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EMIR: EBA consults on RTS on initial margin model validation

The European Banking Authority (EBA) has launched a [consultation](#) on draft regulatory technical standards (RTS) on the methodology for initial margin model validation (IMMV) under the European Markets Infrastructure Regulation (EMIR).

The draft RTS, developed in cooperation with ESMA and EIOPA, seek to harmonise the supervisory assessment methodology of initial margin (IM) models across the EU and set out the supervisory procedures for initial and ongoing validation, which will be used to determine the level of margin requirements for uncleared over the counter (OTC) derivatives.

The EBA proposes, among other things:

- a dual approach, entailing a standard supervisory procedure for significant market participants, similar to the standard internal model approval process for market risk, and a simplified validation process for smaller counterparties in scope of the requirements; and
- phased-in implementation for smaller counterparties, and a two year transition period for existing IM models.

A public hearing will take place on 15 December 2021 and the consultation closes on 4 February 2022.

G20 Leaders adopt Rome Declaration

The G20 Leaders have adopted a [Declaration](#) following their summit in Rome, Italy on 30-31 October 2021.

The Declaration is the final outcome of negotiations and events organised within the framework of the Italian G20 Presidency and broadly covers topics such as the impact of COVID-19 on the global economy, health, sustainable development, support to vulnerable countries, the international financial architecture, the environment, energy and climate, trade and investment, and anti-corruption.

In relation to finance, the G20 Leaders:

- welcome the establishment of the G20 Sustainable Finance Working Group (SFWG), endorse the G20 Sustainable Finance Roadmap and welcome the work of the Financial Stability Board (FSB) and International Financial Reporting Standards (IFRS) Foundation regarding sustainable finance;
- call on the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) to develop model rules and multilateral instruments to implement a global minimum level of corporate taxation, to come into effect in 2023;
- commit to completing the remaining elements of the G20 financial regulatory reforms, to implement the FSB's non-bank financial intermediation (NBFi) work programme, and to assess and address money market fund (MMF) vulnerabilities in their jurisdictions; and
- endorse the FSB's global targets for enhancing cross-border payments, reiterate that no global stablecoins should commence operation until all relevant legal, regulatory and oversight requirements are adequately

addressed, and encourage continued analysis on the potential role of central bank digital currencies (CBDCs).

The G20 leaders will meet in Indonesia in 2022.

Green finance: NGFS publishes Glasgow Declaration

The Network for Greening the Financial System (NGFS), comprising 100 central banks and supervisors and 16 observers with the aim of meeting the goals of the Paris Agreement, has published its [Glasgow Declaration](#) on the occasion of COP26.

In the Declaration, the NGFS affirms its willingness to expand and strengthen its collective efforts towards greening the financial system and sets out its commitments over the coming years with regard to:

- enriching its climate scenarios;
- deepening its analysis on integrating climate change considerations into monetary policy strategies and frameworks;
- intensifying the work to bridge the data gaps that currently hinder the identification, management and mitigation of climate-related risks;
- supplementing the set of NGFS practical guides with guidelines on TCFD-aligned reporting for central banks;
- facilitating uplift in supervisory capabilities and the global consistency of supervisory practices;
- increasing its efforts on capacity building, with a particular focus on members from emerging and developing economies;
- keeping exploring emerging climate-related topics; and
- cooperating with stakeholders and policymakers to further refine best practices, identify challenges and solutions and avoid duplication of work.

Green finance: IOSCO publishes recommendations on sustainability-related regulatory and supervisory expectations in asset management industry

The International Organization of Securities Commissions (IOSCO) Task Force on Sustainable Finance (STF) has published its [final report](#) on recommendations for sustainability-related practices, policies, procedures and disclosure in the asset management industry.

The report reflects on the feedback received to the June 2021 consultation and sets out five key recommendations for securities regulators and policymakers to consider:

- setting regulatory and supervisory expectations for asset managers in respect of policies and procedures focused on sustainability-related risks and opportunities and related disclosure;
- clarifying existing regulatory requirements to improve product-level disclosure;
- having supervisory tools to monitor and assess whether asset managers and sustainability-related products are in compliance with regulatory requirements;

- encouraging industry participants to develop common sustainable finance-related terms and definitions; and
- promoting financial and investor education initiatives relating to sustainability.

IFRS Foundation announces International Sustainability Standards Board and publishes prototype climate-related disclosure requirements

The IFRS Foundation Trustees have [announced](#) three developments aimed at providing the global financial markets with high-quality disclosures on climate and other sustainability issues. The developments include:

- a new International Sustainability Standards Board (ISSB), formed to develop a comprehensive global baseline of high-quality sustainable disclosure standards to meet investors' information needs;
- plans to consolidate the Climate Disclosure Standards Board (CDSB) and the Value Reporting Foundation (VRF) by June 2022, following a commitment by leading investor-focused sustainability disclosure organisations to consolidate into the ISSB; and
- prototype disclosure standards published by the Technical Readiness Working Group (TRWG).

These developments are intended to create the necessary institutional arrangements and lay the technical groundwork for a global sustainability disclosure standard-setter for the financial markets. The IFRS believes they fulfil the growing and urgent demand for streamlining and formalising corporate sustainability disclosures.

As soon as a Chair and Vice-Chair have been appointed, the ISSB intends to commence work and consult on its work plan and on proposals informed by recommendations from the TRWG.

FSB reports on non-bank financial intermediation

The FSB has published a [report](#) describing the progress made and future planned work to enhance the resilience of NBFIs.

The report provides an overview of the NBFIs ecosystem and a framework for analysing the availability of liquidity and its effective intermediation under stressed market conditions. The main focus of the FSB's work to date has been on assessing and addressing vulnerabilities in specific NBFIs areas that may have contributed to the build-up of liquidity imbalances and their amplification, including:

- policy work to enhance the resilience of money market funds;
- work to assess liquidity risk and its management in open-ended funds;
- work to examine the structure and drivers of liquidity in core government and corporate bond markets during stress;
- an examination of the frameworks and dynamics of margin calls in centrally and non-centrally cleared derivatives and securities markets; and
- an assessment of the fragilities in USD cross-border funding and their interaction with vulnerabilities in emerging market economies.

The report describes key findings to date and next steps in these areas.

The report also details the FSB's planned work programme on NBFIs for 2022 and beyond. The FSB plans to enhance its understanding of systemic risks in NBFIs in order to strengthen ongoing monitoring and to develop policies to address such risks.

FSB publishes progress report on implementation of compensation standards

The FSB has published its [seventh progress report](#) on the implementation of its principles for sound compensation practices and their implementation standards in financial institutions.

According to the report, banks are relatively more advanced in terms of implementing the principles and standards compared to insurance and asset management firms. The FSB believes this may reflect the more pressing need for banks to align compensation with risk-taking following the 2008 financial crisis.

The report focusses on the effectiveness of compensation frameworks, emerging trends, and firms' experience during the COVID-19 pandemic. It notes key performance indicators and other inputs are critical in encouraging a sound risk culture in firms and details a rise in the use of non-financial measures and disclosure of compensation-related information to promote positive behaviours and robust risk management.

Chancellor sets out ambitions to develop UK as net zero financial centre

The Chancellor of the Exchequer, Rishi Sunak, [speaking](#) at COP26 Finance Day, has announced plans to make the UK the world's first net zero aligned financial centre.

Under these proposals:

- a new Transition Plan Taskforce, comprising industry and academic experts, regulators and stakeholders from the third sector, will develop a 'gold standard' net zero transition plan and associated metrics by the end of 2022;
- financial institutions and listed companies will be required to publish transition plans that consider the Government's net zero commitment or provide an explanation if they have not done so;
- the UK will seek to address barriers faced by developing countries when trying to access finance for their climate plans, including through the launch of the new Climate Investment Funds' Capital Markets Mechanism, which seeks to boost investment into clean energy in developing countries through the issuance of green bonds; and
- the Government will publish a roadmap in 2022, which will set out new policies and milestones intended to ensure the UK financial sector transitions to net zero by 2050.

HMT issues updated advice on ML/TF controls in overseas jurisdictions

HM Treasury (HMT) has published an updated [advisory notice](#) on the risks posed by unsatisfactory money laundering and terrorist financing (ML/TF)

controls in other jurisdictions. The notice sets out the jurisdictions which are deemed high-risk and the enhanced due diligence requirements which firms should apply to them under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

The notice has been updated to reflect the list of jurisdictions with strategic deficiencies in their ML/TF control regimes set out in the statements published by the Financial Action Task Force (FATF) on 21 October 2021.

FCA publishes ESG strategy and discussion paper on sustainability disclosure requirements and investment labels

The Financial Conduct Authority (FCA) has launched a [discussion paper](#) on proposals intended to make it easier for investors to identify and understand the environmental, social and governance (ESG) characteristics of investment products.

In particular, the FCA is seeking views on new sustainability disclosure requirements (SDR) for asset managers and FCA-regulated asset owners, supported by a new classification and labelling system for sustainable investment products. Firms would be required to provide information in an accessible and standardised format on how product manufacturers are managing sustainability risks, opportunities and impacts, both across their organisations and the products they manage, along with details of the sustainability characteristics of individual investments.

The FCA is proposing three tiers of disclosure:

- the product label, which would contain information in accordance with a standardised product classification and labelling system;
- consumer-facing disclosures, which would contain standardised information on the product's key sustainability attributes; and
- detailed disclosures, which would be aimed at institutional investors and other stakeholders and would contain more granular information at the entity and product level on the relevant sustainability risks, opportunities and impacts.

Responses are due by 7 January 2022. The FCA intends to develop the proposed rules and consult on them in the second quarter of 2022.

The paper forms part of the FCA's newly launched ESG strategy, which sets out the FCA's ESG objectives and the key actions it intends to undertake to deliver them. The objectives fall under the following core themes:

- promoting transparency on climate change and wider sustainability along the value chain;
- building trust and integrity in ESG-labelled instruments, products and the supporting ecosystem;
- working with others to enhance industry capabilities and support firms' management of climate-related and wider sustainability risks, opportunities and impacts;
- supporting the financial sector in delivering a market-led transition to a more sustainable economy; and

- developing strategies, organisational structures, resources and tools to support the integration of ESG into FCA activities.

The FCA intends to report on its progress against the ESG strategy as part of its 2022 Business Plan and Annual Report, and to provide a detailed stock-take in 2023.

BoE publishes approach to greening Corporate Bond Purchase Scheme

The Bank of England (BoE) has [published](#) details of how it intends to adjust its Corporate Bond Purchase Scheme (CBPS) to support the UK Government's transition to net zero. The CBPS, which was launched in 2016, purchases investment grade sterling corporate bonds issued by companies judged to make a material contribution to UK economic activity.

The BoE is seeking to achieve a 25% reduction in the weighted average carbon intensity of the CBPS portfolio by 2025, and full alignment with net zero by 2050. Under the adjusted scheme, firms will need to satisfy climate-related eligibility criteria for their bonds to be purchased, with purchases of eligible firms' debt being 'tilted' towards the stronger climate performers within their sectors. The extent to which purchases are tilted either towards or away from a firm will depend on the strength of its climate performance, assessed against the following metrics:

- the emission intensity of its activities;
- its progress in reducing emissions;
- whether it has published a climate disclosure; and
- whether it has an emissions reduction target (with more credit if this is third party verified).

The new greening methodology will be incorporated in the next CBPS reinvestment period, which is due to begin in November 2021.

Italian Council of Ministers approves legislative decrees implementing IFD/IFR and cross-border distribution of funds framework

The Council of Ministers has approved, in final examination, two legislative decrees intended to give full implementation to:

- Directive (EU) 2019/1160 and Regulation (EU) 2019/1156 on the cross-border distribution of collective investment undertakings (the [CBDF framework](#)). These measures will amend Legislative Decree no. 58/1998 (the Italian Finance Act); and
- [Directive \(EU\) 2019/2034 \(Investment Firms Directive – IFD\) and Regulation \(EU\) 2019/2033 \(Investment Firms Regulation – IFR\)](#). These measures introduce a new prudential regime for investment firms, separate from the one applicable to credit institutions, which takes into account the size, activities undertaken, and risks of the different types of investment firms. The Bank of Italy and the Commissione Nazionale per le Società e la Borsa (Consob) are designated as the authorities responsible for exercising the functions and powers under the EU framework. These measures will amend the Italian Finance Act and Legislative Decree no. 385/1993 (the Italian Banking Act).

The legislative decrees will enter into force once they are published in the Italian Official Gazette.

Bank of Italy publishes update on information and documents required for acquisition of qualified shareholdings

The Bank of Italy has published a new set of [regulations](#) intended to clarify the information and documents required for authorisation procedures for the acquisition of qualified shareholdings in banks, certain financial institutions (intermediari finanziari), electronic money institutions, payment institutions and investment managers.

These provisions seek to align the Italian regulatory framework with EU legislation and guidelines. They will enter into force on 1 April 2022, and will apply to applications submitted from that date.

PSD2: Bank of Italy implements EBA Guidelines on major incident reporting

The Bank of Italy has published a [communication](#) regarding the implementation of the updated EBA Guidelines on major incident reporting under PSD2 (EBA/GL/2021/03).

The EBA Guidelines, which repeal and replace the previous 2017 Guidelines, apply as of 1 January 2022, and set out the criteria for classifying serious operational or safety incidents, as well as the content, format and procedures for reporting these incidents to national authorities. Compared to the previous version, the Guidelines aim at strengthening and also simplifying the serious incident reporting process.

In particular, the Guidelines introduce a new reporting criterion related to breach of network or information systems security, with the purpose of capturing incidents resulting from malicious action that compromised the availability, authenticity, integrity or confidentiality of the network or information systems (including data) related to the provision of payment services.

Directives on covered bonds and cross-border distribution of funds transposed into Spanish law

[Royal Decree law 24/2021](#) of 3 November, which, among other matters, transposes into Spanish law EU Directives on covered bonds and the cross-border distribution of collective investment undertakings, has been published in the Spanish Official Gazette.

In relation to covered bonds, Royal Decree law 24/2021 transposes Directive (EU) 2019/2162, which is structured to cover:

- the scope of the regulation, terminology used thereunder and types of covered bonds;
- the structural features of covered bonds;
- the general principles of the legal regime of appraisal companies and services;
- the characteristics of certain specific types of covered bonds;
- the transfer and trading of covered bonds, as well as their possibilities of use in mandatory reserves;

- the supervisory regime for covered bond issues;
- the effects of insolvency or resolution of the issuing institution; and
- the sanctioning regime.

This transposition shall enter into force on 8 July 2022.

In relation to the cross-border distribution of collective investment undertakings, Royal Decree law 24/2021 transposes Directive (EU) 2019/1160, which seeks to:

- streamline the conditions for fund managers operating in the internal market;
- facilitate the marketing of collective investment undertakings to investors from other Member States, removing the requirement of local physical presence in the Member State of destination;
- clarify the conditions for the cessation of the marketing of funds of collective investment undertakings and alternative funds in the Member State of destination; and
- harmonise the definition and conditions for pre-marketing of alternative funds in all Member States.

This transposition entered into force on 4 November 2021.

TIBER-LU: CSSF issues communiqué on Luxembourg testing framework for controlled cyber-attacks

The Commission de Surveillance du Secteur Financier (CSSF) has issued a communiqué on the CSSF's and the Banque Centrale du Luxembourg's (BCL's) decision to jointly adopt [TIBER-LU](#), the testing framework for controlled cyber-attacks.

TIBER-LU will help achieve the objective for critical entities of the financial sector in Luxembourg to be able to adequately resist cyber-attacks in order to ensure their own resilience and thereby contribute to the resilience of the financial sector as a whole.

TIBER-LU corresponds at national level to the framework TIBER-EU adopted at EU level, by adapting its implementation to Luxembourg specificities.

The TIBER-EU framework was published in May 2018 by the European Central Bank (ECB) and sets out a harmonised European approach for the conduct of threat-led penetration tests that mimic the tactics, techniques and procedures of real-life threat actors and that simulate a cyber-attack on critical functions and underlying systems of an entity.

Polish Financial Supervision Authority publishes position on rules of functioning of crowdfunding service providers in interim period

The Polish Financial Supervision Authority (PFSA) has [presented](#) its position on the application of the provisions of Regulation (EU) 2020/1503 on European crowdfunding service providers for business.

The regulations adapting Polish law to the EU regulation will not enter into force by the required deadline of 10 November 2021. Therefore, there will be no authority designated to exercise supervision over institutions offering

crowdfunding services. The PFSA has noted that until the applicable act of law is adopted, the crowdfunding platforms currently operating will be able to continue to conduct their activity. Activities should, however, be limited to promotional campaigns relating to public offerings, in accordance with the Act on Public Offerings.

FINMA publishes guidance on preventing and combating greenwashing

The Swiss Financial Market Supervisory Authority (FINMA) has [published](#) guidance on preventing and combating greenwashing in the fund segment together with rules of conduct at the point of sale.

In its Guidance 05/2021 on preventing and combating greenwashing, FINMA sets out its expectations and current practice regarding the management of sustainability-related collective investment schemes at fund and institutional level. In addition, it warns financial service providers who offer sustainability-related financial products of potential greenwashing risks in the advisory process and at the point of sale.

HKEX consults on proposed amendments to listing rules to enhance regulation of share schemes of listed issuers

The Stock Exchange of Hong Kong Limited (SEHK), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (HKEX), has launched a [consultation](#) on proposed amendments to the listing rules to enhance the regulation of share schemes of listed issuers and their subsidiaries.

Currently, Chapter 17 of the listing rules provides a framework that governs share option schemes only. The SEHK is proposing to extend the chapter to also cover share award schemes, in view of the increasing adoption of these schemes. For share award schemes, issuers will be required to seek shareholders' approval for each grant of new shares at a general meeting, or issue new shares under a general mandate.

The SEHK is also proposing changes to specific requirements in Chapter 17, such as the definition of eligible participants and the requirements for scheme mandate refreshments, in order to align them with the purpose of share schemes and improve disclosure of grants of share options and share awards.

According to the SEHK, share schemes are generally established to reward and incentivise participants to contribute to the long-term growth of the issuer and to align their interests with those of the issuer and its shareholders. The proposals are intended to place more emphasis on the role of the remuneration committee in overseeing the operation of share schemes to ensure that grants of share awards or options meet the purpose of the schemes.

Comments on the consultation are due by 31 December 2021.

SFC shares findings from thematic review of spread charges and other practices

The Securities and Futures Commission (SFC) has issued a [circular](#) setting out the findings from a concurrent thematic review conducted in 2020-21 by the SFC and the Hong Kong Monetary Authority (HKMA) on intermediaries'

spread charges and related practices and their disclosure of transaction-related information.

The observations and guidance provided are categorised under:

- the treatment and disclosure of price improvements, spread charges and pricing arrangements;
- the disclosure of transaction-related information; and
- expected standards of conduct.

Senior management of intermediaries are reminded that they should bear primary responsibility for upholding and enforcing appropriate standards of conduct and proper policies and procedures. Senior management are also expected to review their systems, controls and procedures, and ensure compliance with the regulatory requirements under the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

SFC concludes consultation on conduct requirements for bookbuilding and placing activities

The SFC has published the [conclusions](#) to its February 2021 consultation on proposed conduct requirements for equity and debt capital market transactions in Hong Kong.

The proposed requirements are intended to clarify the roles played by intermediaries in equity and debt capital raisings and set out the standards of conduct expected of them in bookbuilding, pricing, allocation and placing activities.

The SFC has confirmed that respondents were generally supportive of the proposed conduct requirements set out under paragraphs 17 and 21 of the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) and the consequential changes made to the guideline to sponsors, underwriters and placing agents involved in the listing and placing of GEM stocks (GEM Placing Guideline).

In particular, the SFC has confirmed, among other thing, that:

- the Code of Conduct will be amended to require overall coordinators (OCs) to provide guidance to the issuer on market practices for the 'fee split ratio', which is currently around 75% fixed and 25% discretionary (75:25 ratio);
- in the case of an initial public offering (IPO), OCs will need to be appointed no later than two weeks after the A1 submission. In addition, OCs will be required to inform the SFC of all the OCs participating in the IPO, the fixed fee payable to each of them, the total fees and the fee split ratio, four clear business days before the Listing Committee Hearing;
- to address the concerns about poaching clients, the proposed conduct requirements will be amended to specify that a capital markets intermediary (CMI) is only required to provide the client's name and unique identification number, and to require CMIs (including OCs) which receive information about the investors to use this information only for placing orders for the specific share or debt offering; and
- the 'sponsor coupling' requirement will only be applicable to the Main Board IPOs.

The amendments to the Code of Conduct and the GEM Placing Guideline was gazetted on 5 November 2021 and will become effective nine months from the date of gazettal. The SFC has indicated that it will work with the Stock Exchange of Hong Kong Limited to introduce appropriate amendments to the Listing Rules, to dovetail with the Code of Conduct requirements in relation to the conduct of issuers and intermediaries involved in bookbuilding and placing activities.

MAS (Resolution of Financial Institutions) (Amendment No. 2) Regulations 2021 gazetted and MAS responds to feedback on proposed contractual recognition requirement

The [Monetary Authority of Singapore \(MAS\) \(Resolution of Financial Institutions\) \(Amendment No. 2\) Regulations 2021](#) have been gazetted.

These regulations amend the [MAS \(Resolution of Financial Institutions\) Regulations 2018](#) to impose on qualifying pertinent financial institutions (QPFIs) and their subsidiaries a contractual recognition requirement in relation to temporary stays on termination rights. They also incorporate provisions regarding:

- setting-off and netting rights in relation to reverse and onward transfers;
- rights and liabilities connected with clearing and settlement arrangements of market infrastructure and designated systems in relation to reverse and onward transfers; and
- secured liabilities in relation to reverse and onward transfers.

In connection with the contractual recognition requirement, MAS has published its responses to the feedback it received on its July 2018 consultation on the requirement's scope and application. The current [response paper](#) follows one published in October 2018, in which MAS stated that it would not promulgate regulations relating to the contractual recognition requirement at that point in time, and would engage the industry further.

The current response paper clarifies the following:

- the scope of QPFIs subject to the contractual recognition requirement will be narrowed to include only banks incorporated in Singapore and to which a direction has been issued under section 43(1) of the MAS Act, and the subsidiaries of these banks.

Contributed by Clifford Chance Asia, a Formal Law Alliance in Singapore between Clifford Chance Pte Ltd and Cavenagh Law LLP.

Monetary Authority of Singapore (Amendment) Bill 2021 moved for first reading in Singapore Parliament

The [Monetary Authority of Singapore \(Amendment\) Bill 2021](#) has been moved for its first reading in the Singapore Parliament. The Bill is intended to amend the MAS Act to:

- empower the MAS to subscribe for reserves management government securities (RMGS), a new type of non-marketable security, that will be issued by the Government under the Government Securities Act (GSA) in consideration for official foreign reserves (OFR) being transferred;

- allow the principal amount of a maturing tranche of RMGS to be reinvested into a new tranche of RMGS, if the principal amount is not required by the MAS to support monetary policy implementation or financial stability, and the Government agrees to do so; and
- put in place strong safeguards against potential misperceptions of monetary financing that will complement the existing safeguard in the GSA.

The Bill also introduces related amendments to the GSA to facilitate the transfer of OFR to the Government via RMGS.

The Bill comes into operation on a date that the Minister charged with the responsibility for monetary policy appoints by notification in the Gazette.

MAS proposes changes to classification of investment products for retail investors

MAS has launched a [consultation](#) on the classification of certain investment products as 'complex', as well as on refinements to the requirements applicable to the distribution of complex investment products.

The consultation is intended to enhance the existing complex products regime introduced in 2012, which aims to aid retail investors in better understanding the features and risks of complex products. Under the regime, MAS prescribes a list of products which have terms and conditions generally understandable by the market as excluded investment products (EIPs). Products that do not fall within the prescribed list of EIPs are regarded as complex products or specified investment products (SIPs) and must be sold with enhanced distribution safeguards.

MAS is proposing the following changes to the complex products regime:

- classifying all collective investment schemes that are authorised or recognised by MAS for offer to retail investors as EIPs, except for funds that use advanced investment strategies traditionally associated with hedge funds, and leveraged/inverse products; and
- removing the requirement for financial advisers to conduct a customer knowledge assessment or customer account review when advising customers on SIPs.

MAS is also seeking comments on its proposals to:

- classify debentures with varying interest payments or convertible features as SIPs; and
- the appropriate classification for perpetual securities and preference shares, and suitable safeguards for investors who invest in these products.

Comments on the consultation are due by 15 December 2021.

ASIC releases guidance on crypto-asset related investment products

The Australian Securities and Investments Commission (ASIC) has released guidance for product issuers and market operators on how they can meet their respective regulatory obligations in relation to crypto-asset exchange traded products (ETPs) and other investment products.

The guidance has been set out in the ['Information Sheet 225: Crypto-assets' \(INFO 225\)](#) and the ['Information Sheet 230: Exchange traded products'](#).

[Admission guidelines' \(INFO 230\)](#). It covers good practices for market operators in how they admit and supervise crypto-asset ETPs and other investment products, as well as for product issuers in how they establish and operate these products. The key matters covered by the good practice guide include admission and monitoring standards, custody of crypto-assets, pricing methodologies, disclosure and risk management.

ASIC has also introduced a new 'crypto-asset' category in the licensing application for responsible entities. Responsible entities intending to hold underlying assets that comprise crypto-assets will be required to hold an authorisation in relation to these assets.

The good practices and licensing changes follow ASIC's June 2021 'Consultation Paper 343: Crypto-assets as underlying assets for ETPs and other investment products'.

APRA releases final expectations regarding authorised deposit-taking institutions' preparedness for zero and negative interest rates

The Australian Prudential Regulation Authority (APRA) has released a [letter](#) to all authorised deposit-taking institutions (ADIs) outlining its final expectations regarding ADIs' preparedness for the possibility of zero and negative market interest rates and cash rate.

Following the feedback received on the draft expectations released for consultation in July 2021, APRA has made the following two changes:

- customer accounts, including those of related parties, with an aggregate deposit balance of less than AUD 10 million have been excluded from the scope of APRA's expectations, considering that tactical solutions would increase operational risk due to the large number of customers involved; and
- APRA has extended the timeframe for development of tactical solutions to 31 July 2022, recognising the low likelihood of widespread negative interest rates in the near term.

In developing tactical solutions, APRA expects ADIs to pre-position themselves by 31 July 2022 in all relevant aspects of the products and activities that are in scope, including customer communications and disclosures.

APRA expects ADIs to be able to implement the solutions within three months (if required), following the development of tactical solutions by 31 July 2022.

RECENT CLIFFORD CHANCE BRIEFINGS

New EU third-country regime for banking business

The EU Commission has proposed new harmonised rules for non-EU firms carrying on banking business in the EU, including deposit-taking, lending, payments, foreign exchange and securities and derivatives business. The new rules would restrict the ability of non-EU firms to carry on cross-border banking business into the EU except on a reverse solicitation basis. They would also harmonise the way in which Member States regulate non-EU firms carrying on banking business through EU branches.

If adopted, the new rules would have a significant impact on the ability of many non-EU banks and non-bank firms to continue to deal with EU customers or counterparties on a cross-border basis in reliance on existing Member State regimes. The new rules would also significantly alter the regulatory regime for many non-EU firms currently operating through EU branches.

This briefing discusses the new rules and the consequences they will have on non-EU firms.

<https://www.cliffordchance.com/briefings/2021/11/new-eu-third-country-regime-for-banking-business.html>

Buy-side regulatory horizon scanner

Clifford Chance is delighted to provide the buy-side regulatory horizon scanner.

The horizon scanner identifies and summarises key EU and UK regulatory developments that are likely to have an impact upon asset management firms providing services in the EU and the UK.

It also sets out projected timelines for the finalisation and implementation of these regulatory developments, covering approximately the next 18 months to two years.

Further background information and commentary on many of these developments, as well as an overview of the EU legislative process, is available on the Financial Markets Toolkit.

<https://www.cliffordchance.com/briefings/2021/10/buy-side-regulatory-horizon-scanner.html>

Financial Markets Toolkit

<https://financialmarketstoolkit.cliffordchance.com/en/home.html>

UK Government imposes mandatory climate-related financial disclosure on large UK businesses

The Department for Business, Energy and Industrial Strategy (BEIS) has announced that it will impose mandatory climate-related financial disclosure duties on large UK businesses in a response to its March 2021 Consultation.

This briefing sets out a brief rundown on BEIS' decision and its implementation.

<https://www.cliffordchance.com/briefings/2021/11/uk-government-imposes-mandatory-climate-related-financial-disclo.html>

Data protection in the UAE – a year in review

The UAE has seen some significant changes in the data protection landscape in the last 12 months which may soon culminate with the implementation of a new federal data protection law.

This briefing looks back at some of the key data protection developments in onshore UAE, DIFC and the ADGM in the last year and some practical tips for compliance.

<https://www.cliffordchance.com/briefings/2021/11/data-protection-in-the-uae--a-year-in-review.html>

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This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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