and the Payment Services Act (PS Act). In this regard, the MAS expressly states that where a digital token constitutes 'e-money' under the PS Act, it will not be regulated as a debenture under the SFA.

## Amendment legislation consequential to Payment Services Act 2019 gazetted

The Singapore Government has gazetted the following amendment legislation consequential to the Payment Services Act 2019:

- the Securities and Futures (Exemption from Requirement to Hold Capital Markets Services Licence) (Amendment) Regulations 2019;
- the Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2019;
- the Monetary Authority of Singapore (Resolution of Financial Institutions) (Amendment) Regulations 2019;
- the Financial Advisers (Amendment No. 5) Regulations 2019;
- the Banking (Amendment No. 2) Regulations 2019; and
- the Banking (Licence Fees) (Amendment No. 2) Notification 2019.

The Payment Services Act 2019 was passed in the Singapore Parliament on 14 January 2019 and will come into operation on 28 January 2020 (except for provisions regarding amendments to the Credit Bureau Act 2016, Financial Holding Companies Act 2013 and Insolvency, Restructuring and Dissolution Act 2018). At the commencement of the Payment Services Act 2019, the Payment Systems (Oversight) Act and the Money-Changing and Remittance Businesses Act will be repealed.

The above amendment legislation will be effective from 28 January 2020.

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