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Digital finance: EU Council adopts DORA

The EU Council has formally approved the [Digital Operational Resilience Act](#) (DORA) and the [DORA Amending Directive](#). This follows the EU Parliament formally adopting the two pieces of legislation on 10 November 2022.

DORA is intended to establish a uniform set of requirements for the security of network and information systems of companies and organisations operating in the financial sector, as well as any critical third parties which provide information communication technologies services to them. It is part of the EU Commission's wider digital finance strategy which was published in September 2020.

The texts still need to be published in the Official Journal, which is expected in December 2022 or January 2023. DORA will come into effect on the twentieth day following the day on which it is published in the Official Journal. It will apply, with direct effect, 24 months from the date on which it enters into force. Therefore, it is expected that DORA will apply to in-scope firms from late 2024 or early 2025 at the latest.

EU Council adopts revised cybersecurity directive

The EU Council has formally [approved](#) the legislative text of a directive repealing and replacing the Directive (EU) 2016/1148 on security of network and information systems (NIS 2).

NIS 2 aims to remove divergences among Member States' cybersecurity requirements by:

- setting out minimum rules regarding the functioning of a coordinated regulatory framework;
- laying down mechanism for effective cooperation among national authorities;
- extending the list of sectors and activities subject to cybersecurity obligations; and
- providing remedies and enforcement measures.

The EU Parliament formally adopted the directive on 10 November 2022.

The directive will enter into force 20 days following its publication in the Official Journal.

Sustainable finance: EU Council adopts Corporate Sustainability Reporting Directive

The EU Council has formally [approved](#) the Corporate Sustainability Reporting Directive (CSRD).

The CSRD amends the Non-financial Reporting Directive (NFRD) to introduce more detailed reporting requirements for companies on how their business model affects their sustainability and on how external sustainability factors influence their activities.

The EU Parliament formally adopted the directive on 10 November 2022.

The regulation will enter into force 20 days following its publication in the Official Journal and will start applying in four stages:

- reporting in 2025 on the financial year 2024 for companies already subject to the NFRD;
- reporting in 2026 on the financial year 2025 for companies that are not currently subject to the NFRD;
- reporting in 2027 on the financial year 2026 for listed SMEs except micro undertakings, small and non-complex credit institutions and captive insurance undertakings; and
- reporting in 2029 on the financial year 2028 for third-country undertakings.

EU Council adopts foreign subsidies regulation

The EU Council has formally [approved](#) the regulation on foreign subsidies distorting the internal market.

The regulation aims to remedy the potential distortive effects of foreign subsidies by establishing a framework for the Commission to examine any economic activity benefiting from a subsidy granted by a non-EU country on the internal market.

The EU Parliament formally adopted the regulation on 10 November 2022.

The regulation will enter into force 20 days following its publication in the Official Journal.

Consumer Credit Directive 2: EU Council and Parliament reach provisional agreement

The EU Council and the EU Parliament have [reached](#) a provisional agreement on the proposed directive on consumer credits, repealing and replacing Directive 2008/48/EC (the Consumer Credit Directive).

The proposed directive is intended to protect consumers online from credit card debt, overdrafts and loans that are unsuitable for their financial situation.

The provisional agreement is subject to approval by the Council and Parliament before being formally adopted and published in the Official Journal.

EMIR: Delegated Regulations to provide liquidity relief on energy derivatives markets published in OJ

Two Delegated Regulations amending regulatory technical standards (RTS) under the European Market Infrastructure Regulation (EMIR) in response to the current energy crisis have been published in the Official Journal.

[Delegated Regulation \(EU\) 2022/2311](#) broadens the list of eligible assets that central counterparties (CCPs) may accept to cover their risks for one year, allowing non-financial companies as well as all market participants to use extra types of guarantees for meeting their margin calls.

[Delegated Regulation \(EU\) 2022/2310](#) increases the clearing threshold for positions held in OTC commodity derivatives from EUR 3 billion to EUR 4 billion.

Both Delegated Regulations entered into force on 29 November 2022.

CRR: RTS on residual risk add-on under alternative standardised approach for market risk published in Official Journal

[Delegated Regulation \(EU\) 2022/2328](#) supplementing the Capital Requirements Regulation (CRR) with regard to RTS specifying exotic underlyings and the instruments bearing residual risks for the purposes of the calculation of own funds requirements for residual risks has been published in the Official Journal.

Under the CRR, firms using the alternative standardised approach (ASA) to market risk are required to calculate the residual risk add-on (RRAO). The RRAO is intended to provide simple and conservative capital treatment for any risks that are not covered by the other elements of the ASA. This means that instruments referencing an exotic underlying or instruments bearing other residual risks are subject to the RRAO treatment.

The RTS specify:

- what an exotic underlying is and that longevity risk, weather, natural disasters and future realised volatility should be considered as exotic underlyings;
- which instruments are instruments bearing residual risks; and
- risks that, in themselves, do not constitute residual risks.

Delegated Regulation (EU) 2022/2328 will enter into force on 19 December 2022.

CRR: EU Commission adopts amendments to ITS on public disclosures as regards ESG risks

The EU Commission has adopted an [Implementing Regulation](#) amending the implementing technical standards (ITS) laid down in Commission Implementing Regulation (EU) 2021/637 as regards the disclosure of environmental, social and governance (ESG) risks.

Commission Implementing Regulation (EU) 2021/637 sets out ITS on the public disclosure by institutions of the information required under Titles II and III of Part Eight of the CRR. The newly adopted Implementing Regulation adds to these existing uniform disclosure formats and associated instructions by setting out additional uniform disclosure formats and associated instructions for the disclosures of ESG risks.

The Implementing Regulation will enter into force 20 days following its publication in the Official Journal, which is expected on 19 December 2022.

Benchmarks Regulation: ESMA amends and consults on RTS for benchmark administrator applications

The European Securities and Markets Authority (ESMA) has published a [final report](#) on the review of the RTS on the form and content of applications for recognition by non-EU benchmark administrators, and a consultation on amendments to the RTS on the information that EU benchmark administrators need to provide in applications for authorisation and registration.

ESMA's report includes draft RTS that are intended to align the information provided in a recognition application with the amended EU Benchmarks Regulation (BMR) following the transfer of direct supervisory responsibilities to ESMA. The draft RTS are intended to ensure that applications include all necessary information in order for ESMA to assess whether the applicant meets BMR requirements.

ESMA has also launched a [consultation](#) seeking views on proposed changes to the RTS on authorisation and registration. The aim is to safeguard equal treatment between EU and non-EU benchmarks administrators by aligning the information requested in applications from EU administrators with the information requested in recognition applications from non-EU administrators.

The draft RTS on recognition will be sent to the EU Commission for endorsement. The EU Commission has three months to decide whether to endorse the RTS.

Comments on the consultation are due by 31 January 2023. ESMA intends to publish a final report and submit the draft RTS on authorisation and registration to the EU Commission for endorsement in Q1 2023.

Money market funds: ESMA updates stress test guidelines

ESMA has published a [final report](#) setting out the 2022 update of its guidelines on stress test scenarios under the Money Market Funds (MMF) Regulation.

The 2022 update includes new risk parameters in section 5, where shocks have been calibrated to severe, plausible and consistent with the uncertainty about the economic consequences of the Russian invasion of Ukraine, geopolitical tensions and the COVID-19 pandemic.

The [European Systemic Risk Board \(ESRB\) adverse scenario](#) for the guidelines has also been published.

The 2022 guidelines will apply two months after the publication of official EU language translations on ESMA's website.

CPMI and IOSCO report on financial market infrastructures' cyber resilience

The Bank for International Settlements' Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) have published an [assessment](#) showing reasonably high adoption of their cyber guidance by financial market infrastructures (FMIs).

The report presents the results of an assessment of the state of cyber resilience as of February 2021 at 37 FMIs from 29 jurisdictions. The Level 3 assessment covered all FMI types, including systemically important payment systems, central securities depositories, securities settlement systems, central counterparties, and trade repositories.

The report finds one serious issue of concern relating to a small number of FMIs which have not yet developed their cyber response and recovery plans to meet the two-hour recovery time objective (2hRTO).

The report also highlights four issues of concern among some of the assessed FMIs:

- shortcomings in established response and recovery plans for meeting the 2hRTO under extreme cyber-attack scenarios;
- a lack of cyber resilience testing after a significant system change;
- a lack of comprehensive scenario-based testing; and
- inadequate involvement of relevant stakeholders in testing of their responses.

The CPMI and IOSCO urge the relevant FMIs and their supervisors to address these issues with the highest priority.

Financial Services and Markets Act 2000 (Qualifying Provisions) (Amendment) Order published

[The Financial Services and Markets Act 2000 \(Qualifying Provisions\) \(Amendment\) Order](#) (SI 2022/1252) has been made and laid according to the negative procedure.

SI 2022/1252 amends the Financial Services and Markets Act 2000 (Qualifying Provisions) Order 2013 (SI 2013/419) (QUPO) to enable the appropriate regulator to take enforcement action for breaches of requirements established by rules under the UK PRIIPs Regulation, UK MiFIR and UK EMIR.

Unless annulled by Parliament, SI 2022/1252 comes into force on 1 January 2023.

Central Counterparties (Transitional Provision) (Extension and Amendment) Regulations 2022 published

[The Central Counterparties \(Transitional Provision\) \(Extension and Amendment\) Regulations 2022](#) (SI 2022/1244) have been made and laid according to the negative procedure.

The Regulations extend the temporary recognition regime (TRR) for overseas CCPs by 12 months, so that the expiry date falls on 31 December 2024. This will allow overseas CCPs currently in the regime to continue to offer clearing services in the UK whilst they wait for their applications for recognition to be determined by the Bank of England (BoE).

The Regulations also extend the transitional regime for qualifying CCPs (QCCPs) contained within the CRR by an additional year so that overseas CCPs from a non-equivalent jurisdiction, which have applied for recognition in the UK, will benefit from QCCP status for three years after the date of submitting their application, rather than two.

Unless annulled by Parliament, the Regulations will come into force on 22 December 2022.

UK EMIR: BoE publishes final policy on fees for non-UK CCPs and CSDs

The BoE has published its [final policy on the fee regimes for non-UK CCPs](#) (incoming CCPs) and [non-UK central securities depositories](#) (incoming CSDs).

Following the conclusion of the BoE's two consultations on the regimes in September 2022, the publication of the final policy completes the policy framework to enable the BoE to recognise these types of firms.

The policy for both fee regimes applies from 1 December 2022, in line with the implementation date for its policy on tiering and comparable compliance in respect of incoming CCPs.

PRA and HM Treasury consult on implementation of Basel 3.1

The Prudential Regulation Authority (PRA) has launched a [consultation](#) (CP16/22) setting out its proposed rules and expectations covering the parts of the Basel III standards that remain to be implemented in the UK (Basel 3.1).

The proposals would implement the final package of banking prudential reforms developed by the Basel Committee on Banking Supervision (BCBS) in response to the global financial crisis and make significant changes to the way firms calculate risk-weighted assets (RWAs) for the purposes of calculating risk-based capital ratios.

CP16/22 sets out the PRA's proposed rules and expectations with respect to the implementation of the Basel 3.1 standards, including:

- a revised standardised approach for credit risk;
- revisions to the internal ratings based approach for credit risk;
- revisions to the use of credit risk mitigation techniques;
- removal of the use of internal models for calculating operational risk capital requirements, and a new standardised approach to replace existing approaches;

- a revised approach to market risk;
- the removal of the use of internal models for credit valuation adjustment risk, replaced by new standardised and basic approaches; and
- the introduction of an aggregate ‘output floor’ to ensure total RWAs for firms using internal models and subject to the floor cannot fall below 72.5% of RWAs derived under standardised approaches, to be phased in over five years.

The PRA has also [proposed](#) revised criteria (Simpler-regime criteria) for determining which firms would be in scope of the strong and simple prudential framework that the PRA is developing. The revised criteria reflect feedback received to the PRA’s April 2022 consultation (CP5/22).

In CP16/22, the PRA proposes that firms meeting the Simpler-regime criteria would not have to apply the Basel 3.1 standards for the calculation of capital ratios. Instead, such firms can choose to enter into a transitional interim regime that is substantively the same as the existing regime under the UK CRR. If firms make this choice, the interim regime would apply while the PRA is developing the intended permanent capital framework for the simpler regime.

The PRA intends to consult on the first batch of measures that will apply to Simpler-regime firms in early 2023. The PRA also intends to consult separately on simplifying remuneration requirements for material risk takers at small firms that were introduced as part of the Capital Requirements Directive V.

Comments on CP16/22 are due by 31 March 2023.

The PRA’s proposed implementation date for the changes resulting from CP16/22 would be 1 January 2025, with transitional arrangements that give firms time to adjust to the new framework.

HM Treasury has launched a related consultation on the technical and legislative changes necessary to facilitate the PRA’s implementation of Basel 3.1. HM Treasury’s is also asking for views on improving aspects of the UK CRR, particularly in terms of equivalence, resolution and overseas exchanges.

Comments on HM Treasury’s consultation are due by 31 January 2023.

PRA publishes final policy on identifying O-SIIs and confirms freezing of O-SII buffer rates

The PRA has published a [policy statement](#) (PS9/22) containing its final policy regarding amending its approach to identifying other systematically important institutions (O-SIIs) and a statement on freezing O-SII buffer rates.

This follows a consultation (CP13/22) launched in July 2022. PS9/22 sets out the PRA’s final policy and updates as a result:

- the statement of policy ‘The PRA’s approach to identifying other systematically important institutions (O-SIIs)’ (Appendix 1); and
- the list of EU Guidelines in the Annex of the statement of policy ‘Interpretation of EU Guidelines and Recommendations: BoE and PRA approach after the UK’s withdrawal from the EU’ (Appendix 2).

The implementation date is 29 November 2022. The PRA has also published the [2022 list of firms designated as O-SIIs](#) under the updated policy.

The PRA has also published a [statement](#) confirming its decision to continue to freeze firms' O-SII buffer rates in 2022. O-SII buffer rates will be maintained at 2019 levels. The PRA intends to assess rates in 2023 based on the updated Financial Policy Committee framework for the O-SII buffer published in May 2022.

PRA publishes policy statement on depositor protection

The PRA has published a [policy statement](#) (PS10/22) setting out its final rules on depositor protection.

This follows a consultation (CP9/22) launched in September 2022.

PS10/22 sets out the PRA's final rules, including:

- amendments to the Depositor Protection Part of the PRA Rulebook (Appendix 1: Annex A);
- the deletion of the Dormant Account Scheme (DAS) Part of the PRA Rulebook (Appendix 1: Annex B); and
- the deletion of the DAS Statement of Policy.

CP9/22 contained a number of other proposals, including consequential amendments to the PRA's supervisory statement (SS18/15) 'Depositor and dormant account protection', which are subject to a longer consultation period ending on 16 December 2022. The PRA plans to reflect all of the changes to SS18/15 resulting from the CP9/22 consultation process, including those to reflect changes to the continuity of access (COA) and DAS Rules that are set out in PS10/22, after the whole CP9/22 process has concluded.

The changes to the COA and DAS Rules came into effect on 30 November 2022. The DAS Statement of Policy was also deleted on 30 November 2022. The consequential changes to SS18/15 to reflect the changes introduced by these rules will come into effect during 2023.

FCA warns CFD providers of harm to consumers

The Financial Conduct Authority (FCA) has outlined its expectations of firms offering contracts for difference (CFDs) in a [letter](#) to firms' CEOs.

The letter emphasises that CFDs are highly leveraged derivatives and adverse price movements in relevant markets can lead to substantial losses for consumers. It also reiterates a number of concerns around firms causing harm to UK consumers including examples of fake celebrity endorsements, the use of pressure-sales tactics to persuade people to invest increasing amounts of money, and firms giving investment advice without authorisation.

The FCA has set out the standards that it expects CFD firms to demonstrate in order to protect consumers and ensure market integrity. It expects all firms to have agreed actions and next steps in response to the concerns set out in the letter by January 2023 and in advance of the new consumer duty coming into force.

The FCA has also reminded consumers considering investing in CFDs to:

- check the Financial Services Register to see if the firm being dealt with is FCA-authorised;
- check the FCA's unauthorised firms and individuals page and search the warning list for names;

- think carefully before choosing to opt in for professional client status as the consumer will lose the protections FCA rules provide retail consumers; and
- think carefully before choosing to deal with an overseas firm which might not provide retail consumers the same protections as FCA rules.

Ordinances on material outsourcing notification obligation enter into force

The following two amending ordinances relating to notification obligations regarding material outsourcings have been published in the Federal Law Gazette and entered into force on 29 November 2022:

- [the Fourth Ordinance Amending the Notification Ordinance](#) (AnzV); and
- [the Second Ordinance Amending the Payment Services Supervision Act Notification Ordinance](#) (ZAGAnzV).

The amending ordinances provide further detail on the obligation to notify the German Federal Financial Supervisory Authority (BaFin) and Deutsche Bundesbank of material outsourcings under, for credit institutions and financial services institutions, section 24 para 1 no 19 of the German Banking Act (KWG) and, for payment institutions and e-money institutions, section 26 paras 2, 4 and section 28 para 1 no 10 of the Payment Services Supervision Act (ZAG). These notification obligations were introduced and extended respectively by way of the Financial Market Integrity Strengthening Act of 3 June 2021. They are intended to provide supervisors with a comprehensive overview of the outsourced activities and processes of supervised institutions.

In addition to specifying the information required to fulfil the respective notification obligation, the amending ordinances also stipulate that notifications are to be submitted electronically via BaFin's Reporting and Publication Platform (MVP).

Buy now pay later: Bank of Italy issues statement

The Bank of Italy has [issued](#) a communication drawing consumers' attention to the most popular forms of 'Buy Now Pay Later' in the Italian market, focusing on the risks and protections afforded to consumers by banking transparency regulations.

The Bank of Italy has emphasised that there are currently no specific rules to regulate the rapidly evolving phenomenon of BNPLs either at the EU or national level. Therefore, the applicable discipline and related protections depend on how specifically the transaction is configured.

Even though BNPL does not qualify as consumer credit under the Italian Consolidated Banking Act (TUB), the general framework of transparency regulations under Article 115 of the TUB remains applicable to banks and intermediaries.

The Bank of Italy also expects that, in the context of the preparation of the new Consumer Credit Directive (CCD2), the EU Commission will regulate BNPL, introducing specific rules on, amongst other things, information to be provided to consumers about the terms of the product and creditworthiness checks to help reduce the risk of customers becoming over-indebted.

CNMV updates Q&A on documentation requested for public offerings or admission to trading of securities on a regulated market

The Spanish Securities Market Commission (CNMV) has decided to cease requesting certain documentation for its public offering and listing files.

The CNMV's [Q&A document](#) on the regime for prospectuses to be published when securities are offered to the public or admitted to trading on a regulated market dated January 2021 has therefore been updated to incorporate a new section 9 relating to the documentation to be presented for these purposes.

FINMA publishes guidance on climate risk disclosures

The Swiss Financial Market Supervisory Authority (FINMA) has [guidance](#) on the disclosure of climate-related financial risks by the largest banks and insurance companies.

Large financial institutions must describe their significant climate-related financial risks in accordance with Circulars 2016/1 'Disclosure – banks' and 2016/2 'Disclosure – insurers', including the impact of climate risks on the business and risk strategy as well as their effects on existing risk categories. They must also disclose the risk management structures and processes they use to identify, measure and address risks.

FINMA has now analysed the first disclosures on climate-related financial risks that were included in the institutions' annual reporting on the financial year 2021. In its guidance, FINMA sets out the key findings from these disclosures and shares them with all supervised banks and insurance companies. Certain findings may also be helpful for institutions that voluntarily disclose their climate risks or are preparing for this step.

HKEX publishes review findings on issuer's ESG disclosures reports

The Stock Exchange of Hong Kong Limited (SEHK), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (HKEX), has published the [findings](#) of its latest review of issuers' ESG disclosures. The review focuses on the requirements that came into effect in July 2020 as set out in the SEHK's ESG Reporting Guide (ESG Rules), with an emphasis on the boards' ESG governance and management of climate-related risks.

Based on its review findings, the SEHK has published the following key recommendations:

- on board governance of ESG issues, the SEHK notes that monitoring the progress against ESG targets is key to the board's evaluation of the effectiveness of the measures taken. Disclosure of information on the board's progress review, and the results of the review, are required under the ESG Rules;
- on climate change, the SEHK encourages issuers to commence the planning and building of the necessary infrastructure and systems for enhanced climate reporting requirements in the future;
- on social issues, the SEHK notes that supply chains play an important role to operating a 'sustainable business'. Issuers should include in their ESG reports information on supply chain risk management and green procurement practices; and

- on reporting practices, the SEHK notes that ESG reports covering financial years commencing on or after 1 January 2022 should be published at the same time as annual reports. Issuers who are yet to align the publication of their ESG reports with annual reports should pay particular attention to the new deadlines.

HKMA issues additional guidance on protection against distributed denial-of-service attacks

The Hong Kong Monetary Authority (HKMA) has issued a [circular](#) to provide additional guidance to authorised institutions (AIs) on protection against distributed denial-of-service (DDoS) attacks. Referring to its Supervisory Policy Manuals (SPMs) TM-E-1 on risk management of e-banking and TM-G-1 on general principles for technology risk management, the HKMA reminds AIs to implement adequate controls to safeguard their networks and systems against disruptions.

The additional guidance follows the HKMA's findings of a round of thematic reviews to assess the effectiveness of the anti-DDoS protective measures maintained by AIs. The guidance of the HKMA is grouped under four key principles:

- undertaking regular risk assessments and vulnerability management;
- designing the architecture of anti-DDoS controls properly;
- maintaining effective governance over service providers and putting in place robust contingency arrangements; and
- establishing proper incident response procedures and conducting regular rehearsal exercises.

The additional guidance is intended to complement the HKMA's supervisory expectations in relation to the management of DDoS attacks. The HKMA expects AIs to take into account the additional guidance in their regular assessments of the effectiveness of their anti-DDoS protection.

HKMA issues adjustments to proposals on Basel III final reform package implementation

The HKMA has [announced](#) adjustments to its policy intent for implementing the revised capital standards under the Basel III final reform package. To allow more time for the industry to prepare for the necessary system changes and the regulatory data reporting standards, the implementation timeline will be revised. In particular:

- the implementation date of those standards associated with credit risk, operational risk, the output floor and the leverage ratio will be adjusted from 1 July 2023 to a date no earlier than 1 January 2024; and
- the new standards for market risk and credit valuation adjustment risk will, as previously communicated, take full effect on a date no earlier than 1 January 2024. However, the reporting-only period for these two standards will be shifted from 1 July 2023 to 1 January 2024.

To align more closely with the Basel requirements, the HKMA has incorporated the following adjustments:

- for the output floor phase-in arrangement to follow more closely that of the Basel package, having regard to the arrangements adopted by other major

jurisdictions. The HKMA has indicated that it will subsequently consult the industry on the proposed phase-in schedule; and

- for the minimum loan-to-valuation based risk-weight of residential real estate exposures under the revised standardised approach to follow that of the Basel package. Having regard to this latest calibration, and the target output floor level of 72.5% under the package, the HKMA considers that for authorised institutions with approval to use the internal ratings-based (IRB) approach, a risk-weight floor of 15% for this type of exposures would more appropriately reflect such calibration. The HKMA intends to notify authorised institutions using the IRB approach that the 15% risk-weight floor will apply to the relevant exposures

HKMA welcomes launch of credit reference platform

The Hong Kong Association of Banks, the Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies and the Hong Kong S.A.R. Licensed Money Lenders Association Limited have [jointly announced](#) the launch of the Credit Reference Platform (CRP). The HKMA has been working closely with these industry associations to introduce more than one consumer credit reference agency (CRA) in Hong Kong through the CRP, with a view to enhancing the service quality of consumer credit reference agencies and reducing the operational risk of having only one commercially run service provider in the market. The multiple CRAs model is intended to align with the 'Fintech 2025' strategy in creating the next-generation data infrastructure and drive fintech developments in Hong Kong.

In line with the above development, the HKMA has issued a circular announcing 28 November 2022 as the effective date of the revised Supervisory Policy Manual (SPM) Module IC-6 on the sharing and use of consumer credit data through credit reference agencies. To ensure a smooth transition to the multiple CRAs model, the HKMA has reminded authorised institutions to take timely actions for participation in the initial data load and data validation processes as scheduled and follow the advice of the industry associations, platform operator and business operator of the CRP issued from time to time.

SFC consults on risk management guidelines for futures dealing activities

The Securities and Futures Commission (SFC) has published a [consultation paper](#) on proposed risk management guidelines for licensed futures brokers. The proposed guidelines will apply to all licensed corporations which are licensed for Type 2 regulated activity (dealing in futures contracts).

The proposed guidelines mainly include qualitative requirements for the control and management of key risks arising from futures dealing activities. The key proposals include requiring futures brokers to set prudent client risk limits and comply with additional requirements relating to commodity futures. They would also be required to conduct due diligence reviews of executing or clearing agents, safeguard client assets more properly, and put in place controls relating to trading in futures markets and handling client assets outside Hong Kong.

According to the SFC, most of the requirements incorporate existing industry risk management practices or elaborate on the practical application of existing

requirements in the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

Comments on the consultation are due by 31 January 2023.

MAS and Bank of Japan renew bilateral local currency swap arrangement

The Monetary Authority of Singapore (MAS) and the Bank of Japan (BOJ) have [announced](#) the renewal of their bilateral local currency swap arrangement for a further term of three years.

Established in November 2016 and renewed in November 2019, the arrangement allows the two central banks to exchange local currencies with each other up to SGD 15 billion or JPY 1.1 trillion. Through the arrangement, the MAS will be able to provide Japanese Yen liquidity to eligible Singapore financial institutions to support their cross-border operations.

MAS publishes compliance toolkits for captive insurers, special purpose reinsurance vehicles, merchant banks, wholesale banks and full banks

The MAS has [published](#) compliance toolkits for captive insurers and special purpose reinsurance vehicles (SPRVs) on the various MAS approvals and reporting requirements and timelines.

In addition, the MAS has published the following toolkits for wholesale banks, full banks, and merchant banks to guide them on:

- application for approvals from the MAS;
- notifications to be submitted to the MAS; and
- regulatory submissions to the MAS (e.g. financial returns), as applicable.

The MAS expects merchant banks, wholesale banks and full banks to be familiar with all legislation and regulatory requirements that are applicable to them, specifically in the following manner:

- banks conducting regulated activities under the Securities and Futures Act (SFA) 2001 (termed as Exempt CMS entities) are to refer to Section B of the Compliance Toolkit for Approvals, Notifications and Other Regulatory Submissions to MAS (for Financial Institutions conducting regulated activities under the SFA other than for fund managers and Real Estate Investment Trust managers); and
- banks that are Exempt Financial Advisers under Section 20(1)(a) and Section 20(1)(b), as applicable, of the Financial Advisers Act to refer to Sections B and D of the Compliance Toolkit for Approvals, Notifications and Other Regulatory Submissions to MAS for Financial Advisers.

APRA responds to feedback received on proposed revisions to interest rate risk in the banking book requirements for authorised deposit-taking institutions

The Australian Prudential Regulation Authority (APRA) has [published](#) its response to the feedback received on its September 2019 consultation on proposed revisions to 'Prudential Standard APS 117 Capital Adequacy: Interest Rate Risk in the Banking Book (APS 117)' for authorised deposit-

taking institutions (ADIs). APS 117 sets out the requirements that an ADI must meet in managing its interest rate risk in the banking book (IRRBB) risk.

In its response, APRA states that it received ten submissions from ADIs and industry bodies on the September 2019 consultation, of which seven were confidential. Submissions were broadly supportive of the proposals but raised some concerns on the application and scope of the standard and the IRRBB capital requirements methodology. APRA has made changes to the September 2019 proposals in these areas in response to submissions.

Key changes following the September 2019 consultation in terms of:

- application and scope of APS 117, include exclusion of non-significant financial institutions (nonSFIs) from the qualitative requirements of the standard, with foreign ADIs excluded from the requirements of the standard; and
- IRRBB capital charge methodology, is to make it less complex, more risk appropriate and computationally simpler.

As part of the responses, APRA further proposes new revisions to APS 117 which are designed to further reduce volatility in the IRRBB capital charge calculation as well as creating better incentives for ADIs in managing their IRRBB risk. APRA is also seeking feedback on the capital treatment of cash flow hedge reserves and associated tax effects.

Alongside the above consultation, APRA will be conducting another Quantitative Impact Study (QIS) to better understand the capital impacts of the proposals and will use the results from the QIS as a guide to ensure that the revised APS 117 is calibrated appropriately.

APRA intends to finalise the revised APS 117 in mid-2023, with the final revised standard expected to come into effect from 1 January 2025.

Comments on the consultation are due by 1 March 2023.

Australian Government consults on empowering Australian Accounting Standards Board to deliver sustainability standards

The Australian Government has [released](#) the exposure draft legislation 'Treasury Laws Amendment (Measures for Consultation) Bill 2022: sustainability standards' for public consultation.

The exposure draft legislation amends parts of the Australian Securities and Investment Commission (ASIC) Act 2001 that will empower the Australian Accounting Standards Board (AASB) to deliver sustainability standards to meet the Government's commitment of ensuring that entities provide Australians and investors with greater transparency and accountability in relation to their climate-related plans, financial risks, and opportunities.

The ASIC Act currently does not explicitly grant AASB the function to develop and formulate necessary sustainability standards. The proposed sustainability standards would provide general guidance, assisting relevant industry to prepare systems and processes for eventual transition to mandatory climate-related financial disclosures.

Comments on the consultation are due by 16 December 2022.

RECENT CLIFFORD CHANCE BRIEFINGS

NIS 2 Directive – Europe revamps its cybersecurity framework

On 28 November 2022, the EU Council voted to adopt the NIS 2 Directive. Seeking to expand, strengthen and harmonise implementation of the EU's existing cybersecurity framework, NIS 2 forms a key part of the EU's Cybersecurity Strategy and aligns with the European Commission's priority to make Europe fit for the digital age.

Approval by the European Parliament took place on 10 November 2022. Formal publication of NIS 2 is expected soon, with Member State implementations of NIS 2 to follow within 21 months.

This briefing paper discusses the key changes introduced by NIS 2 and what organisations should be doing now to prepare for them.

<https://www.cliffordchance.com/briefings/2022/11/nis-2-directive--europe-revamps-its-cybersecurity-framework.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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