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Taxonomy Regulation: Complementary Climate Delegated Act on nuclear and gas activities published in Official Journal

Commission [Delegated Regulation \(EU\) 2022/1214](#) amending the Taxonomy Climate Delegated Act ((EU) 2021/2139) as regards nuclear energy and natural gas economic activities and the Taxonomy Disclosures Delegated Act ((EU) 2021/2178) as regards specific public disclosures for those economic activities (the Taxonomy Complementary Climate Delegated Act) has been published in the Official Journal.

The Taxonomy Complementary Climate Delegated Act includes specific nuclear and gas energy activities, under certain conditions, in the list of environmentally sustainable economic activities covered by the EU Taxonomy.

The Delegated Act will enter into force on 4 August 2022 and apply from 1 January 2023.

Taxonomy Regulation: Platform on Sustainable Finance consults on minimum safeguards

The Platform on Sustainable Finance has launched a [consultation](#) on its draft report on the minimum safeguards set out in Article 18 of the Taxonomy Regulation.

Under Article 18, companies are required to implement procedures to ensure they are compliant with the Organisation for Economic Cooperation and Development (OECD) guidelines for multinational enterprises and with the United Nations guiding principles on business and human rights. In its consultation, the Platform is seeking feedback on its proposed advice regarding the assessment of companies' compliance with the minimum safeguards.

In particular, it is proposing to define the following activities, or lack of activity, as signs of non-compliance with the safeguards:

- inadequate or non-existent corporate due diligence processes on human rights, including labour rights, bribery, taxation, and fair competition;
- final conviction of companies in court in respect of the above topics;
- a lack of collaboration with a national contact point (NCP), and an assessment of non-compliance with OECD guidelines by an OECD NCP; and
- a failure to respond to allegations by the Business and Human Rights Resource Centre.

Comments are due by 6 September 2022.

Crowdfunding Regulation: EU Commission adopts delegated and implementing regulations

The EU Commission has adopted regulations setting out various regulatory technical standards (RTS) and implementing technical standards (ITS) under Regulation (EU) 2020/1503 on European crowdfunding service providers (ECSPs) (the Crowdfunding Regulation).

The RTS and ITS provide further detail on:

- the [conflicts of interest](#) requirements for ECSPs;
- the methodology for calculating [default rates of loans](#) offered on a crowdfunding platform;
- ECSPs' [business continuity plans](#);
- [reporting on projects](#) funded through crowdfunding platforms;
- [cooperation](#) and the [exchange of information](#) amongst national competent authorities (NCAs), and [between NCAs and the European Securities and Markets Authority \(ESMA\)](#), concerning ECSPs;
- [key investment information sheets](#);
- [complaints handling](#);
- entry knowledge [tests and assessments](#) of the ability to bear loss for prospective non-sophisticated investors in crowdfunding projects;
- how NCAs should notify ESMA of [national marketing requirements](#) applicable to ECSPs;
- [individual portfolio management of loans](#) by ECSPs; and
- [requirements and arrangements for the application for authorisation as a crowdfunding service provider](#).

The Commission has also adopted a [delegated regulation](#) to extend the transitional period under Crowdfunding Regulation from 10 November 2022 to 10 November 2023. Under the current provisions of the Crowdfunding Regulation, ECSPs that are not authorised in time for the 10 November 2022 deadline will be required to halt their business activities. In its technical advice to the Commission on various aspects regarding the implementation of the Crowdfunding Regulation, ESMA noted that upholding this deadline would result in many ECSPs being required to halt their business activities and could

cause widespread disruption to the crowdfunding markets. The Commission is therefore proposing to grant an extension of twelve months to all ECSPs that are currently operating under national law.

MiFID2: ITS on third-country firm regime published in Official Journal

Commission [Implementing Regulation \(EU\) 2022/1220](#) laying down ITS on the format of the information to be reported annually by authorised branches of third-country firms and competent authorities under the Markets in Financial Instruments Directive (MiFID2) has been published in the Official Journal.

The Regulation is based on draft ITS submitted by ESMA in September 2020 to reflect changes introduced by the Investment Firms Directive (IFD) and sets out the format for reporting information including:

- the scale and scope of services and activities;
- the turnover and aggregated value of assets corresponding to the services and activities;
- a description of investor protection arrangements;
- risk management policy and arrangements; and
- governance arrangements.

The Regulation will enter into force on 4 August 2022.

MiFID2: ESMA publishes opinion on classification of third-country counterparties

ESMA has issued an [opinion](#) on the classification of third-country counterparties for the purpose of the weekly position reports on commodity derivatives and emission allowances derivatives under MiFID2.

With the aim of improving the quality and consistency of these reports, the opinion states that third-country financial entities should be classified as they would be classified if they were established in the EU.

The opinion is a follow-up to ESMA's report on the EU carbon market published in March 2022, which identified an issue related to the inconsistent classification of third-country financial counterparties in the published weekly reports.

MAR: ITS on insider lists published in Official Journal

Commission [Implementing Regulation \(EU\) 2022/1210](#) laying down ITS with regard to the format of insider lists and their updates under the Market Abuse Regulation (MAR) has been published in the Official Journal.

Implementing Regulation (EU) 2022/1210 repeals and replaces Implementing Regulation (EU) 2016/347, and enters into force on 3 August 2022.

MAR: EU Commission adopts RTS on liquidity contracts for SME growth market issuers

The EU Commission has adopted a [Delegated Regulation](#) setting out RTS for liquidity contracts for the shares of issuers whose financial instruments are admitted to trading on an SME growth market (GM) under MAR as amended by the SME Regulation ((EU) 2019/2115).

The RTS sets out the requirements that parties to a liquidity contract should comply with in order to make sure that such persons are not engaging in market manipulation. In particular, the annex to the RTS contains a contractual template aimed at ensuring a level-playing field among issuers listed on SME GMs and investment firms, while safeguarding market integrity and maintaining flexibility.

The main areas covered by the RTS are:

- the liquidity account;
- limits on resources;
- independence of the liquidity provider;
- trading of the liquidity provider;
- obligations of the liquidity provider;
- fee structures and remuneration; and
- transparency.

The Delegated Regulation will now be scrutinised by the EU Council and Parliament.

ESMA consults on extending scope of clearing and derivatives trading obligations

ESMA has launched a [consultation](#) on extending the scope of both the clearing obligation (CO) and the derivatives trading obligation (DTO).

The proposals introduce additional classes to the scope of the CO and DTO and are intended to complement the first set of changes developed in the context of the benchmark transition.

The proposals include:

- for the CO, the introduction of the overnight indexed swap (OIS) class referencing TONA (JPY);
- for the CO, the expansion of the maturities in scope of the CO for the OIS class referencing SOFR (USD); and
- for the DTO, the introduction of certain classes of OIS referencing €STR (EUR), which have shown a substantial increase in liquidity over the last months.

ESMA's first set of technical standards on the CO and DTO amending the respective scopes of these two obligations in view of the benchmark transition entered into force in May 2022.

ESMA consults on rules for recognition under Benchmarks Regulation

ESMA has launched a [consultation](#) on amendments to the RTS covering the form and content of an application for recognition under the EU Benchmarks Regulation (BMR).

The proposed amendments are intended to align the information provided in a recognition application with the changes introduced to the BMR in the European Supervisory Authorities (ESAs) review in 2019. ESMA also wants to ensure that the application includes all relevant information to enable it to

assess whether the applicant has established all the necessary arrangements to fulfil the BMR's requirements.

The proposed changes come from the:

- transfer of supervisory responsibilities over third country recognised administrators to ESMA as of January 2022; and
- need to request additional information or provide further specifications on some information already requested under the current RTS.

Comments are due by 9 September 2022. ESMA expects to publish a final report and submission of the draft technical standards to the EU Commission for endorsement in Q4 2022.

EMIR: ESMA provides update on suspended applications for CCP recognition

ESMA has provided an [update](#) on the way forward for third-country CCPs (TC-CCPs) whose applications for recognition under the European Market Infrastructure Regulation (EMIR) were suspended until 28 June 2022.

For TC-CCPs established in jurisdictions for which the EU Commission has recently adopted equivalence decisions, such as Chile, China, Indonesia, Israel and Malaysia, ESMA has started processing their applications for recognition under Article 25 of EMIR and will adopt decisions granting recognition once the relevant recognition conditions are met.

For TC-CCPs established in jurisdictions for which the Commission did not adopt equivalence decisions by 28 June 2022, such as Argentina, Colombia, Russia, Taiwan, Thailand and Turkey, ESMA will start the process for refusing recognition due to the lack of an equivalence decision.

However, ESMA has stated that it is willing to re-assess applications should there be new developments regarding the relevant equivalence decisions during the processing period. If the Commission adopts the relevant equivalence decision in the future, a TC-CCP, whose application was originally refused, can re-apply for recognition to ESMA.

ESMA has also clarified that until it has taken a decision on a recognition application, a TC-CCP who had applied under the EMIR transition provisions and currently provides clearing services in a Member State under national law, may continue to provide clearing services in that Member State.

CSDR: ESMA consults on cash penalty for cleared transactions

ESMA has launched a [consultation](#) on a possible amendment to the Central Securities Depositories Regulation (CSDR) RTS on settlement discipline with regards to the cash penalty process for cleared transactions.

ESMA is seeking stakeholder views on simplifying the process of collection and distribution of cash penalties for settlement fails relating to cleared transactions. The proposals would allow the central securities depositories (CSD) to collect and distribute all types of penalties, including those for settlement fails relating to cleared transactions. Currently, CCPs are responsible for the collection and distribution of cash penalties for settlement fails on cleared transactions.

Comments are due by 9 September 2022. ESMA intends to consider the responses with a view to publishing a final report including amending RTS by Q4 2022.

Digital finance: ESMA consults on guidelines on forms and templates for applications to operate DLT market infrastructures

ESMA has published for consultation [proposed guidelines](#) which set out the standard forms, formats and templates that entities should use when applying for permission to operate a distributed ledger technology (DLT) market infrastructure. Articles 8 and 10 of Regulation (EU) 2022/858 on a pilot regime for DLT market infrastructures, which entered into force on 22 June 2022, require ESMA to develop these guidelines for an entities wishing to operate a DLT multilateral trading facilities, trading and settlement system or settlement system.

Comments on the proposals are due by 9 September 2022.

SRB publishes bank resolvability assessment

The Single Resolution Board (SRB) has published its [assessment](#) of bank resolvability for 2021, reporting that banks have made significant progress in the SRB's priority areas.

The SRB found that most banks are earmarked for resolution, accounting for 97% of total exposure to risk. In contrast, liquidation is foreseen for banks which account for 3% of total exposure to risk, mostly made up of public development banks and smaller banks with a specific business model.

The largest banks (G-SIIs and Top Tier banks) are the most advanced category. Overall, sound progress has been made on the resolution capabilities that the SRB prioritised in 2020-2021. Banks have significantly improved their ability to absorb losses and recapitalise in the case of failure. Most banks already meet the final Minimum Requirement for Own Funds and Eligible Liabilities (MREL) target to be complied with at the end of the transition period, on 1 January 2024, and the shortfall has more than halved in two years. Progress has also been observed in the areas of governance, loss absorption and bail-in execution, operational continuity, access to financial market infrastructures and communication planning.

However, the SRB notes that progress is needed by all banks on the swift mobilisation of liquidity and collateral in resolution, the further automation of the management information systems for the purposes of valuation and resolution as well as the further operationalisation of restructuring and separation capabilities post-resolution.

The SRB intends to publish the updated resolvability assessment annually. The SRB also intends to communicate the priorities for 2023 to banks in Q3 2022.

FSB Chair writes to G20 finance ministers and central bank governors on current financial stability outlook and planned activities

The Chair of the Financial Stability Board (FSB), Klaas Knot, has [written](#) to the G20 finance ministers and central bank governors ahead of their meeting on 15-16 July 2022. The letter discusses the current outlook for financial stability

and sets out the FSB's plans to assess and address emerging vulnerabilities going forward.

Among other things, the FSB Chair notes that:

- the combination of lower growth, rising inflation and tighter global financial conditions may create new, or exacerbate existing, vulnerabilities in the global financial system; and
- in particular, the FSB is monitoring the instability risks posed by: rising indebtedness across sovereigns, non-financial corporates and households; liquidity mismatches and hidden leverage in non-bank financial intermediation; the adverse effects of tightening financial conditions on emerging market and developing economies; and financial strains in commodity markets and the risk of spillovers into the broader global financial system.

The FSB also provides an update on the progress it has made in the areas of addressing the long-term impact of COVID-19 and potential exit strategies, its climate roadmap, and the regulation of cryptoassets.

FSB publishes 2022 progress report on addressing financial risks from climate change

The FSB has published its first [annual progress report](#) on [the July 2021 FSB roadmap](#) for addressing climate-related financial risks, which is being delivered to G20 Finance Ministers and Central Bank Governors. The report takes stock of progress by standard-setting bodies (SSBs) and other international organisations on the actions coordinated through the roadmap, outlines areas for further attention, and provides updates where needed to the detailed roadmap actions.

The report identifies progress across four blocks of the roadmap including:

- firm-level disclosures, including the publication by the newly established International Sustainability Standards Board (ISSB) of two exposure drafts on climate and general sustainability-related disclosure standards;
- continued work on improving the availability and cross-border comparability of climate-related data more broadly;
- vulnerabilities analysis with work progressing along three strands – ongoing monitoring using the tools currently available, development of conceptual frameworks, and further development of scenario analysis; and
- regulatory and supervisory practices and tools.

Digital finance: FSB issues statement on international regulation and supervision of cryptoasset activities

The FSB has issued a [statement](#) on the international regulation and supervision of cryptoasset activities, in response to the crypto-market's recent volatility.

According to the FSB, the market's turmoil highlights inherent risks posed by cryptoassets and stablecoins, including their structural vulnerabilities, their volatility, and their increasing interconnectedness with the traditional financial system. It calls for the introduction of an effective regulatory framework to address these risks, which should:

- take a ‘same activities, same risk, same rules’ approach, while still reflecting the unique features of cryptoassets and harnessing the potential benefits of the technology behind them;
- impose effective rules and oversight on cryptoassets commensurate with the risks they pose at both the domestic and international level; and
- impose high regulatory, transparency and capital reserve standards on stablecoins.
- It also states that cryptoasset service providers (CASPs) should:
- ensure they abide by any existing legal obligations that are applicable to them, while their jurisdictions consider implementing more tailored frameworks; and
- meet all the applicable regulatory, supervisory and oversight requirements of a particular jurisdiction before beginning operations there.

The FSB notes that it is contributing to the work on introducing an appropriate regulatory and supervisory framework for cryptoassets and CASPs, as well as the full and timely implementation of existing international standards. It intends to report to the G20 Finance Ministers and Central Bank Governors in October 2022 on the findings from its review of its high-level recommendation for the regulation, supervision and oversight of global stablecoin arrangements, and to set out its recommendations for promoting international consistency of regulatory and supervisory approaches to the wider cryptoasset market.

Digital finance: CPMI and IOSCO publish guidance on application of principles for financial market infrastructures to stablecoins

The International Organization of Securities Commissions (IOSCO) and the Committee on Payments and Market Infrastructures (CPMI) have published their final [guidance](#) on how the Principles for Financial Market Infrastructures (PFMIs) apply to systemically important stablecoin arrangements.

The guidance confirms that the PFMIs are applicable to systemically important stablecoin arrangements, as the transfer function of a stablecoin is comparable to that of other types of financial market infrastructure (FMI). As a result, stablecoin arrangements should observe international standards for payment, clearing and settlement systems.

Due to the complexity of stablecoin arrangements, CPMI and IOSCO have set out guidance intended to clarify, in particular, the application of the PFMIs relating to governance, risk management, settlement finality and money settlements. The report also provides guidance on how to apply the PFMIs in instances where the nature and features of stablecoin arrangements differ from that of existing FMIs. These areas include:

- the potential use of settlement assets that are neither central bank money nor commercial bank money and carry additional financial risk;
- the interdependencies between multiple stablecoin functions;
- the degree of decentralisation of operations and/or governance; and
- a potentially large-scale deployment of emerging technologies such as distributed ledger technology.

CPMI and IOSCO note that the report does not cover issues specific to stablecoins denominated in, or pegged to, a basket of fiat currencies, as they will be covered in future work.

UK EMIR: FCA and PRA consult on margin requirements for non-centrally cleared derivatives

The Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) have launched a joint [consultation](#) on amendments to binding technical standards (BTS) 2016/2251, which supplement Article 11(15) of the UK European Market Infrastructure Regulation (UK EMIR).

The proposals include:

- updating the list of instruments eligible as collateral for bilateral margin with the purpose of specifying the treatment of third-country funds as eligible collateral, including European Economic Area (EEA) undertakings for collective investment in transferable securities (UCITS);
- introducing fall-back transitional provisions for certain firms who come into scope of the requirements for the first time in order to address practical issues where firms face immediate application of the bilateral margin requirements; and
- updating the application of the requirements to central counterparties (CCPs).

The FCA and PRA believe that the proposals ensure that margin requirements would be applied proportionately and would promote the competitiveness of UK firms. They also believe that by updating the criteria for a CCP to be exempted from the requirements, the proposal provides transparency on the requirements.

Comments are due 12 October 2022.

PRA consults on proposed expectations regarding changes to remuneration for material risk takers

The PRA has published a consultation paper ([CP8/22](#)), which sets out its proposed expectations regarding changes to the instruments or claims that comprise unvested, deferred sums awarded to material risk takers (MRTs) as part of their variable pay.

In particular, the PRA is proposing to amend the 'Remuneration' supervisory statement (SS2/17) to add an expectation that firms should not convert unvested, deferred pay awards to MRTs from equity to other instruments, or *vice versa*. It also intends to include an explanation of circumstances in which it will allow this expectation to be waived, namely when a current or former MRT is appointed to a public-sector role and the retention of an unvested, contingent claim to equity (or other instruments) may create a conflict of interest. In such cases, provided there are no other options for mitigation, the conversion may occur subject to the prior non-objection of the PRA, and on the basis that the relevant retention requirements remain unchanged.

Comments are due by 19 September 2022.

Treasury Committee launches inquiry on cryptoassets

The House of Commons Treasury Committee has launched an [inquiry](#) into the cryptoasset industry.

The Treasury Committee intends to explore:

- the role of cryptoassets in the UK, including the opportunities and risks that cryptoassets may bring to consumers, businesses and the Government;
- the potential impact of distributed ledger technology (DLT) on financial institutions, including the central bank, and financial infrastructure; and
- the regulatory response to cryptoassets from the Government, the FCA and the Bank of England, considering how regulation could be balanced to provide adequate protection for consumers and businesses without stifling innovation.

The Treasury Committee requests written evidence submissions which examine, among other things:

- whether cryptoassets, when used as digital currencies, are likely to replace traditional currencies;
- the opportunities and risks if a Bank of England Digital Currency is introduced;
- the possible impact of cryptoassets on social inclusion;
- whether the Government and regulators are suitably equipped;
- the opportunities and risks the use of cryptoassets pose for individuals, the economy, and the workings of both the private and public sectors;
- how DLT can be applied in the financial services sector;
- the effectiveness of recent regulation around advertising and money laundering in increasing consumer protection around cryptoassets; and
- how Governments and regulators in other countries are approaching cryptoassets.

Comments are due by 5pm on 12 September 2022.

Bank of Italy publishes 39th version of supervisory provisions for banks

The Bank of Italy has issued the 39th update of the supervisory provisions for banks ([Circular No. 285/2013](#)). In particular, this update amends:

- the provisions on banking groups and the register of banks and banking groups; and
- the provisions on the prudential control process.

As part of the implementation process of CRD 5, this update focuses on the regulation of financial holding companies or mixed financial holding companies and the powers of intervention of the supervisory authorities under Pillar 2.

CSSF issues communiqué on central electronic data retrieval system related to payment and bank accounts

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued a [communiqué](#) on the amendments to Annexes 1 and 2 of Circular CSSF 20/747 governing the technical details relating to the application of the Luxembourg Law of 25 March 2020 introducing a register of payment and bank accounts (CRBA).

Professionals are reminded that they are obliged to include in their data files any information enabling the identification of any natural or legal person who holds or controls, with these professionals, payment accounts or bank accounts identified by an IBAN number, within the meaning of Article 2(15) of Regulation (EU) No 260/2012 or safe-deposit boxes, in accordance with the technical instructions of Annex 2 of the circular, as long as such data (apart from the professional obligation to have such data in their books but without them necessarily being computerised yet) are available in their respective electronic systems feeding the CRBA file.

Regarding Annex 1, professionals shall no longer transmit data files on weekends in accordance with the initial instructions in part 4.1.1, paragraph 1 of this annex. They must now make this register available daily from Monday to Friday only, except on public and bank holidays in the Grand-Duchy of Luxembourg.

With regard to Annex 2, the new qualification as 'optional' of certain identification data is a qualification of an IT nature (i.e., the file will in principle be accepted in the CRBA even in the absence of these technically optional data). Legally, these data must be included in the professionals' books on the basis of Article 3 of the Luxembourg law of 12 November 2004 on the fight against money laundering and terrorist financing (AML/CTF) and Article 16 of CSSF Regulation No. 12-02 on AML/CTF. Technically, professionals have the possibility not to include the data in question in their respective data files, if the systems by which they make the required information available to the CSSF in the CRBA are not yet able to ensure that this information is included.

The CSSF has indicated that the changes described above will be visible in the CRBA test environment from 15 July 2022. Professionals are required to implement these modifications in the CRBA production environment by 15 September 2022.

The CSSF has reminded professionals that any question relating to the communiqué may be addressed to: registre.compte@cssf.lu.

Japanese FSA updates reference cases relating to permanent establishment and revises notices on tax treatment of carried interest to further facilitate entry of overseas investment managers into Japan

In response to the amendments made to the Financial Instruments and Exchange Act, which established a new entry system for overseas investment managers as special business operators during a transition period, the Financial Services Agency (FSA), upon consultation with the relevant authorities, has partially revised the [reference cases regarding the independent agent exemption](#). The independent agent is a concept to be exempted from permanent establishment taxation. The FSA has now provided a clearer view of the elements that constitute an independent agent.

In addition, the FSA has also revised the [notice regarding the tax treatment of carried interest](#) (released on 1 April 2021) relevant to individual investment managers in response to the recent regulatory developments to welcome overseas investment managers.

Hong Kong Government publishes Money Laundering and Terrorist Financing Risk Assessment Report 2022

The Hong Kong Government has published its [Money Laundering and Terrorist Financing \(ML/TF\) Risk Assessment Report 2022](#). The report examines the ML/TF threats and vulnerabilities facing various sectors in Hong Kong and the city as a whole in recent years, as well as assessing the risk of proliferation financing faced by Hong Kong.

For the securities sector, the report notes that it continues to be exposed to transnational, cross-border as well as domestic ML threats. In particular, it is also exposed to ML threats from social media investment scams in recent years. 'Nominee' and dubious investment arrangements which have been exploited for use in schemes to facilitate market misconduct or in concealing the actual beneficial ownership for other illegal purposes are newly identified as key ML vulnerabilities. Furthermore, the increased use of online and mobile trading as well as remote office arrangements during the COVID-19 pandemic also provide opportunities for criminals to abuse the sector for online fraud and theft and related ML activities.

For the local banking sector, the report concludes that it continues to face a high level of risks of being exploited for ML, which is commensurate with Hong Kong's status as an international financial centre and in line with the risks noted internationally. The most prominent ML threats to banks continue to arise from fraud, corruption and tax crimes. Major developments since 2018 are emphasised, including an accelerated rise in online commerce and financial services and widespread application of technology (e.g. remote on-boarding), especially during the COVID-19 pandemic.

For the Stored Value Facility (SVF) sector, the report concludes that it continues to face a medium level of risks of being exploited for ML, which is in line with the risks noted internationally. The most prominent ML threats to SVF licensees continue to arise from fraud and illegal bookmaking activities, mostly concentrated in certain products with more functionality and broader geographic reach. Major developments since 2018 are emphasised, including the global trend of bad actors taking advantage of the COVID-19 pandemic to perpetrate fraud and exploitation scams.

Financial institutions are reminded to identify and assess ML/TF risks to which they are exposed and to keep the assessment up-to-date, having regard to the key ML/TF threats and vulnerabilities identified in the report that are relevant to their own circumstances.

MAS consults on proposed exemptions for approved exchange and recognised market operators that provide certain clearing and settlement services

The Monetary Authority of Singapore (MAS) has launched a [consultation](#) seeking feedback on the proposed exemption for an approved exchange or recognised market operator that provides certain clearing and settlement services from being regulated as an approved clearing house (ACH) or recognised clearing house (RCH) under the Securities and Futures Act 2001.

The MAS has observed that market operators that are regulated by the MAS as approved exchanges (AE) or recognised market operators (RMO) have been providing certain post-trade services that may subject these operators to ACH or RCH regulations. However, the MAS considers that such services

rendered by them do not increase systemic risks to the wider financial system, and thus, these providers should be exempt from additional regulations.

Broadly, the consultation seeks comments on:

- the proposed exemption of an AE or RMO that conducts such post-trade services, from regulation as an ACH or RCH, by way of the proposed regulations; and
- whether the proposed regulations would provide clarity to an existing AE or RMO conducting such post-trade services (or market operators applying/intending to apply to become an AE or RMO and intend to conduct such post-trade services) on the scope and extent of regulation in respect of their business.

Comments on the consultation are due by 9 September 2022.

ARRC publishes LIBOR legacy playbook

The Alternative Reference Rates Committee (ARRC) has published its [LIBOR Legacy Playbook](#) describing the existing broad frameworks to support the transition of legacy USD LIBOR cash products. The playbook provides a compilation of relevant best practice recommendations, including:

- conducting a thorough assessment of the fallbacks that are embedded (either contractually or through legislation) in every USD LIBOR contract;
- remediating those contracts where feasible to reference SOFR before 30 June 2023 in order to minimise the operational challenges that will arise in transitioning the large number of contracts that currently reference USD LIBOR;
- adopting plans to communicate each contract's fallback with the affected parties for those USD LIBOR contracts that remain; and
- making sure sufficient resources are allocated to ensure that these rate changes are successfully put into effect.

The ARRC's recommendations are voluntary, and the ARRC notes that market participants must each make their own independent decisions about how best to transition their existing contracts to an alternative rate upon the cessation of USD LIBOR.

In addition to best practice recommendations, the LIBOR Legacy Playbook includes a compilation of ARRC publications and other available reference material meant to assist market participants in ensuring that the transition from USD LIBOR is operationally successful.

RECENT CLIFFORD CHANCE BRIEFINGS

NYDFS penalizes cruise ship operator for failing to prevent and timely report cyberattacks

On 23 June 2022, the New York Department of Financial Services (NYDFS) issued a consent order finding that cruise ship operator Carnival Corporation violated the Department's cybersecurity regulation by failing to implement required policies and procedures as well as report several cyber incidents that the company experienced. The enforcement action signals NYDFS's determination to ensure all licensed entities including victims of cyberattacks

fully protect sensitive customer and employee data by rigorously adhering to NYDFS's cybersecurity regulation.

This briefing paper discusses the consent order and cybersecurity regulation.

<https://www.cliffordchance.com/briefings/2022/07/nydfs-penalizes-cruise-ship-operator-for-failing-to-prevent-and-.html>

Distressed cryptoassets – enforcement of security interests, restructuring, and bankruptcy

The market for cryptoassets has grown enormously since Bitcoin was launched in 2009, nearly reaching USD 3 trillion total market capitalisation by November 2021 according to CoinMarketCap. In recent months, however, the crypto market has declined by an estimated USD 2 trillion. Liquidity and solvency concerns have emerged for certain crypto businesses.

This briefing paper discusses the crypto market and the legal and practical concerns associated with the treatment of cryptoassets in a distressed scenario.

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