

C L I F F O R D
C H A N C E



BUY-SIDE REGULATORY HORIZON SCANNER
APRIL 2023

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INTRODUCTION



INTRODUCTION

KEY UK CONTACTS AND FURTHER RESOURCES

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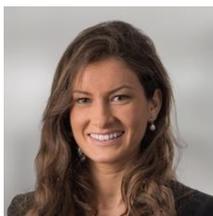
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Our buy-side regulation practice

The investment management industry currently faces unprecedented regulatory change on a global basis.

Our understanding of each part of the investment management industry, coupled with our global network of expertise, allows us to tailor our advice to a client's exact needs while accessing the very latest market thinking and advice from around the world.

Our clients include the world's leading asset management companies, insurance companies and private banking businesses. They range in size from household names with a five-continent footprint to start-up or spin-off funds.

Further Clifford Chance resources

The Financial Markets Toolkit

The Financial Markets Toolkit provides the cutting-edge knowledge you need for your business. It brings together, in a "one-stop shop", a wide range of practical, user-friendly resources. The Financial Markets Toolkit comprises a growing collection of web-based videos, publications and other key resources on an expansive range of topics, from regulatory developments to transactional matters: (<http://financialmarketstoolkit.cliffordchance.com>).

Training and events

Sharing know-how is central to our ethos. Our London Perspective series is a seasonal series of talks addressing a wide range of topical issues for financial institutions, from corporate and employment issues to tax and regulatory developments. Our Insights for Asset Managers series is a programme of frequent, short calls on which we share our practical insights on topical developments, from the CBDF to AIFMD2.

Alerter: Finance Industry

Our daily 'Alerter: Finance Industry' email and our weekly 'International Regulatory Update' email keep our clients up-to-date with a comprehensive, up-to-the-minute summary of regulatory and legal developments from around the world as well as links to relevant Clifford Chance publications and contacts.

Briefings

We regularly produce short, practical briefings on regulatory developments and longer, thought leadership pieces on industry and legal trends and issues. These are distributed to our existing clients and collated on our Financial Markets Toolkit.

INTRODUCTION

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INTRODUCTION

THE BUY-SIDE REGULATORY HORIZON SCANNER

This buy-side regulatory horizon scanner provides a high-level overview of key ongoing and expected EU and UK regulatory developments relevant to investment managers.

The tracker identifies and summarises key legislative and non-legislative developments that are likely to have an impact on investment managers providing services in the EU and UK. Developments are grouped firstly according to whether they are EU or UK developments and, within those categories, into the following three topics:

Asset management developments

Key asset management developments, such as AIFMD2.

ESG developments

Key ESG developments that are relevant to investment managers, such as the SFDR.

Cross-sectoral developments

Key developments that are not specific to asset managers but nonetheless affect asset managers, such as MLD5.

The horizon scanner also sets out projected timelines for the finalisation and implementation of the relevant developments, covering approximately the next 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](#).

This horizon scanner has been prepared as of April 2023. It does not constitute legal advice and is not intended to provide an exhaustive list of all provisions or requirements applicable to firms during this period.

INTRODUCTION

THE EU BUY-SIDE REGULATORY LANDSCAPE

The EU angle...



In June 2019, the European Council agreed on its agenda for the EU for the next five years. That agenda consisted of four priorities: developing a strong and vibrant economic base; building a climate-neutral, green, fair and social Europe; protecting citizens and freedoms; and promoting European interests and values on the global stage. In 2023 we expect to see the first three of these priorities come to the fore.

As in 2022, the EU's work to strengthen its economic base will be reflected via the continuation of its programme of revisions to the EU capital markets union. In 2023, the Commission's proposals for revisions to existing regimes, including the AIFMD and UCITS packages, are expected to continue through the EU legislative process.

At the same time, the EU will continue to progress its digital-related initiatives, including legislation on digital operational resilience, DORA, and on markets in cryptoassets, MiCA, and its ESG-related initiatives, including further developments to the SFDR and Taxonomy Regulation.

Finally, 2023 is forecast to see the unveiling of the EU's retail investment strategy. Firms and investors alike will be interested to see the nature and scope of changes that are proposed as part of this publication.

INTRODUCTION

THE UK BUY-SIDE REGULATORY LANDSCAPE

The UK angle...



In 2023 we expect to see the three-pronged approach to regulatory reform that has typified the UK's post-Brexit years continue to unfold.

The first prong consists of targeted amendments to existing legislation to ensure that it remains suitable for the evolving asset management industry. A programme of current reforms to the UK's financial promotion (marketing) regime is an example of such amendments.

The second prong consists of the development of new, post-EU initiatives. Some, such as the UK's new Consumer Duty, reflect domestically-driven initiatives. Others, such as the UK's proposals for sustainability-related disclosures and sustainable investment labels, reflect the global direction of travel.

Finally, the third prong consists of a more fundamental restructuring of the UK's regulatory framework post-Brexit. Following a period of review and discussion surrounding the UK regulatory framework, 2022 witnessed the publication of the Financial Services and Markets Bill, Retained EU Law (Revocation and Reform) Bill and the announcement of the so-called Edinburgh reforms. These will make significant changes to the legislative framework, including enabling the revocation of retained EU, providing the UK's regulators with additional objectives and reforming many aspects of UK financial regulation. The FCA's February 2023 discussion paper on updating and improving the UK regime for asset management will begin discussions on the nature and extent of these reforms in the asset management sector.



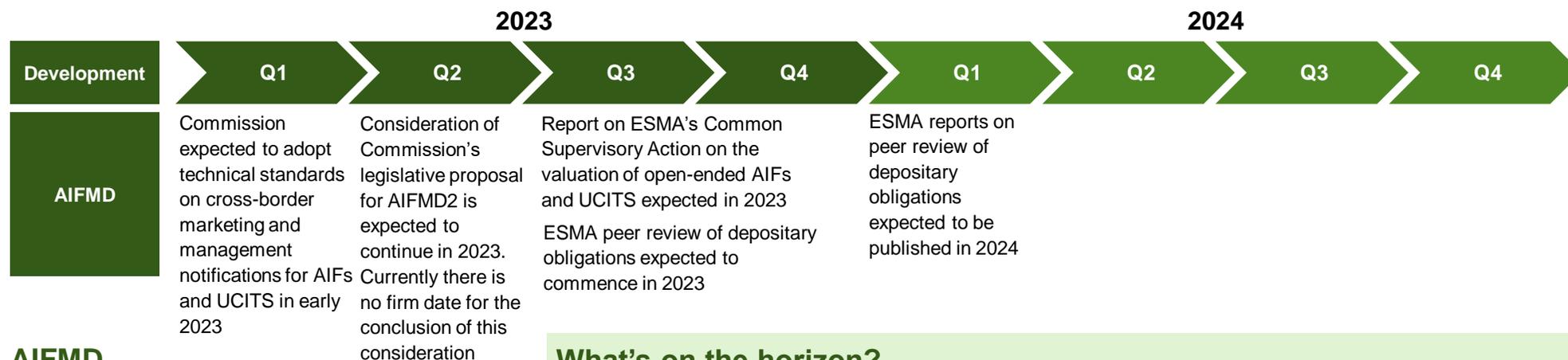
HORIZON SCANNER

A. EU DEVELOPMENTS

I. ASSET MANAGEMENT DEVELOPMENTS



EU AIFMD AND AIFMD2



AIFMD

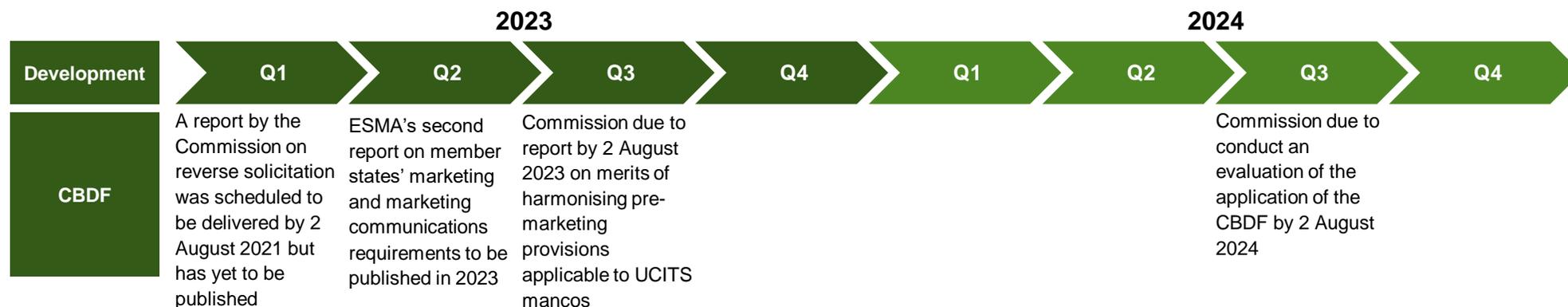
The AIFMD regulates the management, administration and marketing of alternative investment funds in the EU. Key issues covered by the AIFMD include authorisation and operating conditions for AIFMs, remuneration, conduct of business and valuation requirements, transparency and marketing. It also includes requirements for firms acting as a depositary of an AIF.

Read our in-depth briefings on each step of the AIFMD2 review, including the Commission's ultimate legislative proposal, [here](#), [here](#), [here](#), [here](#) and [here](#).

What's on the horizon?

- In December 2022, ESMA published draft technical standards on the notifications for cross-border marketing and cross-border management of AIFs and UCITS. These include template forms to be used by firms making such notifications. These have now been passed to the Commission and are expected to be adopted in early 2023.
- The Commission has undertaken a review of the AIFMD. In November 2021, this review culminated in the Commission adopting a legislative proposal for a directive that would amend both the AIFMD (resulting in the so-called 'AIFMD2') and the UCITS Directive. Consideration of AIFMD2 is now at the trilogue stage, in which the Commission, Council of the EU and European Parliament will agree a final text. There is, as yet, no firm date on which this process will conclude.
- In January 2022, ESMA announced the launch of a Common Supervisory Action (CSA) with EU national competent authorities on the valuation of open-ended AIFs and UCITS across the EU. A CSA is one of the tools available to ESMA to aide the achievement of common supervisory practice amongst EU national competent authorities. A report on the CSA is expected in 2023.
- ESMA announced that it expected to undertake a peer review into depositary obligations under the AIFMD and UCITS Directive in 2022. It has subsequently confirmed that this is expected to be carried out in 2023, with reports expected to be finalised and published in 2024.
- The EU's DORA package amends the AIFMD to introduce digital operational resilience requirements for AIFMs. These apply from 17 January 2025.

EU CBDF



CBDF

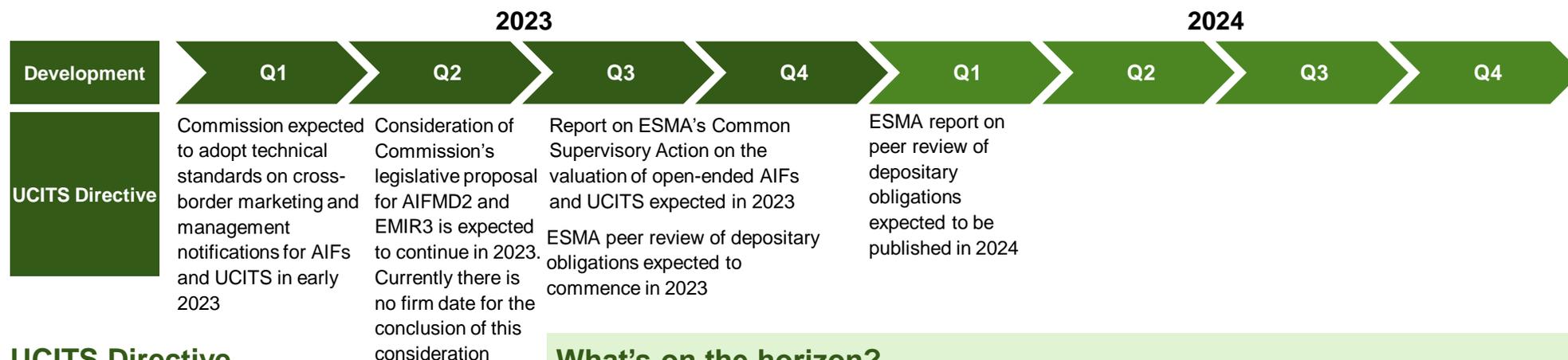
The CBDF amends the UCITS Directive, AIFMD, EuVECA Regulation, EuSEF Regulation and PRIIPs Regulation with regards to fund marketing. It aims to improve transparency by aligning national marketing and pre-marketing requirements, amongst other measures. The majority of the CBDF's provisions came into force on 1 August 2019 and 2 August 2021.

We have produced a comprehensive, multi-jurisdictional guide to the CBDF in conjunction with AIMA and KPMG. Please contact us for further details.

What's on the horizon?

- Under the CBDF package, the Commission was required to publish a report on reverse solicitation, specifying the extent of reverse solicitation, its geographical distribution including in third countries and its impact on the passporting regime. This report has yet to be published.
- In connection with this report, in September 2021 the Commission sent a letter to ESMA requesting that ESMA gathered information from EU national competent authorities on the use of reverse solicitation by asset managers and the impact of reverse solicitation on passporting activities. ESMA's response, dated 17 December 2021, stated (amongst other things) that almost all national competent authorities had no readily available information on the use of reverse solicitation by asset managers and were not in a position to estimate the share of reverse solicitation as compared to marketing.
- ESMA has confirmed that it will publish its second report on member states' marketing and marketing communications requirements in 2023. The CBDF requires ESMA to report on this topic once every two years.
 - The Commission is required to report by 2 August 2023 on the merits of harmonising the provisions applicable to UCITS management companies testing investor appetite for particular investment ideas or investment strategies.
 - The Commission is also required to conduct an evaluation of the application of the CBDF by 2 August 2024.

EU UCITS DIRECTIVE



UCITS Directive

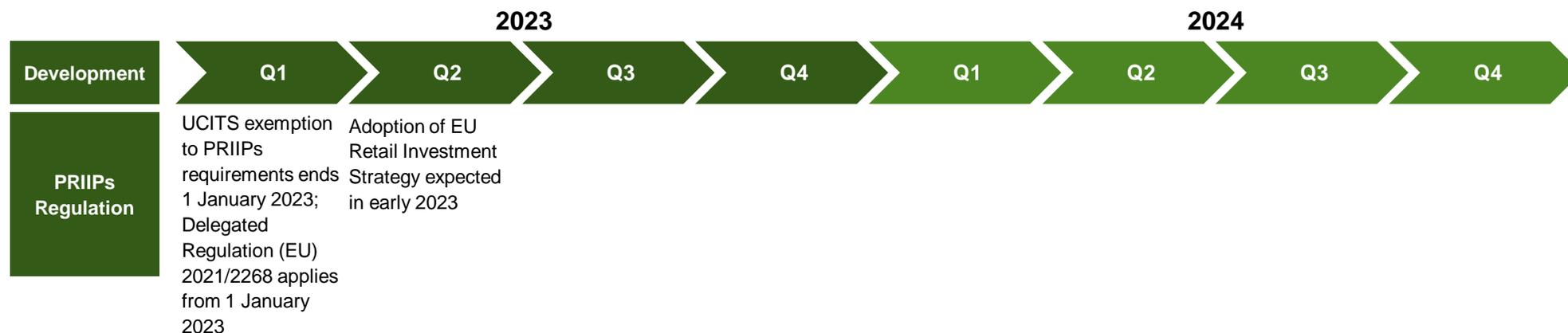
The UCITS Directive provides an EU-wide framework for UCITS (investment funds suitable for marketing to retail investors that meet relevant requirements). Since the first UCITS Directive in 1985, subsequent directives have aimed to expand and simplify the UCITS regime. Following the Commission's review of the AIFMD, in November 2021 amendments to the UCITS Directive were proposed alongside those to the AIFMD.

Read our briefing on the Commission's proposed changes to the UCITS regime as part of its AIFMD2 package [here](#).

What's on the horizon?

- In December 2022, ESMA published draft technical standards on the notifications for cross-border marketing and cross-border management of AIFs and UCITS. These include template forms to be used by firms making such notifications. These have now been passed to the Commission and are expected to be adopted in early 2023.
- The Commission has undertaken a review of the AIFMD. In November 2021, this review culminated in the Commission adopting a legislative proposal for a directive that would amend both the AIFMD (resulting in the so-called 'AIFMD2') and the UCITS Directive. The Council of the EU agreed its general approach to AIFMD2 in June 2022 and the European Parliament's Economic and Monetary Affairs Committee (ECON) adopted its report on AIFMD2 in January 2023. The proposal will now move to the trilogue process, in which a final text should be agreed. There is, as yet, no firm date on which this process will conclude.
- In December 2022, the Commission adopted two legislative proposals to amend EMIR, creating the so-called EMIR3. The proposals would make amendments to the UCITS Directive. The Council of the EU and European Parliament are currently considering the legislative proposals.
- In January 2022, ESMA announced the launch of a CSA with EU national competent authorities on the valuation of open-ended AIFs and UCITS across the EU. A CSA is one of the tools available to ESMA to aid the achievement of common supervisory practice amongst EU national competent authorities. A report on the CSA is expected in 2023.
- ESMA announced that it expected to undertake a peer review into depositary obligations under the AIFMD and UCITS Directive in 2022. It has subsequently confirmed that this is expected to be carried out in 2023, with reports expected to be finalised and published in 2024.
- The EU's DORA package amends the UCITS package to introduce digital operational resilience requirements for UCITS management companies. These apply from 17 January 2025.

EU PRIIPS REGULATION



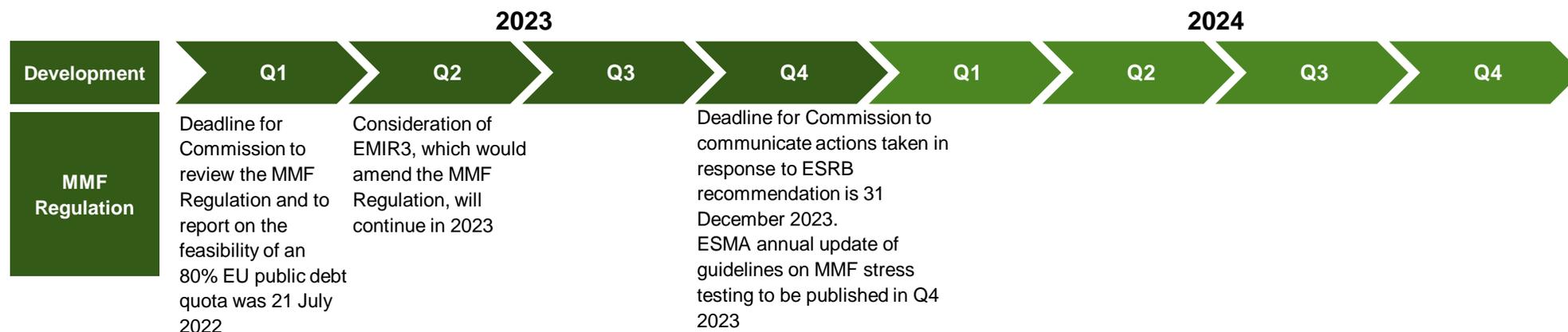
PRIIPs Regulation

The PRIIPs Regulation obliges manufacturers of PRIIPs to produce a concise pre-contractual disclosure document, the KID, where such products are made available to retail investors. It also obliges persons who advise upon or sell PRIIPs to provide investors with the KID. It sets out rules on the content and format of the KID, as well as guidance for its review and timing of delivery. Independent post-Brexit amendments to both the EU and UK PRIIPs regimes mean that there is now divergence between requirements. Further proposals to extensively amend the UK PRIIPs regime are covered on slide 39.

What's on the horizon?

- Regulation 2021/2259 extended the exemption from PRIIPs requirements for UCITS until 31 December 2022. This exemption has now expired, with the result that from 1 January 2023 PRIIPs KID requirements apply to UCITS. In a related measure, Directive (EU) 2021/2261 amended the UCITS package to provide that KIDs that comply with PRIIPs are considered to satisfy the requirements for KIIDs set out in the UCITS package. EU member states were required to implement the Directive by 30 June 2022 and to apply it from 1 January 2023. As a result, member states must now allow provision of the PRIIPs KID to satisfy the requirement to provide a UCITS KIID.
- Delegated Regulation (EU) 2021/2268 amends certain requirements relating to the presentation and content of KIDs. It applies from 1 January 2023.
- The Commission is reviewing the PRIIPs Regulation as part of a wider assessment of the EU's retail investment strategy. The retail investment strategy is expected to be adopted in early 2023 and may propose amendments to the PRIIPs Regulation.

EU MMF REGULATION



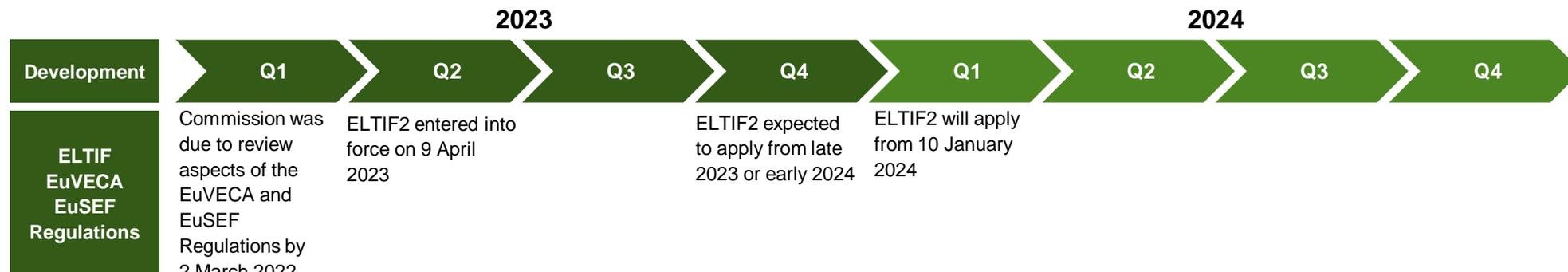
MMF Regulation

The MMF Regulation introduces a regulatory framework that aims to enhance the liquidity and stability of MMFs. It requires funds that meet the definition of an MMF to comply with rules relating to investment policies, internal credit quality assessments, risk management, valuation and transparency requirements. It also grants EU regulators powers to supervise MMFs and their managers on an ongoing basis.

What's on the horizon?

- The MMF Regulation requires the Commission to review the MMF Regulation by 21 July 2022 and to propose amendments to the MMF Regulation if the Commission considers this to be appropriate. As a precursor to publishing this report, the Commission published a public consultation on the MMF Regulation in April 2022. The Commission's final report has yet to be published.
- The MMF Regulation also requires the Commission to present a report on the feasibility of establishing an 80% EU public debt quota by 21 July 2022. The Commission's final report has yet to be published.
- In December 2022, the Commission adopted two legislative proposals to amend EMIR, creating the so-called EMIR3. The proposals would make amendments to the MMF Regulation. The Council of the EU and European Parliament are currently considering the legislative proposals.
- In January 2022, the ESRB announced the publication of a recommendation (ESRB/2021/9) to the Commission regarding reforms to MMFs. The ESRB makes a number of recommendations in the document, including that the Commission should make legislative amendments to enhance the monitoring and stress-testing frameworks and to provide that the constitutional documents of MMFs should contain at least one of three liquidity management tools. The relevant liquidity management tools are anti-dilution levies, liquidity fees and swing pricing for MMFs with a fluctuating NAV. The deadline for the Commission to communicate the actions that it has taken in response to the recommendation is 31 December 2023.
- ESMA publishes annual guidelines on MMF stress testing. In January 2023, ESMA published a consultation on reviewing the methodology included in the guidelines on stress testing. The consultation paper closes in April 2023. ESMA has stated that the final guidelines will be published in Q4 2023.

EU ELTIF, EUVECA AND EUSEF REGULATIONS



ELTIF, EuVECA and EuSEF Regulations

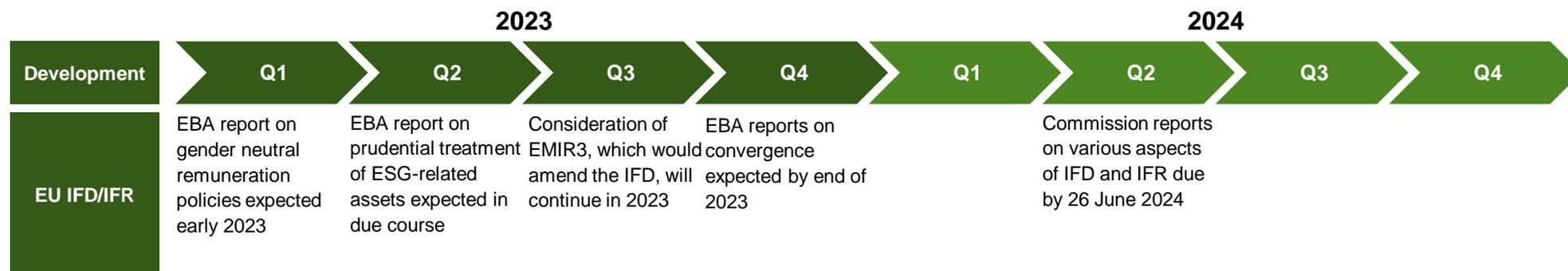
The ELTIF, EuVECA and EuSEF Regulations each create a regulatory category of funds with specific features. ELTIFs, created by the ELTIF Regulation, are intended to invest in assets that require long-term capital. EuVECAs, created by the EuVECA Regulation, are intended to invest in small and medium-sized businesses. Finally, EuSEFs, created by the EuSEF Regulation, are intended to invest in assets which aim to achieve positive social impacts.

Read our briefing on ELTIF2 [here](#).

What's on the horizon?

- The EuSEF and EuVECA Regulations each required the Commission to complete a review of those regulations by 2 March 2022 and to propose amendments to those regulations, if appropriate. These reviews have not yet been published.
- The EU has completed a review of the ELTIF Regulation. Revisions to the ELTIF Regulation which stem from that review have been finalised and are contained in the so-called ELTIF2. ELTIF2 entered into force on 9 April 2023 and will start to apply from 10 January 2024.

EU IFD/IFR



IFD/IFR

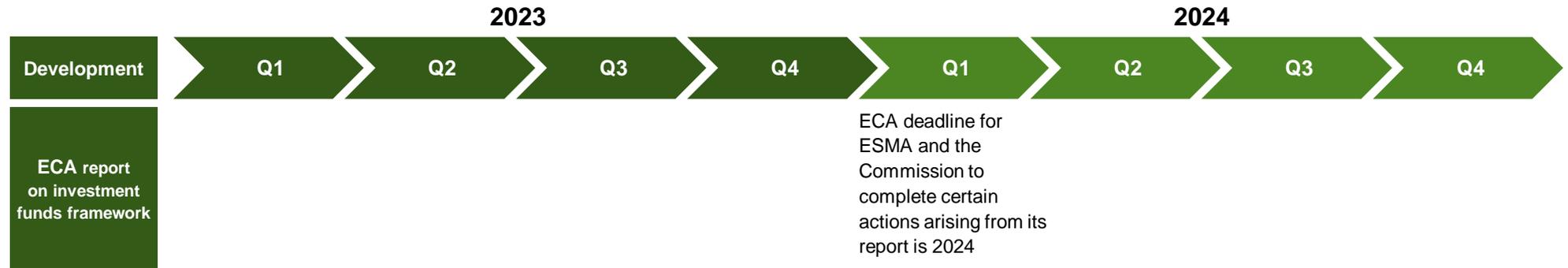
The IFD and IFR created a new harmonised prudential regime for EU investment firms. Certain larger investment firms are now treated as credit institutions and subject to the capital regime under CRD4. Other firms are subject to the new IFD and IFR prudential regime, which includes capital, consolidation, reporting, governance and remuneration requirements. The IFD and IFR will be accompanied by a number of RTS, ITS and guidelines, not all of which have been finalised.

Read our in-depth briefings on this development [here](#) and [here](#).

What's on the horizon?

- An EBA report on the application of gender-neutral remuneration policies is expected in early 2023.
- The EBA was required to report by 26 December 2021 on whether dedicated prudential treatment of assets exposed to activities associated substantially with environmental or social objectives, in the form of adjusted K-factors or adjusted K-factor coefficients, would be justified from a prudential perspective. The report has not been published. The EBA published a discussion paper on the topic in May 2022 and a report is expected in due course.
- In December 2022, the Commission adopted two legislative proposals to amend EMIR, creating the so-called EMIR3. The proposals would make amendments to the IFD. The Council of the EU and European Parliament are currently considering the legislative proposals.
- An EBA report on the degree of convergence of the application of the Chapter 2 of the IFD (*Review process*) among member states is expected by the end of 2023.
- The Commission is required to report on the IFD and IFR, with legislative proposals to amend the package if it considers this to be necessary, by 26 June 2024.

EUROPEAN COURT OF AUDITORS' REPORT ON INVESTMENT FUNDS



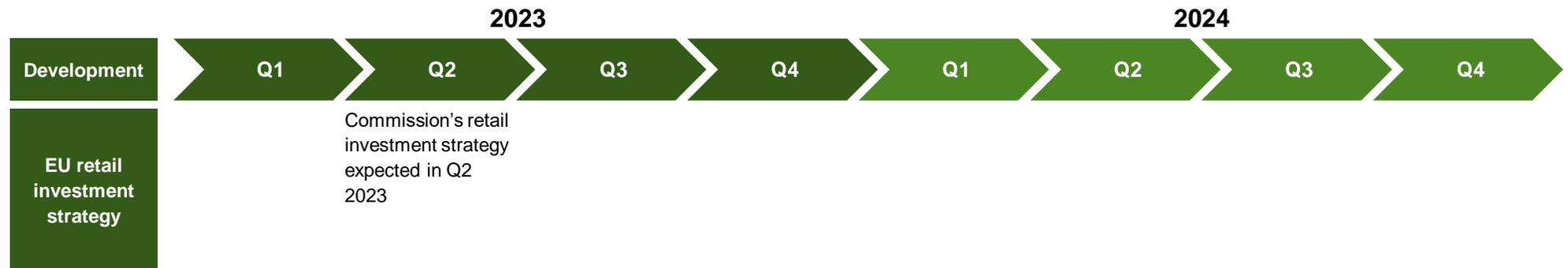
ECA report on investment funds framework

In February 2022, the European Court of Auditors (ECA) published a special report on the EU's investment funds framework, entitled 'Investment funds – EU actions have not yet created a true single market benefiting investors'. The report focused on whether a single market for investment funds that ensures investor protection and financial stability has been established. The report's overall conclusion was that 'although EU actions have enabled a single market for investment funds to be established, they have not yet achieved the desired outcomes, as true cross-border activities and benefits for investors remain limited'.

What's on the horizon?

- The report contains a number of recommended actions for ESMA and the Commission, which the ECA states should be completed by 2024 and 2025. These are:
 - Recommendation 1 – Assess the suitability of the existing framework to achieve the desired objectives. Actions to be completed by the Commission by 2024.
 - Recommendation 2 – Enhance the effectiveness of ESMA's convergence work. Actions to be completed by ESMA and the Commission by 2024.
 - Recommendation 3 – Protect investors better against undue costs and misleading information. Actions to be completed by ESMA and the Commission by 2024.
 - Recommendation 4 – Improve the identification of systemic risk. Actions to be completed by ESMA by 2025.
 - Recommendation 5 – Streamline data collection and update reporting regimes. Actions to be completed by the Commission by 2024.

EU RETAIL INVESTMENT STRATEGY



EU retail investment strategy

In May 2021, the Commission published a consultation paper entitled 'A retail investment strategy for Europe'. The Commission stated that the aim of the consultation was to ensure that retail investors can take full advantage of capital markets and that rules are coherent across legal instruments.

In February 2022, the Commission published a second, targeted consultation on options to enhance the suitability and appropriateness assessments.

What's on the horizon?

- The Commission's proposal for improving the retail investment framework is currently expected to be published in Q2 2023. The proposal was originally expected in H1 2022 and has been delayed a number of times.



HORIZON SCANNER
A. EU DEVELOPMENTS
II. ESG DEVELOPMENTS



EU SFDR



SFDR

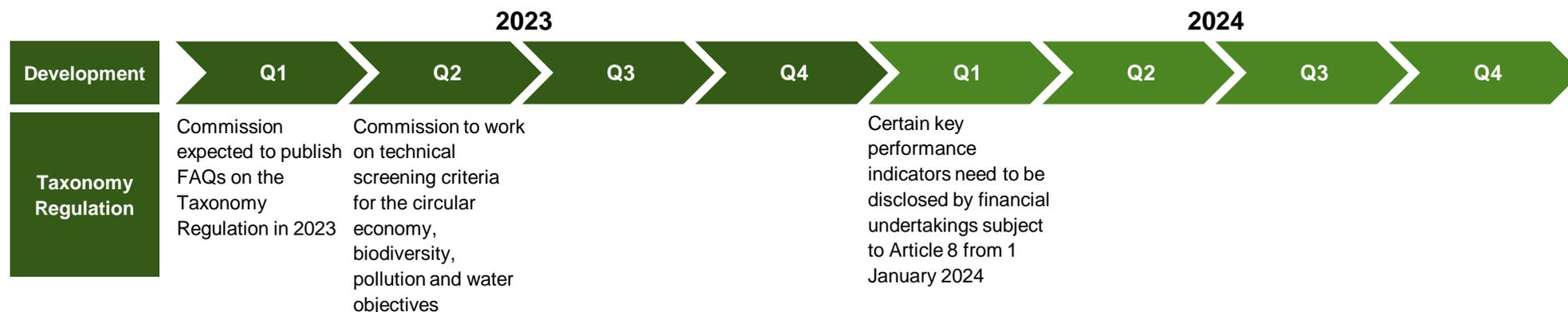
The SFDR sets out harmonised rules on disclosures to investors regarding the integration of sustainability risks and the consideration of adverse sustainability impacts in investment decision-making and investment advice. Whilst many of its provisions began to apply in 2021, staggered implementation deadlines and the development of underlying technical standards have meant that firms' implementation projects have continued long past this date.

Read our in-depth briefing on this development [here](#) and [here](#).

What's on the horizon?

- A delegated regulation incorporating nuclear and gas disclosures into SFDR disclosures was published in the Official Journal on 17 February 2023 and entered into force on 20 February 2023.
- The Commission was due to evaluate the SFDR by 30 December 2022. In December 2022, the European Commissioner for financial services, financial stability and Capital Markets Union stated that a public consultation on the SFDR would begin in early 2023.
- The ESAs have been asked to review the indicators for principal adverse impact and the financial product disclosures under the SFDR. In November 2022, the ESAs wrote to the Commission to confirm that they would need a six-month extension to this deadline with the result that the ESAs' review should complete by 28 November 2023. The ESAs' consultation paper, the results of which will feed into their review, was published on 12 April 2023.
- Commission Q&As on the SFDR were published on 14 April 2023.
- In November 2022, the ESAs launched a Call for Evidence on greenwashing. A progress report is expected in May 2023 and a final report in May 2024.
- Financial market participants that are required to publish 'principal adverse impact' (PAI) statements under Articles 4(1)(a), 4(3) or 4(4) of the SFDR must comply with the disclosure requirements set out in the RTS by 30 June 2023 for the reference period 1 January 2022 to 31 December 2022.
- The ESAs are due to report to the Commission on best practices relating to voluntary disclosures annually, by 10 September of each year. The next report is due by 10 September 2023.

EU TAXONOMY REGULATION



Taxonomy Regulation

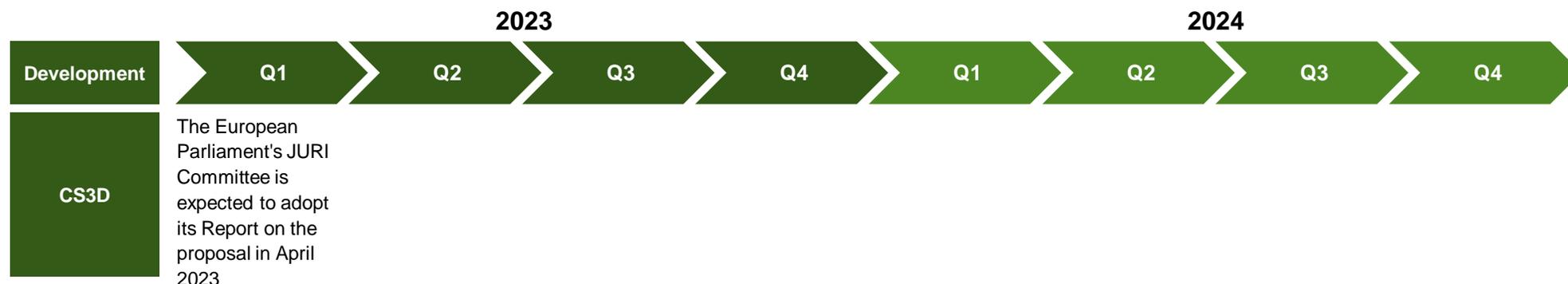
The Taxonomy Regulation sets out criteria that an activity must satisfy to be referred to as ‘environmentally sustainable’. Two such criteria are that the activity must contribute substantially to at least one ‘environmental objective’ and that the activity must not significantly harm an ‘environmental objective’. The six ‘environmental objectives’ are set out in the Taxonomy Regulation. The Taxonomy Regulation also creates disclosure obligations for certain products that are within the scope of the SFDR.

Read our in-depth briefing on this development [here](#).

What’s on the horizon?

- In December 2022, the European Commissioner for financial services, financial stability and Capital Markets Union stated that the Commission intends to publish over 200 FAQs on the Taxonomy Regulation, presumably in 2023.
- The Commission has also announced its intention to work on technical screening criteria for activities that can make a substantial contribution to the remaining four environmental objectives (circular economy; biodiversity; pollution; and water). The Commission did not state a firm date by which this work would be completed.
- Under Article 8 of the Taxonomy Regulation, undertakings that are required to publish non-financial information under Articles 19a or 29a of the Non-Financial Reporting Directive must include sustainability information in their non-financial disclosures. Under Commission Delegated Regulation 2021/2178, which supplements Article 8 of the Taxonomy Regulation, financial undertakings will need to disclose certain key performance indicators from 1 January 2024.
- A number of reports under the Taxonomy Regulation remain outstanding with no confirmed dates for publication.

CS3D



CS3D

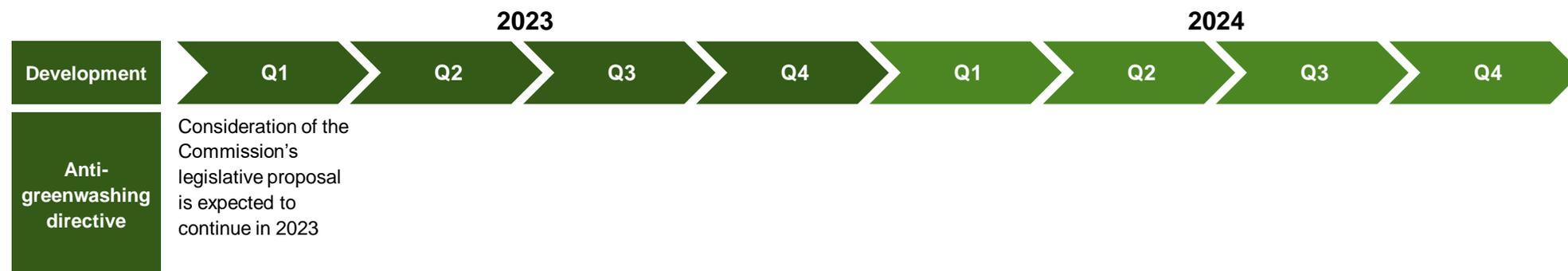
CS3D will require large EU companies and non-EU companies with significant EU activity to conduct sustainability due diligence. In-scope companies will need to identify the actual and potential adverse human rights and environmental impacts of their activities. A controversial element of the proposal has been the extent to which this due diligence must extend to the activities of entities other than the in-scope company itself, in particular the extent to which the due diligence should extend to entities with which the in-scope company has economic relations.

Read our in-depth briefing on this development [here](#) and [here](#).

What's on the horizon?

- The Council of the EU adopted its general approach to CS3D on 1 December 2022 and is ready to enter into negotiations with the European Parliament. Among other things, the Council of the EU has introduced a phase-in approach regarding the application of the rules. The rules would first apply to very large companies that have more than 1000 employees and €300 million net worldwide turnover or, for non-EU companies, €300 million net turnover generated in the EU (irrespective of whether they have a branch or subsidiary in the EU), 3 years from the entry into force of the directive.
- In the European Parliament, the lead Committee is the JURI Committee. The JURI Committee is expected to adopt its report on the proposal in April 2023, following which the European Parliament can adopt its first-reading position in a future plenary session.
- Once CS3D is adopted by the co-legislators, member states will have two years to transpose the directive into national law.

ANTI-GREENWASHING DIRECTIVE



Anti-greenwashing directive

In March 2022, the Commission adopted a proposal for a new directive referred to as the 'anti-greenwashing directive' or, more fully, as the Directive empowering consumers for the green transition through better protection against unfair practices and better information. The directive would amend the Unfair Commercial Practices Directive to extend the list of product characteristics about which a company cannot mislead consumers to include environmental or social impacts. It also adds new practices that are considered misleading after a case-by-case assessment, such as making environmental claims related to future environmental performance without clear, objective and verifiable commitments and targets.

What's on the horizon?

- The Commission's legislative proposal for an anti-greenwashing directive was published in March 2022. It will now be discussed by the Council of the EU and the European Parliament. There is no firm date for adoption of the proposal. Once adopted, the Directive will enter into force on the 20th day following its publication in the Official Journal. The Commission proposal envisages a 24-month transposition period, but this may be subject to change as the measure passes through trilogue negotiations.

Once adopted and transposed, consumers will be entitled to remedies in the event of breaches.

EU REGULATION OF ESG DATA AND RATING PROVIDERS



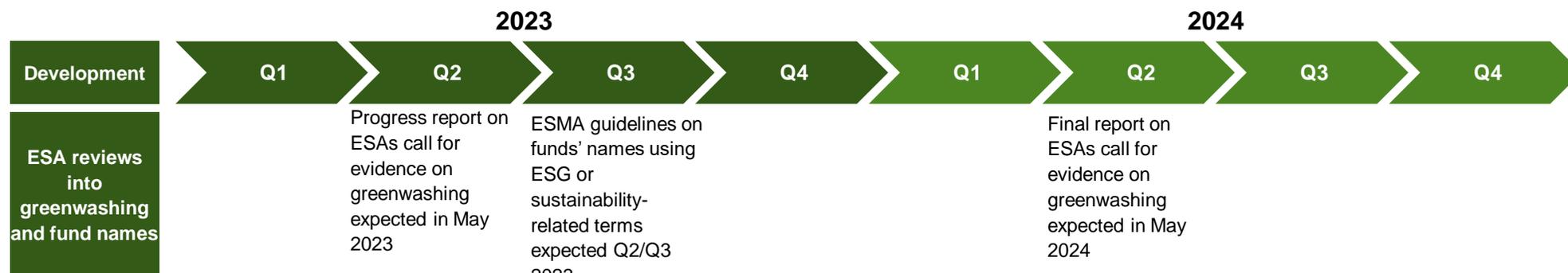
EU regulation of ESG data and rating providers

In April 2022, the Commission confirmed that it is considering the adoption of a legislative proposal relating to ESG rating providers (essentially, firms offering products that opine on the ESG characteristics or exposure of products and firms). The Commission published a consultation and call for evidence on the topic in April 2022. Publication of its proposed approach is expected in Q2 2023.

What's on the horizon?

- The Commission is expected to publish its legislative proposal for a Regulation on ESG data and rating providers in June 2023.

ESA REVIEWS INTO GREENWASHING AND FUND NAMES



ESA reviews into greenwashing and fund names

The EU published an action plan on sustainable finance in 2018, which set out an ambitious programme of activity intended to connect sustainability and finance. Since that date the EU has been actively pursuing this agenda through both legislative and non-legislative means. Most recently, this has included commencing work through the ESAs on greenwashing and on sustainability-related fund names.

What's on the horizon?

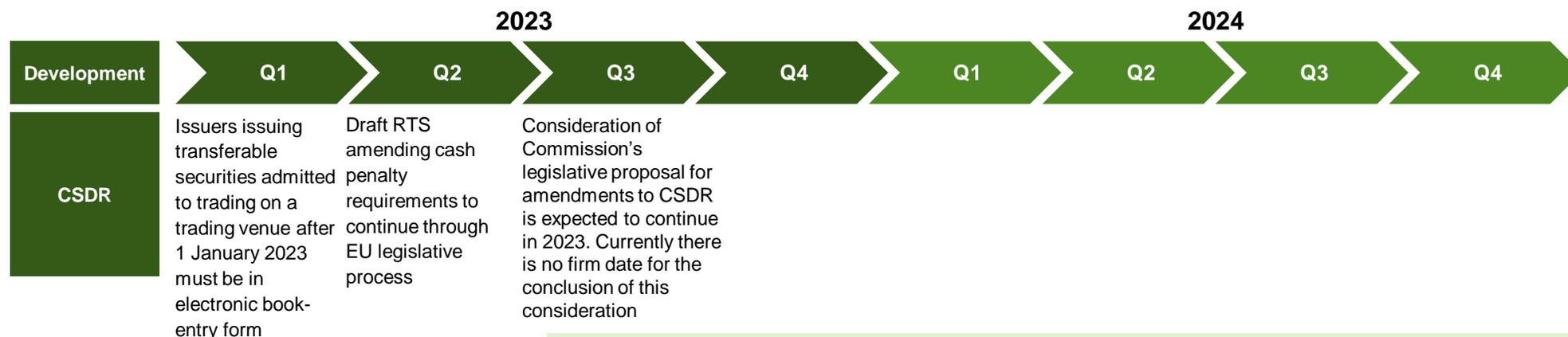
- In November 2022, the ESAs published a call for evidence on better understanding greenwashing. The call for evidence requests responses on how to understand greenwashing, the drivers of greenwashing and examples of greenwashing. A progress report is expected by the end of May 2023 and a final report by the end of May 2024.
- In November 2022, ESMA issued a consultation paper on producing guidelines on funds' names using ESG or sustainability-related terms. The consultation paper seeks views on developing more specific guidance on the use of ESG and sustainability-related terms in funds' names as part of the EU's drive to prevent greenwashing. The consultation paper states that ESMA expects to issue its final Guidelines by Q2/Q3 2023.

The background of the slide is a blurred image of a financial market display. It features a candlestick chart on the left and several line graphs in various colors (blue, green, white) on the right. The charts are set against a dark background with some numerical data points visible, such as 24.90, 30.00, 20.00, 13.90, 67.00, 2.58, 1.21, 2.26, 10.70, and 468.00. A white arrow points upwards and to the right, indicating growth or positive development.

HORIZON SCANNER
A. EU DEVELOPMENTS

III. CROSS-SECTORAL DEVELOPMENTS

EU CSDR



CSDR

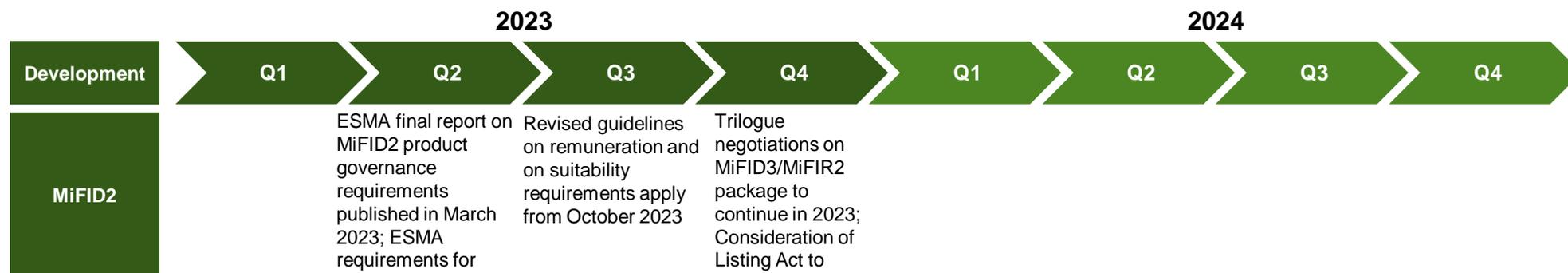
CSDR aims to harmonise certain aspects of securities settlement, such as the timing of settlement and the authorisation process for EEA CSDs. The next major phase of implementation, the introduction of a mandatory buy-in regime, was intended to come into effect on 1 February 2022. This, however, has been postponed. In the meantime, in March 2022 the Commission published a legislative proposal with proposed amendments to the CSDR.

Read our in-depth briefing on this development [here](#).

What's on the horizon?

- From 1 January 2023, any EU issuer that issues transferable securities that are admitted to trading or traded on trading venues must arrange for the securities to be represented in electronic book-entry form. From 1 January 2025, this requirement will apply to all remaining transferable securities that are admitted to trading or traded on trading venues.
- In November 2022, ESMA published a final report and draft RTS amending Article 19 of Commission Delegated Regulation (EU) 2018/1229. The amendments would remove the special distribution and collection process for cash penalties that applies to central counterparties (CCPs) and instead allocate responsibility for the collection and distribution of all cash penalties to central securities depositaries (CSDs). The draft RTS will now proceed through the EU legislative process.
- In March 2022, the Commission adopted a legislative proposal to amend the CSDR. The proposal is now continuing through the EU legislative process. There is, as yet, no firm date on which this process will conclude. Most recently, in March 2023, the European Parliament's Economic and Monetary Affairs Committee (ECON) published its report on the legislative proposal.
- The CSDR's mandatory buy-in rules were intended to apply from 1 February 2022. Their application has been delayed until 2 November 2025.

EU MiFID2



MiFID2

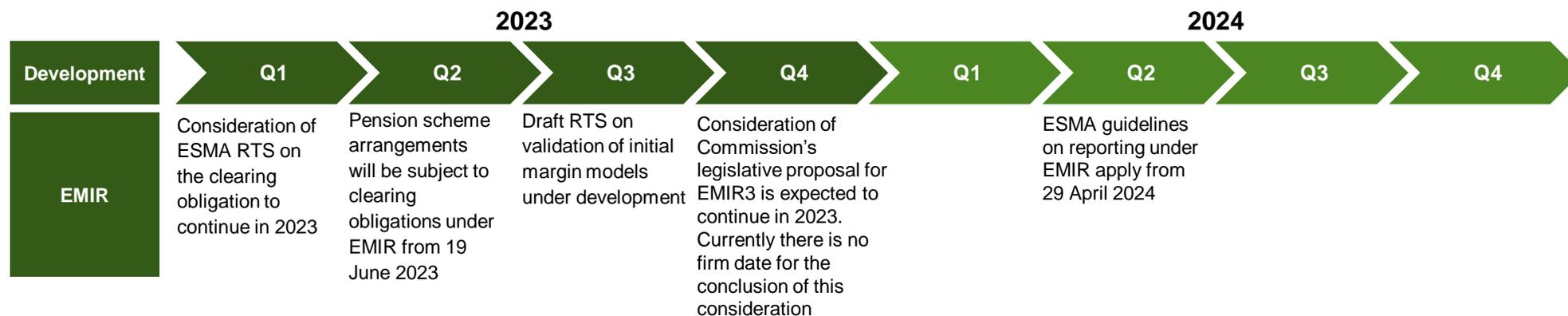
MiFID2 has, since 2018, been the cornerstone of EU legislation governing investment firms and the buying, selling and trading of financial instruments. The MiFID2 ‘Quick Fix’ measures in response to Covid-19 have applied since February 2022 and measures to integrate sustainability into the package were introduced in August and November 2022. In addition, the Commission has put forward legislative proposals (referred to as ‘MiFID3/MiFIR2’) which are now passing through the EU legislative process. MiFID2 will also see further changes due to initiatives being introduced under the Capital Markets Union (CMU) Action Plan.

Read our in-depth briefing on this development [here](#), [here](#) and [here](#).

What’s on the horizon?

- In March 2023, ESMA published its final report on guidelines on MiFID2 product governance. These will now be published into all official languages of the EU, triggering a two-month period during which NCAs must notify ESMA of whether they intend to comply with the guidelines.
- ESMA is expected to publish requirements on trading venue systems resilience and guidance on market outages in Q2 2023.
- ESMA published updated guidelines on aspects of the MiFID2 suitability requirements in September 2022. These will begin to apply in October 2023.
- In November 2021, the Commission adopted two legislative proposals to amend MiFID2 (the so-called MiFID3/MiFIR2 package). The Council agreed its negotiating mandates on the MiFID3/MiFIR2 package on 16 December 2022 and the European Parliament’s ECON Committee adopted its proposal on 1 March 2023. It is currently expected that the MiFID3/MiFIR2 package will be finalised and published in the Official Journal in 2023.
- On 1 February 2023, in light of IBOR transition, ESMA published draft RTS under Article 32 of MiFIR on the derivatives trading obligation. Subject to endorsement by the Commission, these would enter into force on the application of the MiFID3/MiFIR2 package.
- In December 2022, the Commission published a package of proposals to simplify EU listing rules, referred to as the Listing Act package. This will, amongst other things, amend MiFID2’s provisions on research unbundling and SME growth markets to stimulate investment in SMEs. The proposals will now continue through the EU legislative process.
- The EU’s DORA package amends MiFID2 to introduce digital operational resilience requirements for MiFID firms. These apply from 17 January 2025.

EU EMIR



EMIR

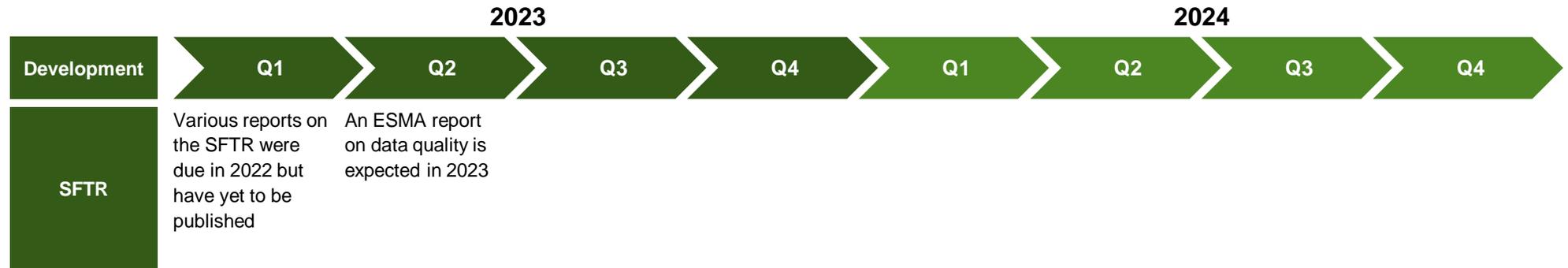
EMIR introduced a mandatory clearing obligation for certain classes of OTC derivatives contracts entered into between certain counterparties, risk-mitigation requirements for OTC derivatives that are not centrally cleared (including margin requirements), trade reporting obligations for all derivatives (both OTC and exchange traded derivatives) and a framework for the regulation of central counterparties (CCPs) and trade repositories. It has subsequently been amended by the EMIR Refit Regulation and EMIR 2.2. In December 2023, the Commission adopted proposals for the EMIR3 package, which would make further changes to EMIR.

Read our in-depth briefing on this development [here](#) and [here](#).

What's on the horizon?

- On 1 February 2023, in light of IBOR transition, ESMA published draft RTS under Article 5(2) of EMIR on the clearing obligation. Subject to endorsement by the Commission, the RTS on the clearing obligation would enter into force on publication.
- A temporary exemption from clearing obligations for certain pension scheme arrangements will expire on 18 June 2023, following which pension scheme arrangements will be subject to clearing obligations.
- Draft RTS under Art 11(5) EMIR are under development, setting out supervisory procedures for initial and ongoing validation of initial margin models used to determine the level of margin requirements for uncleared over-the-counter (OTC) derivatives.
- In December 2023, the Commission adopted a directive and a regulation that would amend EMIR (the so-called EMIR3 package). The EMIR3 package has been prepared due to concerns about the dependency of EU financial markets on some services provided by certain third-country CCPs, particularly UK CCPs. The proposals in the package are designed to encourage clearing in the EU, make EU CCPs more resilient, strengthen EU open strategic autonomy and safeguard financial stability. This package will now continue through the EU legislative process, beginning with consideration by the European Parliament and Council of the EU. There is, as yet, no firm date on which this process will conclude.
- ESMA published final guidelines on reporting under EMIR on 20 December 2022, providing clarification on compliance with the EMIR technical standards. The guidelines apply from 29 April 2024.
- The EU's DORA package amends EMIR to introduce digital operational resilience requirements. These apply from 17 January 2025.
- Margin and clearing requirements will apply to intragroup transactions from July 2025.

EU SFTR



SFTR

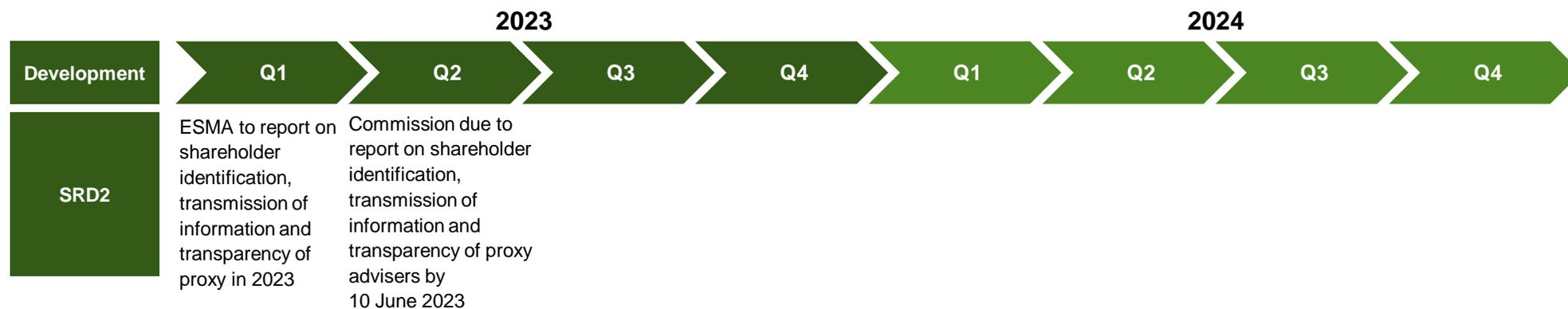
SFTR aims to increase transparency and reduce perceived “shadow banking” risks by requiring counterparties to report securities financing transactions (SFTs) to a trade repository, requiring UCITS managers and AIFMs to make pre-contractual and periodical disclosures to investors about their use of SFTs and total return swaps and imposing conditions on the ‘reuse’ of financial instruments that have been provided as collateral.

What’s on the horizon?

- A Commission report on the SFTR was due in April 2022 but has yet to be published.
- ESMA reports on the efficiency of SFTR reporting and on SFTR fees were also due in 2022. ESMA has confirmed that it has delayed the production of these reports.
- ESMA report on SFTR data quality is expected to be published in 2023.

Read our in-depth briefing on this development [here](#).

EU SRD2



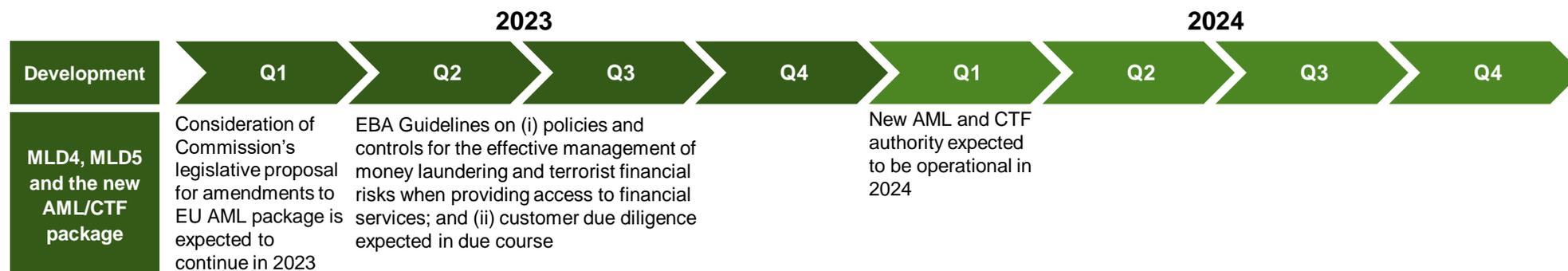
SRD2

SRD2 seeks to enable shareholders to exercise voting and information rights in EU companies traded on regulated markets across the EU. Amendments to the SRD address perceived shortcomings relating to transparency and a lack of shareholder engagement. The amendments relate to the link between directors’ pay and performance, related party transactions, advice given by proxy advisers and facilitation of the cross-border exercise of voting and information rights.

What’s on the horizon?

- The Commission is due to report on and, if appropriate, propose amendments to provisions on shareholder identification, transmission of information and facilitation of exercise of shareholder rights and transparency of proxy advisers by 10 June 2023. In October 2022, ESMA published a call for evidence on these topics with the aim of providing the Commission with input for its report. ESMA has confirmed that it intends to report on these topics in 2023.

EU MLD4, MLD5 AND THE NEW AML AND CTF PACKAGE



MLD4, MLD5 and the new AML and CTF package

MLD4 contains the EU's anti-money laundering framework. MLD5 made targeted amendments to MLD4 to increase transparency around owners of companies and trusts through the establishment of public beneficial ownership registers, prevent risks associated with the use of virtual currencies for terrorist financing, restrict the anonymous use of pre-paid cards, improve the safeguards for financial transactions to and from high-risk third countries and enhance Financial Intelligence Units' access to information. In 2021, the Commission adopted an ambitious new package of legislative proposals, intended to further strengthen the AML and CTF framework.

What's on the horizon?

- In July 2021, the Commission adopted a package of legislative proposals including a regulation establishing a new EU AML and CTF authority, a new regulation on AML and CTF, a regulation on information accompanying transfers of funds and certain cryptoassets and a sixth directive on AML and CTF. The package continued its progress through the EU legislative process in 2022, with different elements of the package progressing at different speeds. It is currently expected that the package of proposals will be finalised in 2023.
- In December 2022, the EBA published a consultation paper on producing draft guidelines on policies and controls for the effective management of money laundering and terrorist financing risks when providing access to financial services. The consultation paper also consulted on revising existing guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions. The consultation closed in February 2023 and the EBA's report and finalised guidance are expected in due course.
- It was originally expected that the new AML and CTF authority, created under the new AML package, would be operational in early 2024 but this timeline may be extended.

EU MAR AND CSMAD



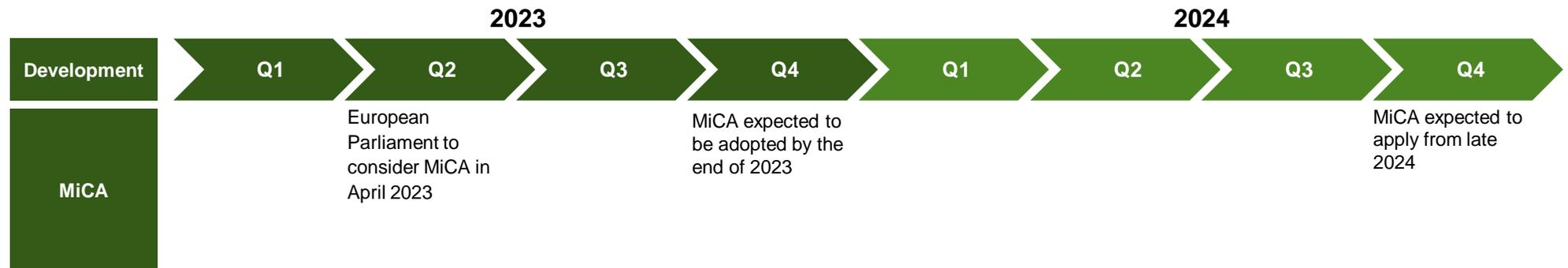
MAR and CSMAD

An EU-wide framework for tackling market abuse and market manipulation was first introduced in 2005. MAR and CSMAD aimed to update and strengthen this framework. MAR extended the scope of the market abuse regime and introduced new requirements including in relation to insider lists, disclosure of inside information and reporting of suspicious orders and transactions. CSMAD sets minimum requirements for EU member states' criminal sanctions regimes for market abuse.

What's on the horizon?

- MAR required the Commission to submit a report on MAR and, if the Commission considered this to be appropriate, a proposal for amendments to MAR, by 3 July 2019. In September 2020, ESMA published a report on MAR. The Commission's report has yet to be published.
- In December 2022, the Commission published a package of proposals to simplify EU listing rules, referred to as the Listing Act package. This will, amongst other things, amend MAR to: narrow the scope of the obligation to disclose inside information and enhance legal clarity as to what information needs to be disclosed and when; clarify the conditions under which issuers may delay disclosure of inside information; clarify the market sounding procedure; simplify the insider lists regime; and simplify the reporting mechanism for buy-back and stabilisation programmes. The proposals will now continue through the EU legislative process.

MICA



MiCA

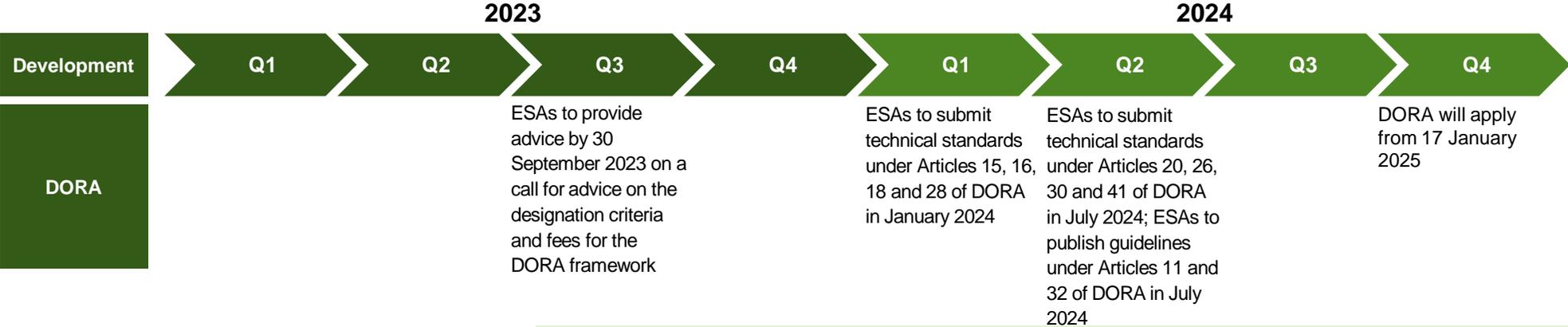
MiCA aims to establish a harmonised EU regulatory framework for activities relating to those cryptoassets that are not covered by existing EU financial services legislation. It includes provisions relating to: the issuance and admission to trading of cryptoassets, including disclosure and transparency requirements; licensing and associated conduct of business requirements for cryptoasset service providers; and a market abuse regime prohibiting market manipulation and insider dealing with respect to cryptoassets.

Read our in-depth briefing on this development [here](#), [here](#), [here](#) and [here](#).

What's on the horizon?

- The Council of the EU and European Parliament reached political agreement on MiCA in October 2022. The European Parliament is expected to consider MiCA in April 2023. It is currently expected that MiCA will be adopted by the end of 2023.
- MiCA's provisions related to stablecoins ('Asset Referenced Tokens' and 'E-Money Tokens') will apply 12 months after MiCA enters into force. The remainder of its provision (covering other cryptoassets) will apply 18 months after MiCA enters into force.

DORA



DORA

DORA aims to put in place a detailed and comprehensive framework on digital operational resilience for EU financial entities. In this context, digital operational resilience is the capacity of firms to build, assure and review their operational integrity to ensure that they can withstand all types of disruptions and threats relating to information and communication technologies (ICT). In addition, DORA creates an EU-level oversight framework to identify and oversee ICT third party service providers deemed “critical” for financial entities.

Read our in-depth briefing on this development [here](#) and [here](#).

What’s on the horizon?

- The DORA package, consisting of a regulation and directive, was published in the Official Journal on 27 December 2022. The regulation introduces digital operational resilience requirements for financial entities. It applies from 17 January 2025. The directive amends operational resilience requirements in a number of existing EU directives, including the UCITS Directive, the AIFMD and MiFID2. Member states are required to apply measures implementing its provisions from 17 January 2025.
- The European Commission has issued a provisional call for advice to the ESAs on the designation criteria (under which a third-party ICT service provider is designated as ‘critical’) and fees for the DORA oversight framework. The ESAs are asked to provide their advice by 30 September 2023.
- The ESAs are required to submit various technical standards and guidelines under DORA in January and July 2024.

NON-PERFORMING LOANS DIRECTIVE



Non-Performing Loans Directive

The Non-Performing Loans Directive (also referred to as the Directive on Credit Servicers and Credit Purchasers) establishes a regulatory regime for the servicing of, and investment in, loans which are assessed as unlikely to be repaid by the borrower or for which payments are more than 90 days overdue. It includes requirements for credit servicers to become authorised. It also establishes obligations on investors in non-performing loans.

What's on the horizon?

- The Commission is expected to adopt implementing technical standards specifying the templates to be used by credit institutions for the provision of information to credit purchasers of non-performing loans in Q2 2023.
- Member states are required to implement the directive by 29 December 2023 and to apply its requirements from 30 December 2023.
- Firms that act as credit servicers must obtain authorisation to carry on credit servicing activities by 29 June 2024.
- The Commission is required to evaluate and report on the directive by 29 December 2026.

Read our in-depth briefing on this development [here](#).



HORIZON SCANNER

B. UK DEVELOPMENTS

I. ASSET MANAGEMENT DEVELOPMENTS



INVESTMENT FIRMS PRUDENTIAL REGIME



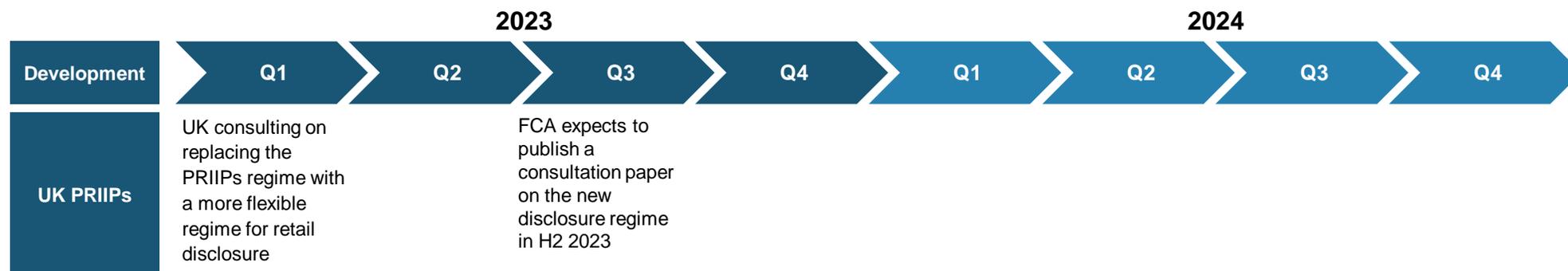
Investment Firms Prudential Regime

The UK introduced a revised prudential regime for FCA-authorized investment firms on 1 January 2022. The regime is based on, but not identical to, the EU IFD and IFR package. It incorporates key concepts from that package, including the calculation of capital using the so-called ‘K-factors’, governance and risk management requirements and a new remuneration code. The UK regime applies to a significant number of FCA-authorized firms including, in addition to MiFID investment firms, collective portfolio management investment firms (so-called ‘CPMI firms’), i.e. UCITS managers and AIFMs that, in either case, have MiFID top-up permissions.

What’s on the horizon?

- The FCA indicated that in Q4 2022 it expected to issue a further consultation paper in relation to the Investment Firms Prudential Regime, covering: ESG disclosures; own funds CRR copy-out and integration into MiFIDPRU; and MiFIDPRU clarifications. This consultation paper was not published in 2022 and is now expected in 2023.

UK PRIIPS



UK PRIIPs

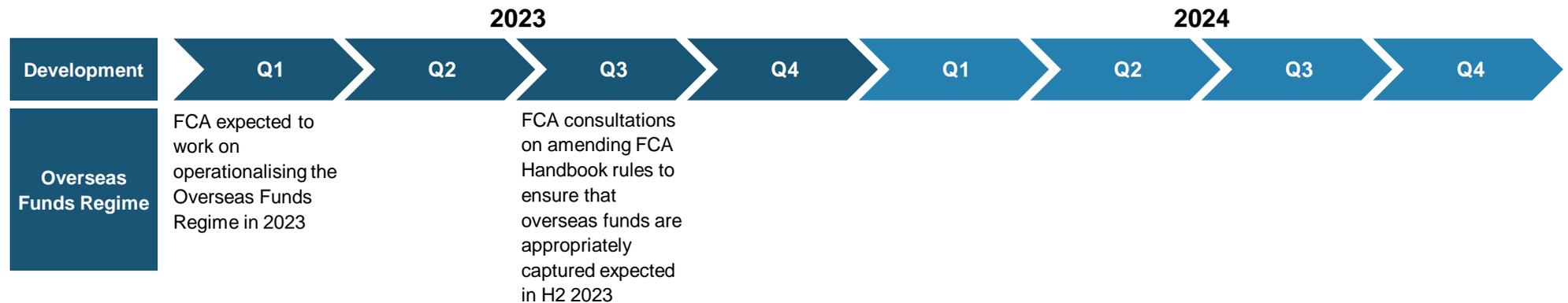
The UK onshored the EU PRIIPs Regulation into the UK. It subsequently made a series of targeted amendments to the PRIIPs regime, including extending the exemption from PRIIPs requirements for UCITS until the end of 2026. It has also been known for a number of years that the UK intended to conduct a more holistic review of the regime for retail disclosures. In December 2022, the UK began this process by publishing consultation and discussion papers on repealing and replacing the PRIIPs regime.

Read our in-depth briefing on this development [here](#), [here](#) and [here](#).

What's on the horizon?

- The UK government announced in June 2020 that it intended to conduct a holistic review of the disclosure regime for UK retail investors. A December 2021 report from the FCA stated that recent discussions between the FCA and HM Treasury indicated that this review would be confined in scope to solely the UK PRIIPs regime. In December 2022, the UK confirmed that it intends to repeal the UK's onshored version of the PRIIPs regulation, replacing it with a more flexible regime for PRIIPs and UCITS disclosures. The new regime would be contained in the FCA Handbook. The announcement was accompanied by the publication of an HM Treasury consultation paper setting out this proposal in more detail. It was shortly followed by the publication of an FCA discussion paper on designing and implementing the new retail disclosure regime. Both papers closed for feedback in March 2023.
- The FCA expects to publish a consultation paper on the new disclosure regime in H2 2023.
- The UK has extended the exemption for UCITS funds from the requirements of the UK PRIIPs regime until 31 December 2026. The FCA has similarly extended the ability for the manager of a NURS to choose whether to provide a PRIIPs KID or a NURS-KII until 31 December 2026.

OVERSEAS FUNDS REGIME



Overseas Funds Regime

The Overseas Funds Regime is a new UK regime for the marketing of non-UK retail and non-UK money market funds to UK investors. Introduced to simplify the process through which these funds must pass to be marketed to UK investors, the regime centres on equivalence determinations. HM Treasury will have the power to determine that other jurisdictions' regimes for investment funds are equivalent to that of the UK, following which retail and money market funds domiciled in an 'equivalent' jurisdiction will be able to use a simplified process to apply to the FCA for the recognition needed for the fund to be marketed to applicable UK investors.

What's on the horizon?

- The majority of the legislative provisions that introduced the Overseas Funds Regime entered into force in February 2022. However, HM Treasury has yet to make any equivalence determinations. As a result, it is not yet possible for funds to use the Overseas Funds Regime. HM Treasury announced in October 2022 that the government has now commenced its equivalent assessment of the EU and the EEA for the purpose of the Overseas Funds Regime.
- The FCA indicated that it would consult on operationalising the Overseas Funds Regime in 2022 but no consultation papers were published. It has now indicated that it will be consulting on various aspects of the FCA Handbook rules in H2 2023 to ensure that overseas funds are appropriately captured.

LTAFS



LTAFs

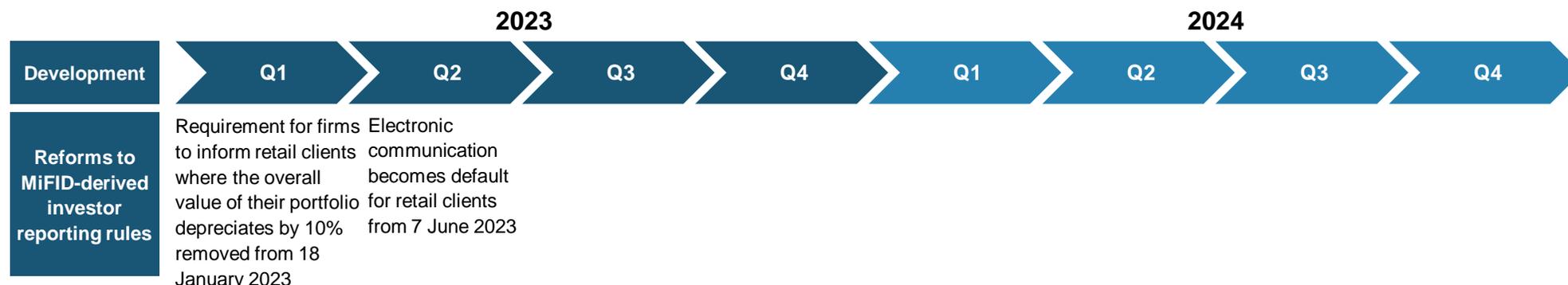
In November 2021, FCA rules creating a new authorised fund regime for investment into long-term assets came into force. Funds subject to the regime are called LTAFs and are able to invest mainly in assets that are long-term and illiquid in nature, or in other funds that invest in such assets. In the immediate-term, the FCA has restricted the marketing of LTAFs to professional investors and certain sophisticated retail investors. In August 2022, the FCA issued a consultation paper (CP22/14) on broadening retail access to the LTAF.

Read our in-depth briefing on this development [here](#).

What's on the horizon?

- In August 2022, the FCA issued a consultation paper (CP22/14) proposing to permit LTAFs to be mass marketed to retail investors. This would mean that promotion of the LTAF would no longer be restricted to professional clients, certified high net worth investors, certified sophisticated investors and self-certified sophisticated investors. The FCA states that it expects to publish a policy statement and final rules in H1 2023.
- As part of the Edinburgh reforms (a package of reforms intended to streamline and modernise the UK financial services regulation – see slide 50 for further details) the government has announced that it intends to repeal the UK's onshored version of the ELTIF Regulation. This reflects the introduction of the LTAF regime and fact that no UK ELTIFs have been established.

REFORMS TO MIFID-DERIVED INVESTOR REPORTING RULES



Reforms to MiFID-derived investor reporting rules

In December 2022, Markets in Financial Instruments (Investor Reporting) (Amendment) Regulations 2022 were laid before Parliament. The regulations make targeted tweaks to the UK’s MiFID regime to modernise the forms of communication used by investment firms and to remove certain reporting requirements that applied in relation to retail clients.

What’s on the horizon?

- The Markets in Financial Instruments (Investor Reporting) (Amendment) Regulations 2022 were laid before Parliament on 9 December 2022.

The Regulations remove the requirement for firms providing portfolio management services to inform retail clients whenever the overall value of their portfolio depreciates by 10% and thereafter at multiples of 10% from 18 January 2023.

The Regulations also make electronic communication the default method of communication for retail clients from 7 June 2023.



HORIZON SCANNER
B. UK DEVELOPMENTS
II. ESG DEVELOPMENTS



CLIMATE-RELATED DISCLOSURES – ASSET MANAGERS



Climate-related disclosures – asset managers

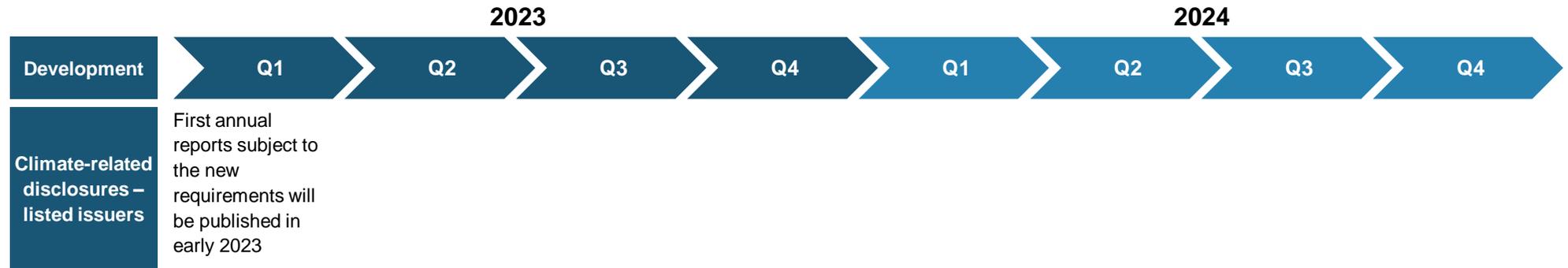
On 17 December 2021, the FCA published its final rules on mandatory climate-related disclosure requirements for asset managers, life insurers and FCA-regulated pension providers. The finalised requirements integrate the Task Force on Climate-related Financial Disclosures (TCFD) recommendations, creating a framework under which TCFD-aligned disclosures must be made by in-scope firms at certain intervals.

Read our in-depth briefing on this development [here](#).

What's on the horizon?

- The new rules applied to larger firms (asset managers with AuM of more than £50 billion and asset owners with £25 billion or more in AuM or assets under administration) from 1 January 2022 and to other in-scope firms from 1 January 2023.
- Larger firms must make their first public disclosures under the regime by 30 June 2023. Smaller firms must make their first public disclosures under the regime by 30 June 2024.

CLIMATE-RELATED DISCLOSURES – LISTED ISSUERS



Climate-related disclosures – listed issuers

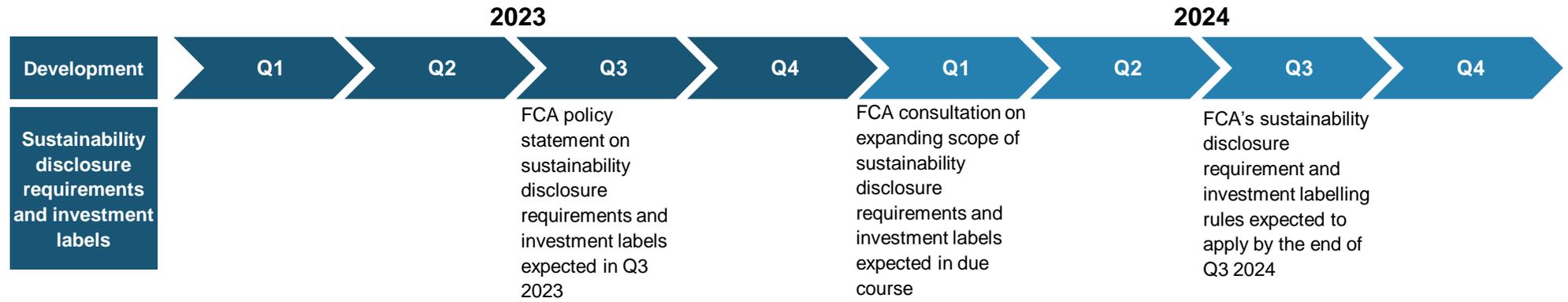
On 17 December 2021, the FCA published its final rules on extending the application of its climate-related disclosure requirements from equity issuers with a premium listing to issuers of standard listed shares and standard listed issuers of global depository receipts (GDRs), in each case excluding standard listed investment entities and shell companies.

Read our in-depth briefing on this development [here](#).

What's on the horizon?

- The new rules took effect for accounting periods beginning on or after 1 January 2022, with the result that the first annual financial reports subject to the new rule will be published in early 2023.

SUSTAINABILITY DISCLOSURE REQUIREMENTS AND INVESTMENT LABELS



Sustainability disclosure requirements and investment labels

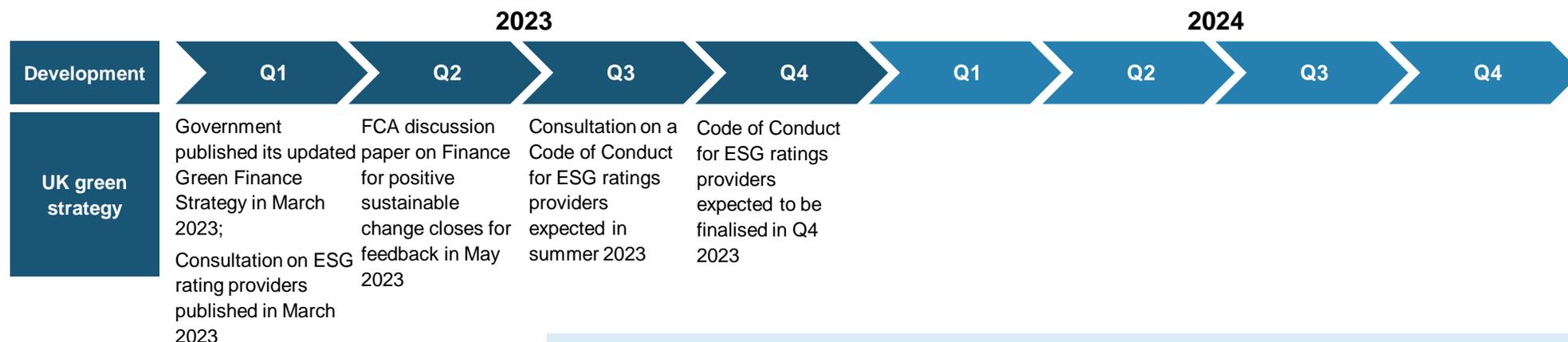
In November 2021, the FCA published a discussion paper (DP21/4) on sustainability disclosure requirements and investment product labels. The discussion paper sought views on the introduction of a standardised product classification and labelling system to help consumers to understand the sustainability characteristics of different financial products. In October 2022, the FCA published its consultation paper on these requirements (CP22/20).

Read our in-depth briefing on this development [here](#)

What's on the horizon?

- The FCA has indicated that it expects to publish its policy statement, containing its final rules on sustainability disclosure requirements and investment labels, in Q3 2023. The FCA is currently proposing that a new anti-greenwashing rule would come into effect immediately upon publication of this policy statement.
- The FCA's consultation paper on sustainability disclosure requirements and investment labels (CP22/20) indicates that the FCA intends in the future to expand the scope of investment products captured under the regime to include, for example, overseas products. Consultation on this expansion is expected in due course.
- The FCA has indicated that rules for labelling, consumer-facing disclosures, pre-contractual disclosures and naming and marketing rules would apply one year after publication of the policy statement referred to above (i.e. by the end of Q3 2024).

UK GREEN STRATEGY



UK green strategy

The UK is reforming its financial services regulation in the wake of Brexit. Currently, the three key elements of this process are: (i) the Financial Services and Markets Bill, which would revoke EU-derived financial services and markets legislation; (ii) the Retained EU Law (Revocation and Reform) Bill, which would revoke other EU-derived legislation; and (iii) the Edinburgh reforms, a package of reforms that aim to modernise and improve UK financial services regulation. This slide tracks the key ESG-related developments that form part of these workstreams.

What's on the horizon?

- In March 2023, the government published its updated Green Finance Strategy. This set out a number of proposed future steps, including confirming that the UK intends to consult on producing its green taxonomy later in 2023.
- In March 2023, HM Treasury published a consultation paper on introducing a regulatory regime for providers of ESG ratings. The consultation closes for feedback on 30 June 2023.
- The FCA's discussion paper (DP23/1) on 'Finance for positive sustainable change: governance, incentives and competence in regulated firms' closes for feedback in May 2023. The discussion paper aims to encourage dialogue on firms' sustainability-related governance, incentives and competencies. The feedback will be used by the FCA to consider the direction in which its future regulatory approach should evolve.
- A consultation on a draft Code of Conduct for ESG ratings providers is expected to be published in summer 2023, with the Code of Conduct to be finalised in Q4 2023.

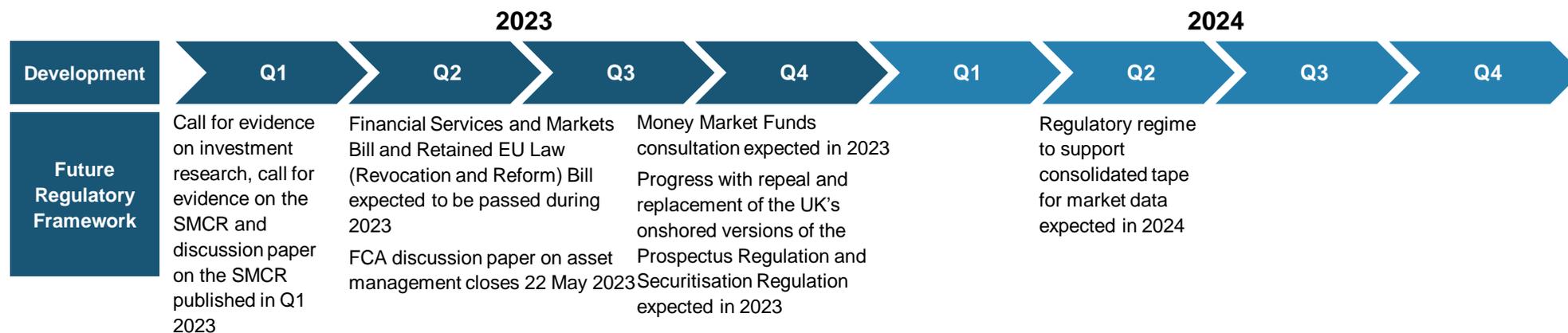


HORIZON SCANNER
B. UK DEVELOPMENTS

III. CROSS-SECTORAL DEVELOPMENTS



FUTURE REGULATORY FRAMEWORK



Future Regulatory Framework

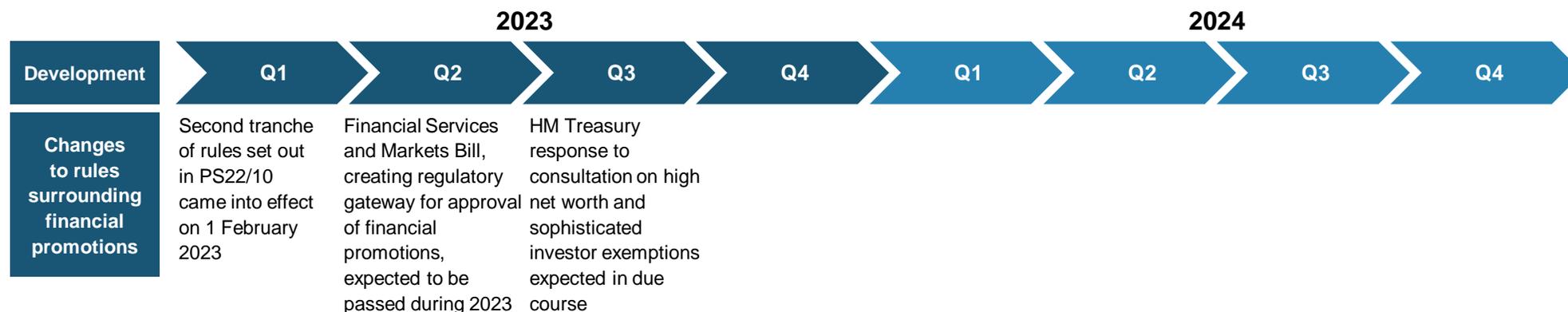
The UK is reforming its financial services regulation in the wake of Brexit. Currently, the three key elements of this process are: (i) the Financial Services and Markets Bill, which would revoke EU-derived financial services and markets legislation; (ii) the Retained EU Law (Revocation and Reform) Bill, which would revoke other EU-derived legislation; and (iii) the Edinburgh reforms, a package of reforms that aim to modernise and improve UK financial services regulation. This slide tracks the key cross-sectoral-related developments that form part of these workstreams.

Read our in-depth briefings on this development [here](#), [here](#), [here](#), [here](#) and [here](#).

What's on the horizon?

- A call for evidence on the UK's investment research regime, call for evidence on the SMCR and discussion paper on the SMCR were published in Q1 2023.
- The Financial Services and Markets Bill and Retained EU Law (Revocation and Reform) Bill are expected to be passed in 2023. The former would implement the outcomes of the UK's Future Regulatory Framework Review and certain other reviews, revoke EU-derived financial services and markets legislation and allow HM Treasury and the UK regulators to incorporate requirements deriving from that legislation into UK legislation and the regulators' rulebooks. The latter would sunset a large part of retained EU law at the end of 2023 and give the government powers to restate, revoke and replace outstanding retained EU law.
- The FCA's discussion paper (DP23/3) on updating and improving the UK regime for asset management closes on 22 May 2023.
- A consultation paper on amendments to the UK's Money Market Funds regime is expected in 2023.
- The UK has announced that it will repeal and replace the UK's onshored versions of the Prospectus Regulation and Securitisation Regulation. Progress is expected in 2023.
- The government and the FCA plan to introduce a regulatory regime to support a consolidated tape for market data by 2024.
- Timing has yet to be announced for various measures including: (i) the introduction of a new class of wholesale market venue which would operate on an intermittent trading basis; and (ii) a report from HM Treasury on its call for evidence on the UK's short selling regime.

CHANGES TO RULES SURROUNDING FINANCIAL PROMOTIONS



Changes to rules surrounding financial promotions

There are currently four key regulatory initiatives relating to financial promotions. These are: (i) changes to the FCA's financial promotion rules for high-risk investments; (ii) an HM Treasury consultation on amending the financial promotion exemptions for high net worth and sophisticated investors; (iii) an expansion of the financial promotion regime to include unregulated cryptoassets; and (iv) the introduction of a regulatory 'gateway' through which an authorised firm must pass in order to be able to approve the financial promotion of an unauthorised firm.

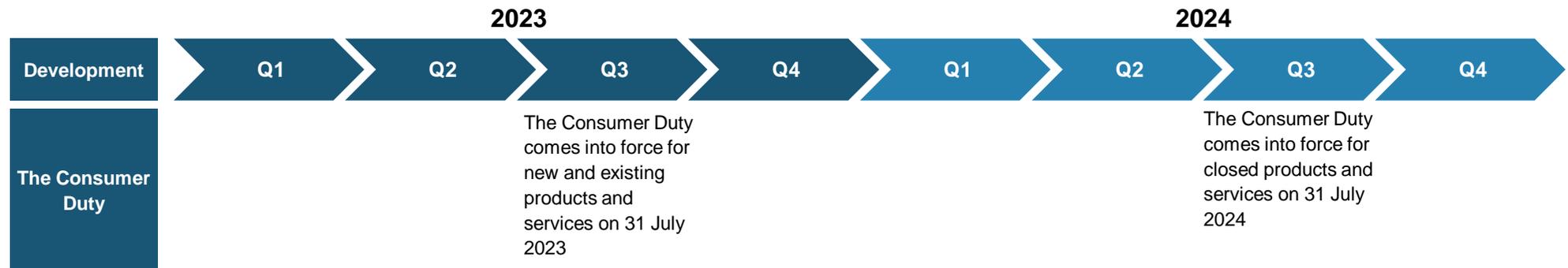
What's on the horizon?

- The FCA published a policy statement (PS22/10) in August 2022 entitled 'Strengthening our financial promotion rules for high-risk investments and firms approving financial promotions'. The policy statement contains a package of amendments to the FCA's rules on financial promotions for high-risk investments (including collective investment schemes). Changes include requirements for risk warnings, risk statements and prohibitions on inducements to invest. The first tranche of changes set out in that policy statement applied from 1 December 2022. The remaining changes applied from 1 February 2023.
- The Financial Services and Markets Bill (see slide 50) contains the draft legislative provisions to create a regulatory gateway through which a firm must pass before it is able to approval financial promotions issued by unauthorised firms. The FCA consulted in December 2022 (CP22/27) on proposed rules to operationalise the regulatory gateway. CP22/27 closed on 7 February 2023 and the FCA will finalise its rules after the Financial Services and Markets Bill gains Royal Assent.

The Financial Services and Markets Bill also includes provisions intended to extent the financial promotion restriction to cover cryptoassets.

- In December 2021, HM Treasury published a consultation paper that proposed amendments to the current financial promotion exemptions for high net worth individuals and sophisticated investors. The purpose of the proposals is to ensure that these exemptions reflect the economic, social and technological developments that have occurred since their introduction and to ensure that the exemptions cannot be misused. The consultation closed in March 2022 and an HM Treasury response document has yet to be published.

THE CONSUMER DUTY



The Consumer Duty

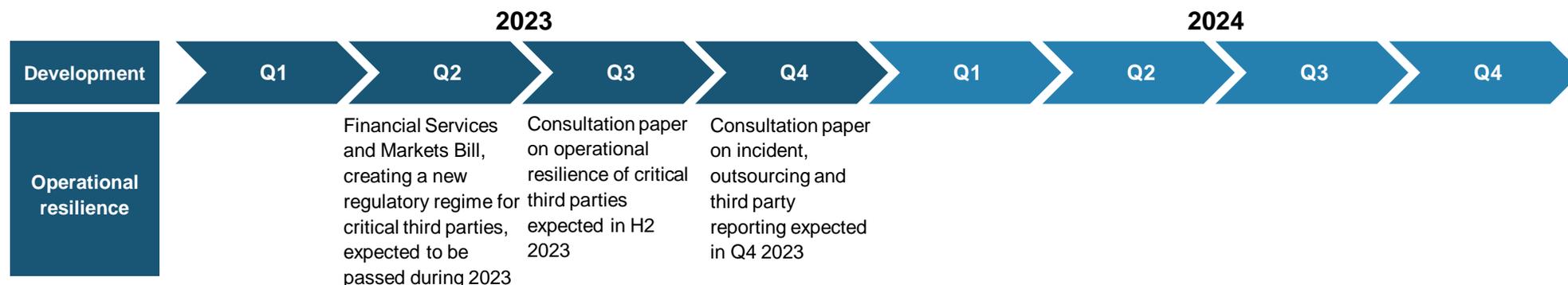
The FCA is introducing a new ‘Consumer Duty’, the purpose of which is to create a higher level of consumer protection in retail financial markets. The Consumer Duty consists of a package of measures, comprised of a new ‘Consumer Principle’ supported by detailed rules and guidance. The Consumer Duty will apply to products and services sold to retail clients and would extend to firms that are involved in the manufacture or supply of products and services to retail clients even if they do not have a direct relationship with the end retail customer.

Read our in-depth briefing on this development [here](#).

What’s on the horizon?

- The Consumer Duty comes into force for new and existing products and services on 31 July 2023.
- The Consumer Duty comes into force for closed products and services on 31 July 2024.

OPERATIONAL RESILIENCE



Operational resilience

The FCA and PRA introduced a new operational resilience regime in 2021. The regime included an implementation period, under which firms needed to complete certain actions before 31 March 2022. The implementation period is now followed by a transitional period, ending on 31 March 2025. Firms should use the transitional period to implement strategies, processes and systems that enable them to address risks to their ability to remain within their impact tolerance for each important business service in the event of a severe but plausible disruption.

Read our in-depth briefing on this development [here](#) and [here](#).

What's on the horizon?

- The Financial Services and Markets Bill (see slide 50), which includes proposals to regulate cloud service providers and other designated critical third parties providing services to UK regulated firms, is expected to be passed during 2023.
- In July 2022, the FCA, PRA and Bank of England published a joint discussion paper (DP22/3) on the operational resilience of critical third parties and how the regulators could use their new powers under the Financial Services and Markets Bill. The consultation closed in December 2022 and feedback and a consultation paper are expected in H2 2023.
- In Q4 2023, the Bank of England, PRA and FCA expect to publish a joint consultation paper on incident, outsourcing and third party reporting. The purpose of this initiative would be to: (i) introduce clarity regarding the information that firms should submit when operational incidents occur; and (ii) collect certain information on firms' outsourcing and third party arrangements in order to manage the risks that they may present to the FCA's and PRA's objectives, including resilience, concentration and competition risks.
- Firms have until 31 March 2025 to implement strategies, processes and systems that enable them to address risks to their ability to remain within their impact tolerance for each important business service in the event of a severe but plausible disruption.

UK AML REGIME



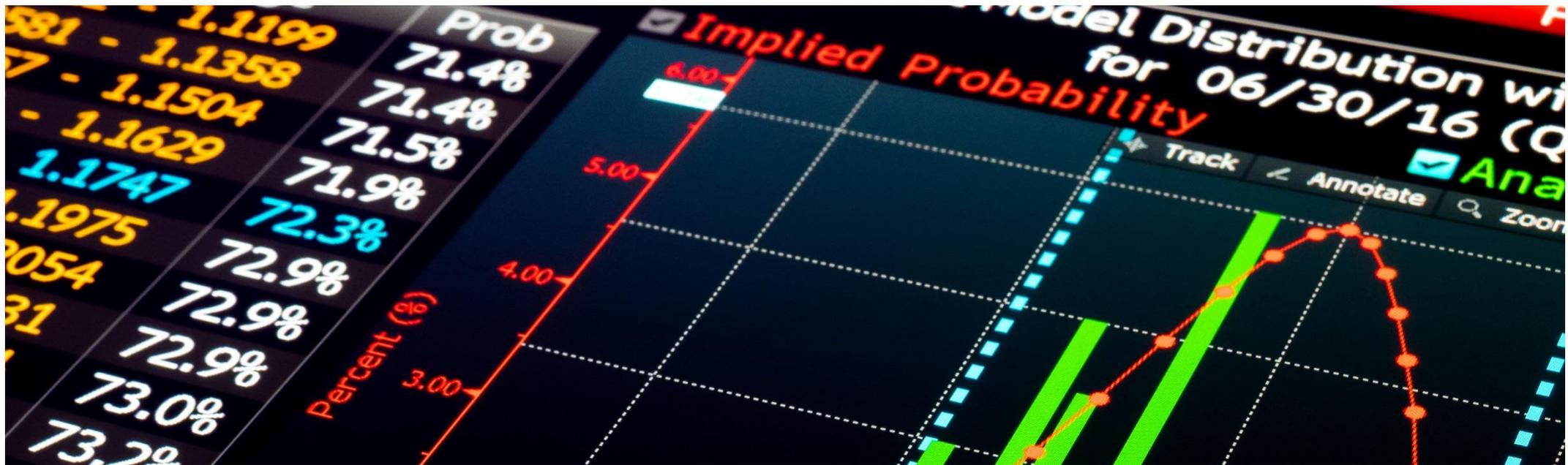
UK AML Regime

On 21 July 2022, the UK's Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 were passed. These set out specific amendments to the UK's AML regime, which are being phased in, culminating on 1 September 2023.

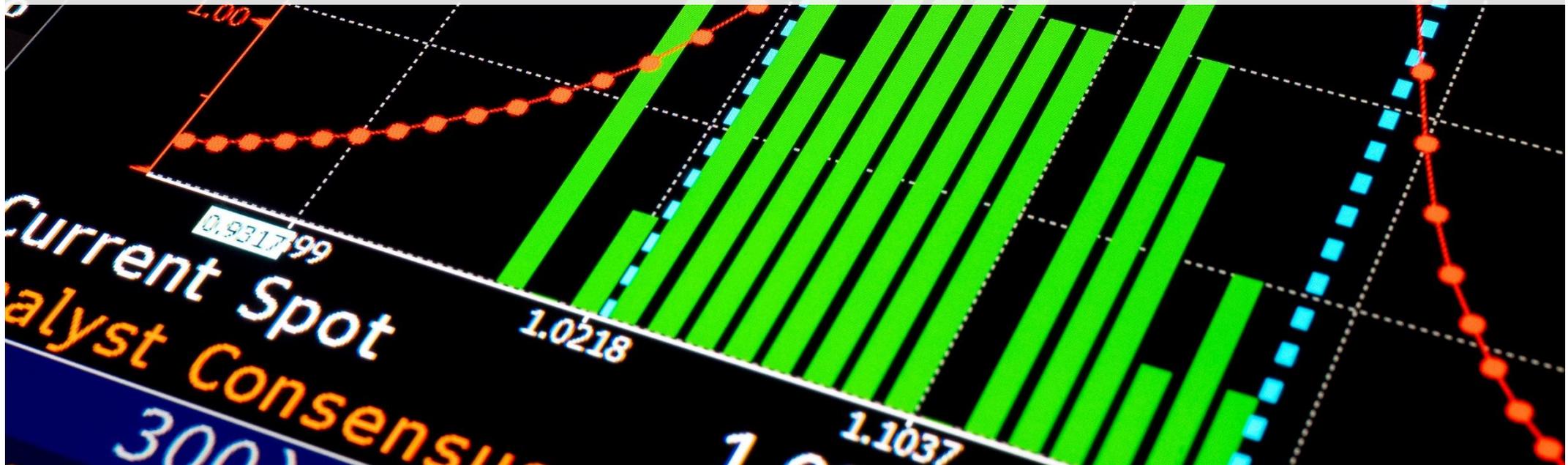
Alongside the consideration of these specific amendments, the UK has been conducting a wider review of its AML regime. A report on this review was published on 24 June 2022. This indicated that further reform to the UK's AML regime is needed and, therefore, further consultations and amendments to the regime are expected.

What's on the horizon?

- The Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 were made on 21 July 2022. They make various targeted amendments to the UK's Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, including in relation to the reporting of discrepancies and requirements relating to cryptoasset businesses and cryptoasset transfers. Most of the requirements entered into force on 11 August 2022, 1 September 2022 and 1 April 2023. Remaining provisions will enter into force on 1 September 2023.
- The UK's list of high risk third countries is updated periodically to reflect the Financial Action Task Force's standards. Future updates may be made following the latest Financial Action Task Force plenaries, in March and July 2023.



GLOSSARY



GLOSSARY

Term	Definition
AIF	Alternative investment fund
AIFM	Alternative investment fund manager
AIFMD	Alternative Investment Fund Managers Directive (Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011)
AIFMD2	The anticipated revised version of the AIFMD
AML	Anti-money laundering
AuM	Assets under management
Commission	The European Commission
CBDF	Cross-border Distribution of Funds Directive and Regulation (Directive (EU) 2019/1160 of the European Parliament and of the Council of 20 June 2019)
CRR	Capital Requirements Regulation (Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013)
CSA	Common Supervisory Action
CSD	Central securities depository
CSDR	Central Securities Depositories Regulation (Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014)
CSMAD	Criminal Sanctions for Market Abuse Directive (Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014)
CS3D	Corporate Sustainability Due Diligence Directive
CTF	Counter-terrorist financing

GLOSSARY

(CONTINUED)

Term	Definition
DORA	Digital Operational Resilience Act (consisting of Regulation (EU) 2022/2554 of the European Parliament of the Council of 14 December 2022 and Directive (EU) 2022/2556 of the European Parliament and of the Council of 14 December 2022)
EBA	European Banking Authority
ECA	European Court of Auditors
ELTIF	European long-term investment fund
ELTIF Regulation	European Long-Term Investment Fund Regulation (Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015)
ELTIF2	The revised version of the ELTIF Regulation
EMIR	European Market Infrastructure Regulation (Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012)
EMIR 2.2	Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019
EMIR3	The proposed amended version of EMIR
EMIR Refit Regulation	Regulation (EU) 2019/834 of the European parliament and of the Council of 20 May 2019
ESAs	European Supervisory Authorities
ESG	Environmental, social and governance
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board

GLOSSARY

(CONTINUED)

Term	Definition
EuSEF	European social entrepreneurship fund
EuSEF Regulation	European Social Entrepreneurship Fund Regulation (Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013)
EuVECA	European venture capital fund
EuVECA Regulation	European Venture Capital Fund Regulation (Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013)
FCA	The UK's Financial Conduct Authority
FSMB	Financial Services and Markets Bill
IFD	Investment Firms Directive (Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019)
IFR	Investment Firms Regulation (Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019)
ITS	Implementing Technical Standards
KID	Key information document
KIID	Key investor information document
Listing Act	The EU's proposed Listing Act package
LTAF	Long-term asset fund
MAR	Market Abuse Regulation (Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014)

GLOSSARY

(CONTINUED)

Term	Definition
MiCA	The EU's proposed Markets in Cryptoassets Regulation
MiFIDPRU	The Prudential sourcebook for MiFID Investment Firms, in the FCA Handbook
MiFID2	Second Markets in Financial Instruments Directive (Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014)
MiFID3	The proposed amended version of MiFID2
MiFIR2	The proposed amended version of the Markets in Financial Instruments Regulation (Regulation (EU) No 300/2014)
MLD4	Fourth Money Laundering Directive (Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015)
MLD5	Fifth Money Laundering Directive (Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018)
MMF	Money market fund
MMF Regulation	The Money Market Funds Regulation (Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017)
NAV	Net asset value
Non-Financial Reporting Directive	Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013
Non-Performing Loans Directive	Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021
NURS	Non-UCITS retail scheme

GLOSSARY

(CONTINUED)

Term	Definition
NURS-KII	Key investor information document for a NURS
PAI statements	Principal adverse impact statements – statements on the principal adverse impacts of investment decisions on sustainability factors, as required under the SFDR
PRA	The UK's Prudential Regulation Authority
PRiIPs	Packaged retail and insurance-based investment products
PRiIPs Regulation	Packaged Retail and Insurance-based Investment Products Regulation (Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014)
Prospectus Regulation	Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017
REUL	Retained EU Law (Revocation and Reform) Bill
RTS	Regulatory Technical Standards
Securitisation Regulation	Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017
SFDR	Sustainable Finance Disclosure Regulation (Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019)
SFTR	Securities Financing Transactions Regulation (Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015)
SMCR	Senior Managers and Certification Regime
SRD2	Second Shareholder Rights Directive (Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017)

GLOSSARY

(CONTINUED)

Term	Definition
Taxonomy Regulation	Taxonomy Regulation (Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020)
TCFD	Task Force on Climate-Related Financial Disclosures
UCITS	Undertaking for collective investment in transferable securities
UCITS Directive	Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009
Unfair Commercial Practices Directive	Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005



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