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EU accedes to Hague Judgments Convention

The EU has [deposited](#) its instrument of accession to the [Convention of 2 July 2019](#) on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (the Hague Judgments Convention).

The Hague Judgments Convention sets out an international legal regime aimed at achieving greater predictability and certainty in relation to the circulation of the judgments of contracting states. The EU's accession enables the recognition and enforcement of judicial decisions from EU Member States in all contracting states and will also reciprocally enable the recognition and enforcement of judicial decisions from non-EU contracting states within the EU, with the exception of cases involving non-residential leases (tenancies) of immovable property situated in the EU as such matters fall under the exclusive jurisdiction of EU courts under the Brussels I Regulation (recast).

Alongside the EU's accession, Ukraine deposited its instrument of ratification of the Convention. As the Convention now has two contracting parties, it will

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enter into force on 1 September 2023. Once in force, all EU Member States except Denmark will be bound by the Convention. It has also been signed by Costa Rica, Israel, Russia, the United States and Uruguay.

EBA reports on anti-money laundering and counter-terrorist financing colleges

The European Banking Authority (EBA) has published its [second report](#) on the functioning of anti-money laundering and counter-terrorist financing (AML/CFT) supervisory colleges in the EU.

The report finds that, although competent authorities are committed to implementing the AML/CFT colleges framework, they need to do more to ensure ongoing collaboration and proactive information exchange within colleges.

The report sets out findings and observations from EBA staff participation in AML/CFT college meetings and from its monitoring activities. The EBA sets out its observations of good practices with an aim to help competent authorities to enhance their effectiveness in future. These include well-structured and organised college meetings by lead supervisors, pro-active participation and sharing of comprehensive information by some members and an effective involvement of prudential supervisors in some colleges.

The report also highlights areas for improvement. In particular, it points out that, due to their immaturity, AML/CFT colleges are not yet fully embedded in supervisory processes. The EBA reminds supervisors of the importance of exchanging information in colleges on an ongoing basis and without delay, particularly where material weaknesses in the institution's AML/CFT framework have been identified. The report also emphasises the need for colleges to be organised in a more risk-sensitive manner, with more frequent meetings being held for those cross-border institutions that are exposed to higher risks of ML/TF.

ECB appoints independent expert group to review SREP

The European Central Bank (ECB) has [announced](#) that it has appointed a group of experts responsible for assessing and making recommendations to the ECB on its annual supervisory review and evaluation process (SREP). The group, comprising five independent experts on banking supervision, has been tasked with:

- engaging with relevant stakeholders and other international experts to gather information and perspectives on supervisory best practices;
- reviewing the effectiveness and efficiency of the SREP and how it relates to other supervisory processes; and
- providing recommendations and input to the ECB on the functioning of the SREP.

The group's mandate runs until the end of the first quarter of 2023.

IOSCO publishes report on protecting investors against fraud and greenwashing

The Board of the International Organization of Securities Commissions (IOSCO) has published a [report](#) identifying recent developments in investor education on sustainable finance, with a view to enhancing investor education and protection and supporting the development of the growing market.

The report suggests that securities regulators are increasingly focused on whether sustainable finance claims are accurate and if investors have the information, they need to evaluate sustainable finance products. Educational activities that regulators should consider, according to the report, include:

- explaining to retail investors how to obtain sustainability-related information and how to search and understand whether the offered product(s) match their sustainability-related preferences; and
- supporting initiatives of market participants to help retail investors understand ESG certifications, labels and scores regarding the financial products offered to individuals and encouraging and/or facilitating training that helps financial advisors better understand greenwashing and how to protect investors against unsubstantiated or misleading sustainability claims.

ICE BA consults on potential cessation of ICE Swap Rate based on USD LIBOR

ICE Benchmark Administration (IBA) has launched a [consultation](#) on its intention to cease the publication of all ICE Swap Rate settings based on USD LIBOR.

Following the Financial Conduct Authority's (FCA's) announcement on 5 March 2021 regarding the future cessation and loss of representativeness of USD LIBOR, IBA does not expect sufficient data required to calculate USD LIBOR ICE Swap Rate settings (i.e. data based on eligible interest rate swaps referencing USD LIBOR settings) to be available after 30 June 2023.

IBA is consulting on its intention to cease the publication of all USD LIBOR ICE Swap Rate benchmark runs (i.e. USD LIBOR Rates 1100, USD LIBOR Spreads 1100 and USD LIBOR 1500) for all tenors immediately after publication on 30 June 2023.

Comments are due by 7 October 2022.

IBA states that this consultation is not an announcement that IBA will cease or continue the publication of USD LIBOR ICE Swap Rate, or any other ICE Swap Rate settings after 30 June 2023, or any other date.

FCA publishes Quarterly Consultation No.37

The FCA has published its latest [quarterly consultation paper](#) (CP22/17).

CP22/17 proposes miscellaneous amendments to the FCA Handbook, including changes to:

- the Glossary of Definitions, Decisions Procedure and Penalties Manual (DEPP), Collective Investment Schemes Sourcebook (COLL) and Enforcement Guide (EG) to reflect amendments made to the individually recognised overseas collective investment schemes (CIS) regime under s.272 of the Financial Services and Markets Act 2000, together with other minor changes to COLL to reflect the UK's withdrawal from the EU (Chapter 2);
- reporting requirements in the Supervision Manual (Chapter 3);
- the Perimeter Guidance Manual (PERG), Consumer Credit Sourcebook (CONC) and Mortgage and Home Finance Conduct of Business Sourcebook (MCOB) to align with recent changes to the regulatory

perimeter in respect of credit agreements entered into with high net worth borrowers (Chapter 4); and

- the definition of a 'significant SYSC firm' to improve clarity (Chapter 5).
- Responses are due by 26 September 2022 for the proposals in Chapters 4 and 5, 3 October 2022 for those in Chapter 3, and 10 October 2022 for those in Chapter 2.

OFSI updates financial sanctions guidance to reflect expanded reporting requirements

The Office of Financial Sanctions Implementation (OFSI) has published an [updated version](#) of its general guidance on financial sanctions. The guidance has been updated to reflect certain expanded reporting requirements and to make other minor amendments.

Among other things, the updates:

- clarify the list of firms and institutions that are required to inform OFSI as soon as practicable if they know, or reasonably suspect, a person is a designated person or has committed offences under financial sanctions regulations. This list includes, for the first time, cryptoasset exchange providers and custodian wallet providers;
- add a requirement that relevant institutions inform OFSI if they credit a frozen or relevant account after receiving funds transferred to it for that purpose; or transfer funds from a frozen or relevant account to an account with a ring-fenced body when both accounts are held or controlled by the same designated person;
- expand the definition of 'designated persons' to include ships, as well as individuals and entities;
- add a reference to the Foreign, Commonwealth and Development Office's UK Sanctions List;
- include details of OFSI's powers to authorise the disclosure of relevant information to HM Treasury and other relevant public authorities; and
- add guidance on OFSI's annual frozen assets review.

BaFin consults on reciprocal application of Dutch residential property-related macroprudential measure

The German Federal Financial Supervisory Authority (BaFin) has launched a [consultation](#) on a general decree (Allgemeinverfügung) it intends to issue pursuant to section 48t para 4 of the German Banking Act (Kreditwesengesetz) in order to recognise and apply a macroprudential measure relating to residential property introduced by De Nederlandsche Bank (DNB) pursuant to Article 458 of the Capital Requirements Regulation (CRR).

BaFin intends to apply the recognised measure to the effect that an average minimum risk weight is to be applied by IRB-approach-institutions with respect to their risk exposures vis-à-vis natural persons secured by mortgages over residential real estate located in the Netherlands, to the extent that such risk exposures exceed a certain threshold.

The main objective of the measure introduced by DNB is to ensure that all banks that play a role in Dutch mortgage lending are protected against a possible severe downturn in the Dutch real estate market. The reciprocal

recognition and application of the measure by BaFin implements a recommendation of the European Systemic Risk Board (ESRB) of 16 February 2022.

Comments are due by 12 September 2022.

CNMV issues circular on prospectus for collective investment schemes and registration of KIDs

The Spanish National Securities Market Commission, the Comisión Nacional del Mercado de Valores (CNMV), has enacted a [new Circular \(3/2022\)](#) regulating the format and content of the prospectus for CIS and the registration procedure for CIS' key information documents (KIDs) to be drawn up in accordance with the EU Regulation on key information documents for packaged retail and insurance-based investment products (PRIIPs Regulation). As a consequence, the Circular repeals Circular 2/2013, dated 9 May, on the key investor information document and prospectuses of CIS.

Circular 3/2022 is intended to:

- adapt Spanish domestic legislation to the KID regulated under the PRIIPs Regulation;
- regulate, among other aspects, the format, content, filing procedure and the updating obligations in relation to CIS' prospectuses;
- align the content of CIS' prospectuses with that of other EU Member States; and
- regulate the registration procedure with the CNMV of CIS' prospectuses and their corresponding KIDs.

Circular 3/2022 will enter into force on 1 January 2023.

MAS revises compliance toolkit for financial advisers

The Monetary Authority of Singapore (MAS) has published a [revised version of the compliance toolkit](#) to guide and facilitate financial advisers' compliance with the various MAS approval and reporting requirements and timelines.

The compliance toolkit has been revised mainly to:

- add Financial Advisers (Complaints Handling and Resolution) Regulations 2021 (FA(CHR)R) to the list of key legislative and regulatory requirements covered;
- add Question 20 pertaining to submission of statement of placement of direct life insurance business handled;
- revise the mode of submission for semi-annual balanced scorecard framework reports in Question 21 and Question 34;
- add Question 23 and Question 36 pertaining to submission of biannual reports under FA(CHR)R; and
- revise the mode of submission and remove legislative reference to Regulation 23 of the Financial Advisers Regulations (FAR) in Question 32 pertaining to submission of statement of placement of direct life insurance business handled.

RECENT CLIFFORD CHANCE BRIEFINGS

The EU Pilot Regime — accelerating the development of a digital capital market in Europe

From 23 March 2023, for an initial three year period, operators of DLT market infrastructures will be given the opportunity under the EU Pilot Regime to experiment with the use of DLT in issuance and post-trade processes, free from certain regulatory constraints. This is expected to give rise to an increase in the volume of issuances of financial instruments that are issued, recorded, transferred and stored using DLT in Europe.

This briefing paper is the fourth edition of the Clifford Chance monthly European capital markets briefing series, discussing this recent development.

The key points discussed in the briefing are:

- who can benefit from the EU Pilot Regime?
- what EU financial services legislation can be disapplied?
- what are the conditions attached to participation in the EU Pilot Regime?
- what are the next steps?

<https://www.cliffordchance.com/briefings/2022/09/the-eu-pilot-regime-accelerating-the-development-of-a-digital-c.html>

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