

INTERNATIONAL REGULATORY UPDATE 26 – 30 JUNE 2023

- **Digital finance:** EU Commission publishes legislative proposals on framework for digital euro and legal tender of euro cash
- **Payments/Open Finance:** EU Commission publishes legislative proposals for PSD3, PSR and framework for financial data access
- **Sustainable finance:** EU Commission adopts two Delegated Acts under Taxonomy Regulation
- **Capital Markets Union:** EU Council and Parliament reach provisional agreement on MiFIR2 and MiFID3
- **Banking package:** EU Council and Parliament reach provisional agreement on CRR3 and CRD6
- **CSDR Refit:** EU Council and Parliament reach provisional agreement on updated rules
- **ECON Committee** adopts position on instant payments in euros
- **CCPRRR:** ESMA publishes guidelines on resolution plans and colleges
- **UK and EU** sign MoU on financial services cooperation
- **FATF** provides update on implementation of standards on virtual assets and virtual asset service providers
- **ISSB** publishes global sustainability disclosure standards
- **Financial Services and Markets Bill and Retained EU Law (Revocation and Reform) Bill** receive Royal Assent
- **FCA** publishes policy statement on broadening retail and pensions access to the long-term asset fund
- **FCA** reminds firms to prepare for Consumer Duty
- **Joint Regulatory Oversight Committee** publishes commercial pricing principles for open banking
- **PRA** consults on solvent exit planning for non-systemic banks and building societies
- **Law Commission** recommends digital asset law reform
- **BaFin** publishes revised MaRisk
- **German Financial Stability Committee** issues 10th report on financial stability in Germany
- **AMLD4:** Bank of Italy amend their KYC regulations

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- **CSSF publishes outcome of 2022 self-assessment exercise on climate-related and environmental risks**
- **Ministry of Finance presents draft act on credit servicers and credit purchasers**
- **Polish Financial Supervision Authority adopts new Recommendation U on best practices in bancassurance**
- **MAS consults on coal phase-out criteria under Singapore-Asia Taxonomy**
- **MAS consults on proposals to increase deposit insurance coverage**
- **MAS consults on proposed code of conduct for providers of ESG ratings and data products**
- **MAS-led industry consortium releases toolkit for responsible use of AI in financial sector**
- **MAS proposes framework for digital asset networks and announces expansion of Project Guardian**
- **Recent Clifford Chance briefing: Financial Services and Markets Act 2023 – key changes on the way to Royal Assent. Follow this link to the briefings section.**

Digital finance: EU Commission publishes legislative proposals on framework for digital euro and legal tender of euro cash

The EU Commission has published its proposals for a digital euro as part of a single currency package.

The package includes proposals for:

- a [Regulation establishing the legal framework for a possible digital euro](#);
- a [Regulation on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro](#);
- and
- a [Regulation on the legal tender of euro coins and banknotes](#).

The package sets out a framework for a possible new digital form of the euro that may be issued in the future by the European Central Bank (ECB) as a complement to cash. The Regulation establishing the legal framework for a possible digital euro would seek to ensure that people and businesses have an additional choice, alongside existing national and international private means of payment, that allows them to pay digitally with a widely accepted, cheap, secure and resilient form of public money in the euro area.

According to the Commission, the digital euro would work like a digital wallet. Individuals and businesses could pay with the digital euro anytime and anywhere in the euro area, and it would be available for payments both online and offline. The Commission has indicated that offline payments would allow users to make digital payments while disclosing less personal data than they currently do when making card payments.

The EU Commission has also emphasised that while the Regulation would establish the legal framework to support a digital euro, it would be the ECB's decision if and when to issue the digital euro.

The related proposal on the legal tender of euro cash is intended to safeguard the continued and widespread acceptance of cash throughout the euro area and ensure that everyone in the euro area is free to choose their preferred payment method and have access to basic cash services.

Payments/Open Finance: EU Commission publishes legislative proposals for PSD3, PSR and framework for financial data access

The EU Commission has put forward a financial data access and payments package, which comprises proposals for a [new Payment Services Directive](#) (PSD3), a [Payment Services Regulation](#) (PSR) and a [Regulation on a framework for financial data access](#).

The EU Commission proposes to amend and modernise the current Payment Services Directive (PSD2), which will become PSD3 and be complemented by the new PSR. The proposals consist of a package of measures which aim to:

- combat and mitigate payment fraud;
- improve consumer rights;
- further level the playing field between banks and non-banks;
- improve the functioning of open banking;
- improve the availability of cash in shops and via ATMs; and
- strengthen harmonisation and enforcement.

The EU Commission is also putting forward a legislative proposal for a framework for financial data access. This framework is intended to establish clear rights and obligations to manage customer data sharing in the financial sector beyond payment accounts, namely:

- the possibility but no obligation for customers to share their data with data users;
- an obligation for customer data holders, e.g. financial institutions (FIs), to make this data available to data users;
- full control by customers over who accesses their data and for what purpose;
- standardisation of customer data and the required technical interfaces;
- clear liability regimes for data breaches and dispute resolution mechanisms; and
- additional incentives for data holders to put in place high-quality interfaces for data users.

The financial data access and payments package is intended to fit into the broader European data strategy and builds upon the key principles for data access and processing set out in its accompanying initiatives, such as the Data Governance Act, the Digital Markets Act and the Data Act proposal.

Sustainable finance: EU Commission adopts two Delegated Acts under Taxonomy Regulation

The EU Commission has adopted two Delegated Regulations relating to the criteria for meeting the environmental objectives under the EU Taxonomy Regulation.

The first [Delegated Regulation](#), the Taxonomy Environmental Delegated Act, sets technical screening criteria (TSC) for economic activities making a substantial contribution to one or more of the non-climate environmental objectives. It supplements the Taxonomy Regulation and amends the Taxonomy Disclosures Delegated Act ((EU) 2021/2178) regarding specific public disclosures for those economic activities.

The second [Delegated Regulation](#) amends the Taxonomy Climate Delegated Act ((EU) 2021/2139) to include additional economic activities that qualify as making a substantial contribution to the climate environmental objectives, that is climate change mitigation and climate change adaptation.

The Delegated Regulations will enter into force on the twentieth day after their publication in the Official Journal and will apply from 1 January 2024, with the exception of two provisions in the second Regulation that will apply from 1 January 2025.

Capital Markets Union: EU Council and Parliament reach provisional agreement on MiFIR2 and MiFID3

The EU Council and Parliament have [reached](#) a provisional agreement on a Regulation and Directive amending the Markets in Financial Instruments Regulation and Directive (MiFIR2/MiFID3).

The changes to the EU's trading rules are intended to increase the global competitiveness of the EU's capital markets and give investors access to the market data necessary to invest in financial instruments more easily. They will, among other things:

- establish EU-level 'consolidated tapes' or centralised data feeds for different kinds of assets, which are intended to make it easier for investors to access key information such as the price of instruments and the volume and time of transactions; and
- impose a general ban on payment for order flow (PFOF), while providing Member States with a discretion to allow the practice in their territory until 30 June 2026.

The Council and Parliament also agreed on proposed amendments relating to commodity derivatives.

The provisional agreement still needs to be confirmed before it can be formally adopted and published in the Official Journal.

Banking package: EU Council and Parliament reach provisional agreement on CRR3 and CRD6

The EU Council and Parliament have [reached](#) a provisional political agreement on the EU Commission's proposed banking package.

The package includes a directive amending the Capital Requirements Directive (CRD) as regards supervisory powers, sanctions, third-country branches and ESG risk (CRD6) and a regulation amending the Capital

Requirements Regulation (CRR) as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (CRR3). The proposals implement the international Basel standards while taking into account specificities of the EU economy.

CRR3 is expected to apply from 1 January 2025, with certain elements of the regulation phasing in over the coming years, and Member States are expected to have until 30 June 2026 to transpose CRD6.

The provisional agreement still needs to be confirmed by the Council and the Parliament before it can be formally adopted.

CSDR Refit: EU Council and Parliament reach provisional agreement on updated rules

The EU Council and Parliament have [reached](#) a provisional political agreement on the EU Commission's proposal for a Regulation amending the Central Securities Depositories Regulation (CSDR Refit).

The updates are intended to reduce the financial and regulatory burden on central securities depositories (CSDs) and improve their ability to operate across borders while strengthening financial stability. They focus on five key areas including:

- the passporting regime;
- cooperation between supervisory authorities;
- banking-type ancillary services;
- settlement discipline; and
- the oversight of third country CSDs.

The provisional agreement still needs to be confirmed before it can be formally adopted. The Regulation will enter into force following publication in the Official Journal.

ECON Committee adopts position on instant payments in euros

The EU Parliament Committee on Economic and Monetary Affairs (ECON Committee) has [agreed](#) its position on the instant payments proposal, which aims to improve the availability of instant payment options in euro in the EU and EEA countries.

This initiative comes in the context of the completion of the Capital Markets Union. The proposed regulation amends the Single Euro Payments Area (SEPA) Regulation and consists of four requirements regarding euro instant payments:

- making instant euro payments universally available, with an obligation on EU payment service providers that already offer credit transfers in euro to offer their instant version as well;
- making instant euro payments affordable, with an obligation on payment service providers to ensure that the price charged for instant payments in euro does not exceed the price charged for traditional, non-instant credit transfers in euro;

- increasing trust in instant payments, with an obligation on providers to verify the match between the bank account number (IBAN) and the name of the beneficiary provided by the payer in order to alert the payer of a possible mistake or fraud before the payment is made; and
- removing friction in the processing of instant euro payments while preserving the effectiveness of screening of persons that are subject to EU sanctions, through a procedure whereby payment service providers will verify their clients against EU sanctions lists on at least a daily basis, instead of screening all transactions one by one.

The Parliament is now ready to start trilogue negotiations with the EU Council, which has already adopted its negotiating position.

CCPRRR: ESMA publishes guidelines on resolution plans and colleges

The European Securities and Markets Authority (ESMA) has published two final reports including guidelines under the Central Counterparties Recovery and Resolution Regulation (CCPRRR).

The guidelines follow the publication of the regulatory technical standards (RTS) on the contents of written arrangements for resolution colleges and the contents of resolution plans.

The [guidelines](#) on the template written arrangements for resolution colleges are intended to assist national competent authorities (NCAs) in the creation of the resolution colleges and ensure a smooth process to both establish and review the resolution college agreement.

The [guidelines](#) on the template summary resolution plans provide resolution authorities with guidance as to the type of information that should be included in the summary that would be shared with the CCP.

The guidelines will apply following their publication on ESMA's website in the official languages of the EU.

UK and EU sign MoU on financial services cooperation

The UK Government and EU Commission have signed a [memorandum of understanding](#) (MoU) on bilateral regulatory cooperation in financial services.

Among other things, the MoU creates an administrative framework for voluntary regulatory cooperation and includes the establishment of a Joint EU-UK Financial Regulatory Forum to serve as a platform to exchange views and facilitate dialogue on financial services issues.

The first meeting of the Forum is expected to be held in autumn 2023.

FATF provides update on implementation of standards on virtual assets and virtual asset service providers

The Financial Action Task Force (FATF) has published a [targeted update](#) on the implementation of the FATF standards on virtual assets and virtual asset service providers (VASPs), which provides an update on country compliance with the FATF's Recommendation 15 and its Interpretative Note (R.15/INR.15), including the travel rule, and updates on emerging risks and market developments, including on decentralised finance (DeFi), peer-to-peer transactions (P2P), and non-fungible tokens (NFTs), unhosted wallets, and stablecoins.

The report notes that jurisdictions continue to struggle with fundamental requirements such as undertaking a risk assessment, enacting legislation to regulate VASPs, and conducting a supervisory inspection.

In particular, the report finds that 75% of jurisdictions are only partially or not compliant with the FATF's requirements and that jurisdictions have made insufficient progress on implementing the travel rule.

ISSB publishes global sustainability disclosure standards

The International Sustainability Standards Board (ISSB) has published its inaugural standards on sustainability-related disclosures in capital markets.

The standards create a common language for disclosing the effect of climate-related risks and opportunities on a company's prospects. The standards are intended to create a global baseline and to help improve trust and confidence in company disclosures about sustainability to inform investment decisions.

[IFRS S1](#) provides a set of disclosure requirements designed to enable companies to communicate to investors about the sustainability-related risks and opportunities they face over the short, medium and long term.

[IFRS S2](#) sets out specific climate-related disclosures and is designed to be used with IFRS S1.

The ISSB developed IFRS S1 and IFRS S2 in response to calls from the G20, the Financial Stability Board (FSB) and the International Organization of Securities Commissions (IOSCO). Both fully incorporate the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD).

Financial Services and Markets Bill and Retained EU Law (Revocation and Reform) Bill receive Royal Assent

The [Financial Services and Markets Bill](#) and the [Retained EU Law \(Revocation and Reform\) Bill](#) have [received](#) Royal Assent and become Acts of Parliament.

The Financial Services and Markets Act 2023 is intended to implement the outcomes of the UK Government's future regulatory framework (FRF) review and to make other significant changes to the structure and content of UK financial services regulation.

Key measures cover:

- the revocation of retained EU law on financial services;
- providing HM Treasury with new regulatory powers;
- changes to the UK regulators' objectives and accountability mechanisms;
- the implementation of other reviews, including in relation to wholesale markets, financial market infrastructure, digital settlement assets, critical third-party service providers, financial promotions, cash access and wholesale cash industry, and measures for insurers in financial difficulties;
- allowing HM Treasury to implement mutual recognition arrangements;
- requiring firms to have specific permission to approve financial promotions; and
- extending powers to impose conditions on changes in control of authorised firms.

FCA publishes policy statement on broadening retail and pensions access to the long-term asset fund

The Financial Conduct Authority (FCA) has published a [policy statement](#) (PS23/7) on broadening retail and pensions access to the long-term asset fund (LTAF).

This follows a consultation (CP22/14) launched in August 2022. PS23/7 sets out the FCA's response to the feedback received and details the final rules and guidance the FCA is introducing.

The FCA is proceeding with final rules generally as consulted in CP22/14, which recategorise a unit in an LTAF from a non-mass market investment to a restricted mass market investment. This means that distribution will be extended so that mass market retail investors, as well as self-select defined contribution pension schemes and self-invested personal pensions, will be able to invest into an LTAF.

The new Handbook rules and guidance came into force on 3 July 2023.

The FCA is also seeking feedback on chapter 4 and whether the protections of the Financial Services Compensation Scheme should be available for this product, or whether a different approach should be in place. Comments are due by 10 August.

FCA reminds firms to prepare for Consumer Duty

The FCA has [reminded](#) firms how they should be preparing for the Consumer Duty, which comes into force on 31 July 2023 for new and existing products and services that are open for sale or renewal.

The FCA has published the results of the Consumer Duty firm survey conducted in spring 2023. The survey found that the majority of firms believe they are on course to fully implement the Consumer Duty on time, while some have more to do to meet the deadline.

The FCA has emphasised that the Consumer Duty is a significant shift in its expectations. The FCA expects boards, or equivalent management bodies, to have clear oversight of Consumer Duty implementation plans.

The FCA has highlighted 10 key questions from the finalised guidance (FG22/5) that firms could ask themselves to help make sure they are on track. The questions are intended to help firms to reflect on their implementation of the Consumer Duty and identify gaps or areas for improvement. Firms can also expect to be asked questions like these in their interactions with the FCA.

Once the Consumer Duty is in force, the FCA intends to prioritise the most serious breaches and act swiftly and assertively where there is evidence of harm or risk of harm to consumers.

Joint Regulatory Oversight Committee publishes commercial pricing principles for open banking

The Joint Regulatory Oversight Committee (JROC), co-chaired by the FCA and the Payment Systems Regulator (PSR), has published a [joint paper](#) setting out high-level principles for banks and registered third parties to follow when agreeing a premium application programming interface (API) commercial model.

The paper outlines the characteristics of a safe and sustainable commercial model for premium APIs. The JROC sets out that fees and charges for premium APIs should:

- broadly reflect relevant long run costs of providing premium APIs;
- incentivise investment and innovation in premium APIs;
- incentivise take up of open banking by consumers and businesses and use of network effects;
- treat third party providers fairly; and
- be transparent.

The JROC hopes that the paper will support the variable recurring payments (VRP) working group in developing a safe and sustainable commercial model for non-sweeping VRPs as a pilot and test new premium APIs.

PRA consults on solvent exit planning for non-systemic banks and building societies

The Prudential Regulation Authority (PRA) has launched a [consultation](#) on its proposals for non-systemic banks and building societies in the UK to prepare for an orderly 'solvent exit' as part of their business-as-usual (BAU) activities.

The proposals are part of the PRA's plan to increase confidence that firms can exit the market with minimal disruption and without having to rely on the backstop of an insolvency or resolution process. The proposals add a new chapter to the recovery plans part of the PRA Rulebook so that solvent exit would sit alongside recovery and resolution as a possible route for non-systemic firms facing stress or wishing to exit from PRA-regulated activity for any reason. Specifically, the proposals include:

- new rules and expectations stating that firms must prepare for a solvent exit as part of their BAU activities, and that firms must document those preparations in a solvent exit analysis;
- new expectations, which would apply only if solvent exit became a reasonable prospect for a firm, on how firms should: (i) prepare a detailed solvent exit execution plan, and (ii) monitor and manage a solvent exit; and
- amending the 'Solvent wind down' section in supervisory statement SS3/21.

Comments are due by 27 October 2023.

Law Commission recommends digital asset law reform

The Law Commission has published a [report](#) setting out its recommendations for reform and development of the law relating to digital assets.

In March 2020, the UK Government asked the Law Commission to make recommendations for reform to ensure that the law is capable of accommodating both crypto-tokens and other digital assets.

The Law Commission has concluded that the flexibility of common law allows for the recognition of a distinct category of personal property that can better recognise, accommodate and protect the unique features of certain digital assets, and recommends legislation to confirm the existence of this category and to remove any uncertainty.

The Law Commission's recommendations for reform and common law development are intended to create a clear and consistent framework for digital assets to provide greater clarity and security to users and market participants.

The recommendations include:

- legislation to confirm the existence of a distinct third category of personal property under the law which can better recognise, accommodate and protect the unique features of digital assets;
- the creation of a panel of industry-specific technical experts, legal practitioners, academics and judges to provide non-binding advice to courts on complex legal issues relating to digital assets;
- the creation of a bespoke legal framework that better facilitates the entering into, operation and enforcement of collateral arrangements relating to crypto-tokens and cryptoassets; and
- statutory law reform to clarify whether certain digital assets fall within the scope of the Financial Collateral Arrangements (No 2) Regulations 2003.

The Government will now consider whether to take the recommendations forward.

BaFin publishes revised MaRisk

The German Federal Financial Supervisory Authority (BaFin) has published the [7th revision](#) of its Minimum Requirements for Risk Management (MaRisk). The MaRisk specifies BaFin's requirements relating to credit institutions' and financial services institutions' risk management in Germany.

The revision takes into account various guidelines issued by the European Banking Authority (EBA) (e.g. guidelines on loan origination and monitoring). BaFin further specifies risk management requirements for institutions' dealings with own real estate, as well as for the evaluation of sustainability risks. BaFin has also clarified that rules set for trading activities conducted via remote working introduced during the pandemic continue to apply (absent a divergent international regime taking precedent).

The 7th revision of the MaRisk entered into force on 29 June 2023. A transitional period applies to the implementation of newly introduced requirements until 1 January 2024.

German Financial Stability Committee issues 10th report on financial stability in Germany

The German Financial Stability Committee (AFS) has submitted its [10th report](#) on financial stability in Germany to the German Parliament (Bundestag).

In the reporting period from 1 April 2022 to 31 March 2023, the AFS focused on the risk situation in the German financial system and determined that the countercyclical capital buffer and systemic risk buffer for the residential real estate loans sector, which was introduced by BaFin in spring 2022 to strengthen the resiliency of the German financial sector, does not require reduction or cancellation.

Further, the AFS assessed risks relating to the developments in the energy and real estate markets, the risks from climate change and concentration risks from outsourcing. Furthermore, the discussion on digital central bank money in

Europe and its impact on the financial sector were looked at. Most recently, the AFS's attention shifted to the effects of the distress in the US banking sector.

The AFS is the central committee of macroprudential supervision in Germany. Its main task is to discuss issues relevant to the stability of the German financial system, warn of identified risks and advise on counteractive measures. The AFS includes representatives of the Federal Ministry of Finance, the Deutsche Bundesbank and BaFin. The AFS is in session quarterly.

AML4: Bank of Italy amend their KYC regulations

The Bank of Italy has [amended](#) its provisions on know your customer (KYC) requirements.

The amendments take into account the implementation of the EBA guidelines on the use of customer remote onboarding solutions for the purposes of due diligence under the fourth Anti-Money Laundering Directive (AML4).

The amendments repeal the last part of Section VIII of Part II of the Bank of Italy Regulation of 30 July 2019, which provides that, in the context of distance relationships, as an alternative to the other procedures provided for therein, the identification of the customers can be carried out through the use of audio/video recording procedures as originally regulated in Annex 3 to the Regulation. At the same time, Annex 3 is also repealed.

The amendments will enter into force on 2 October 2023.

CSSF publishes outcome of 2022 self-assessment exercise on climate-related and environmental risks

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has published a [recording](#) of its joint webinar with the Luxembourg Bankers' Association (ABBL) on the outcomes of the 2022 self-assessment exercise on climate-related and environmental risks (CR&E risks), along with the accompanying presentation slides.

The self-assessment exercise, which relates to Circular CSSF 21/773 on CR&E risks, was based on a selected sample of twelve less significant institutions (LSIs) and three branches of non-EU credit institutions, representing different business models in Luxembourg, based on the principles to target the most important LSIs (in term of size) and to cover all relevant business models in Luxembourg.

The purpose of the self-assessment exercise was to assess banks' compliance with the provisions of the Circular, to improve banks and supervisors' knowledge of CR&E risks and assessment, and to be prepared for the introduction of CR&E risks assessment in the supervisory review and evaluation process (SREP).

In the presentation, the CSSF highlights good practices detected in the self-assessment and provides an overview of the forthcoming 2023-2024 exercise and the CSSF's supervisory approach, expectations towards banks in this respect and next steps.

Ministry of Finance presents draft act on credit servicers and credit purchasers

The Ministry of Finance has presented a [draft act](#) on credit servicers and credit purchasers to implement the provisions of Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU.

The draft is intended to establish, among other things, a legal framework for credit servicers and the operating conditions, rights and obligations of credit purchasers who acquire creditor's rights under a non-performing credit agreement or a non-performing credit agreement itself.

The draft also introduces a register of credit servicers, which will be kept by the Polish Financial Supervision Authority.

The activities of credit servicers and credit purchasers are to be supervised by the Polish Financial Supervision Authority.

The Ministry of Finance has sent the draft for consultation and approval.

Polish Financial Supervision Authority adopts new Recommendation U on best practices in bancassurance

The Polish Financial Supervision Authority has adopted [new Recommendation U](#) on best practices in bancassurance. The aim of Recommendation U is to improve the standards of bancassurance activities and to set conditions for a steady development of the bancassurance market.

Recommendation U introduces, among other things, the following new provisions with respect to:

- ensuring an appropriate insurance product is offered to a customer as part of bancassurance, including in credit or loan repayment insurance (CPI products);
- the way in which insurance products are offered under bancassurance;
- the relationship between the bank/cooperative savings and loan society conducting bancassurance activities and the entity financing the insurance, which is obliged, on the basis of an agreement concluded with the bank/cooperative savings and loan society, to cover the costs of insurance cover of such bank/cooperative savings and loan society; and
- the monitoring, as part of the internal control system and risk management system in place at the bank/cooperative savings and loan society and by an audit committee, of processes related to the sale of insurance products by these entities.

The Polish Financial Supervision Authority expects banks to adjust their activities to the amended Recommendation U by no later than 1 July 2024, and cooperative savings and loan societies by no later than 1 January 2025.

MAS consults on coal phase-out criteria under Singapore-Asia Taxonomy

The Monetary Authority of Singapore (MAS) has launched a [public consultation](#) on the detailed thresholds and criteria for financing the early

phase-out of coal-fired power plants (CFPPs) under the Singapore-Asia Taxonomy.

The Singapore-Asia Taxonomy sets TSC that apply to the CFPP facility (facility level) as well as to the CFPP owner (entity level) and takes into consideration other guidance including the ASEAN Taxonomy, and the report by the Glasgow Financial Alliance for Net Zero (GFANZ) on the managed phaseout (MPO) of high-emitting assets.

The MAS has clarified that the MPO process can be considered aligned with the Singapore-Asia Taxonomy if all the facility and entity level criteria are met. Some of the key criteria at the facility level are that the CFPP must:

- be phased out by 2040 and not have a total operating duration exceeding 25 years, in line with guidance from the International Energy Agency on what is consistent with a 1.5°C-aligned decarbonisation pathway for the global energy sector;
- have positive fair economic value remaining and demonstrate verifiable emissions savings, so as to ensure that economically unviable CFPPs, which would likely have been shut down naturally, are not eligible; and
- be replaced by clean energy capacity that is at least equivalent to the phased-out electricity capacity, to prevent emissions leakage where the closure of a CFPP is offset by new CFPPs being built or by existing CFPPs being operated at increased capacity.

The criteria at the entity level that the CFPP owner must commit to include amongst others:

- no new development of CFPPs; and
- a transition plan which has to reach full alignment to 1.5°C by 2030.

The consultation seeks views on additional issues that need to be covered by the criteria, usability challenges and potential issues with operationalisation of the criteria, loopholes that might lead to perverse outcomes, possibility of increasing the level of ambition with regards to any of the criteria, and provisions that may require specific guidance, if any.

Comments on the consultation are due by 28 July 2023.

MAS consults on proposals to increase deposit insurance coverage

The MAS has launched a [public consultation](#) on increasing deposit insurance (DI) coverage and improving the clarity and operational efficiency of the DI scheme.

Amongst other things, the MAS has proposed to increase DI coverage from SGD75,000 to SGD100,000 per depositor per DI scheme member to ensure that 91% of depositors are being fully covered by the scheme. The increase would take effect from 1 April 2024.

The MAS has also proposed changes to enhance the operational efficiency of the DI Scheme, which include:

- providing the MAS powers to stipulate a quantification time when deposit balances are taken as final and for the amount of insured deposits to exclude amounts for transactions which are not fully settled as at the quantification time on quantification date;

- requiring DI scheme members to submit and maintain a copy of their register of insured deposits on the Singapore Deposit Insurance Corporation (SDIC) web portal;
- allowing the SDIC to take over the administration of unclaimed DI monies from the Public Trustee Office;
- introducing a time limit of 7 years from quantification date or date when the liquidator is discharged (whichever is later) for DI compensation claims;
- taking information which the SDIC receives from the liquidator as final in relation to resolving disputes, and determining that the balances of insured depositors with the failed bank may not be disputed after the liquidator is discharged; and
- allowing the SDIC to accumulate recovered amounts before making aggregate payments to relevant stakeholders.

Comments on the consultation are due by 31 July 2023.

MAS consults on proposed code of conduct for providers of ESG ratings and data products

The MAS has launched a [public consultation](#) on the proposed voluntary industry code of conduct (CoC) for providers of environmental, social, and governance (ESG) ratings and data products.

Co-created with ESG rating and data product providers and modelled closely after the IOSCO's recommendations for good sustainable finance practices published in November 2022, the proposed CoC aims to establish minimum industry standards of transparency in methodologies and data sources, governance, and management of conflicts of interest.

Amongst other things, the consultation paper covers proposals pertaining to:

- products to be scoped under the CoC, specifically the intention to scope in products where the ESG rating entails an opinion on ESG profile or characteristics of the rated entity, or where the ESG data provided to market participants entails estimations, calculations or analysis by the provider, and to carve out products which are already subject to regulations in Singapore;
- applying the CoC to product providers where the product provider is based in Singapore and it provides ESG ratings and/or data products that relate to activities and institutions in the securities and derivatives industry, whether in Singapore and/or to overseas markets; or the product provider is based overseas but it provides the ESG ratings and/or data products that relate to activities and institutions in the securities and derivatives industry in Singapore;
- specific forward-looking elements which product providers should provide adequate disclosures on;
- principles and best practices concerning proper governance, transparency of methodology and data sources, management and disclosure of conflicts of interest, and systems and controls;
- adoption of the CoC on a voluntary basis by way of a 'comply or explain' approach and supported by a self-attestation checklist;

- adoption of third-party assurance or audit on self-attestations on a voluntary basis; and
- the long term regulatory regime for ESG rating providers wherein the MAS is seeking views on bringing ESG rating providers into the capital markets services licensing regime under the Securities and Futures Act 2001 when a regulatory framework is developed, and for such regulatory regime to be similar to that for the provision of credit rating services; subjecting overseas based ESG rating providers who offer ESG ratings to users in Singapore to the proposed regulatory regime; and appropriate monitoring period (in months) and observable market milestones before consulting on a more formalised regulatory regime for ESG rating providers.

The MAS plans to monitor the implementation of the industry code and observe global developments before taking further steps to formalise a regulatory framework for ESG rating providers.

MAS-led industry consortium releases toolkit for responsible use of AI in financial sector

The MAS has [announced](#) the release of Veritas Toolkit version 2.0, an open-source toolkit to enable the responsible use of artificial intelligence (AI) in the financial industry.

Developed by a MAS-led consortium of 31 industry players, Veritas Toolkit version 2.0 is designed to help FIs carry out assessment methodologies for the fairness, ethics, accountability, and transparency (FEAT) principles which guide firms offering financial products and services on the responsible use of AI and data analytics. Veritas Toolkit version 1.0 was released in February 2022 and focused on the assessment methodology but limited to Fairness. Veritas Toolkit version 2.0 has an improved Fairness assessment methodology and includes assessment methodologies for Ethics, Accountability, and Transparency.

The consortium has also published a [white paper](#) detailing the key lessons learnt by seven FIs which piloted the integration of Veritas methodology with their internal governance framework. These include the importance of having:

- a consistent and robust responsible AI framework that spans geographies;
- a risk-based approach to determine the governance required for the AI use cases; and
- responsible AI practices and training for the new generation of AI professionals in the financial sector.

The consortium also developed additional use cases to illustrate the application of the Veritas methodology. In the near future, the consortium intends to focus on training in the area of responsible AI and facilitate more FIs' adoption of the Veritas Methodologies and Toolkit.

MAS proposes framework for digital asset networks and announces expansion of Project Guardian

The MAS has published a [report](#) entitled 'Project Guardian - Enabling Open & Interoperable Networks' proposing a framework for designing open, interoperable networks for digital assets (i.e., tokenised real-economy and financial assets).

Jointly developed with the Bank for International Settlements' Committee on Payments and Market Infrastructure (CPMI), with contributions from participating FIs, the report is part of the MAS' effort to ensure that emerging digital asset networks are underpinned by international standards which promote safe and efficient financial market infrastructure.

The report also considers how the principles for financial market infrastructures jointly developed by the CPMI and IOSCO can be applied to evolving models of digital asset networks, taking reference from industry pilots launched under Project Guardian, which is the MAS' collaborative initiative with the financial industry to test the feasibility of applications in asset tokenisation and DeFi.

In addition to the proposals, the MAS has also announced the expansion of Project Guardian to test the potential of asset tokenisation across more financial asset classes. To support this, the MAS has established the Project Guardian Industry Group, comprising 11 FIs which will lead industry pilots in asset and wealth management, fixed income, and foreign exchange. The Japan Financial Services Agency will also be the first overseas financial regulator to join Project Guardian.

Australian Government launches [second consultation](#) on climate-related financial disclosures

The Australian Government has launched a second consultation seeking views on proposed positions for the detailed implementation and sequencing of standardised, internationally-aligned requirements for disclosing climate-related financial risks and opportunities in Australia.

Building on the previous consultation launched in December 2022, the second consultation particularly seeks views on whether the proposed positions relating to coverage, content, framework, and liability are workable so as to ensure that the new requirements are proportionately targeted and provide sufficient clarity as to the requirements of the regime.

Amongst other things, the proposals under the second consultation cover:

- reporting entities and phasing – the Government has proposed that all entities that meet prescribed size thresholds and are required to lodge financial reports under Chapter 2M of the Corporations Act 2001 would be required to make climate-related financial disclosures and a roadmap for mandatory disclosure requirements with respect to timings for various reporting entities;
- reporting content requirements, including: phased-in periods and transitional periods, applicability of the principles of financial materiality; disclosures about governance processes, controls and procedures used to monitor and manage climate-related financial risks and opportunities; strategy for identifying and addressing climate-related risks and opportunities; use of scenario analysis, both quantitative and qualitative; disclosures on climate resilience assessments against at least two possible future states, one of which is to be consistent with the global temperature goal set out in the Climate Change Act 2022; disclosures on transition plans, including information about offsets, target setting and mitigation strategies; information about climate-related targets and progress towards them; disclosures on scope 1 and 2 of greenhouse gas (GHG) emissions for the reporting period; disclosure of material scope 3 GHG emissions

from the second reporting year onwards, with such disclosures to be made in relation to any one-year period that ended up to 12 months prior to the current reporting period;

- industry-based metrics, to be disclosed by end state where there are well-established and understood metrics available for the reporting entity;
- reporting framework and assurances; and
- liability and enforcement – the Government has proposed to draft climate-related financial disclosure requirements as civil penalty provisions in the Corporations Act; and the application of misleading and deceptive conduct provisions to scope 3 emissions and forward-looking statements to be limited to regulator-only actions for a fixed period of three years.

As next steps, the Australian Accounting Standards Board (AASB) will formally establish detailed disclosure standards to align Australian standards with the final standards developed by the ISSB. The AASB is expected to consult on these in the second half of 2023. The Australian Treasury will also continue to work closely with the AASB on the development of Australia's climate-related disclosure requirements.

Comments on the consultation are due by 21 July 2023.

RECENT CLIFFORD CHANCE BRIEFINGS

Financial Services and Markets Act 2023 – Key changes on the way to Royal Assent

The Financial Services and Markets Bill gained Royal Assent on 29 June 2023, becoming the Financial Services and Markets Act 2023. Described by Economic Secretary to the Treasury Andrew Griffith as a 'rocket boost for the UK economy', this important piece of legislation will implement the UK's post-Brexit FRF for financial services and place within the regulators' rulebooks much of the EU law inherited on the UK's withdrawal from the EU. The government envisages 'smarter', more nimble, financial services regulation tailored for the UK and focused on boosting the UK's economy and competitiveness on the world stage. The UK's independent regulators will have greater powers to create firm-facing rules, within an accountability framework that provides for Parliamentary scrutiny.

This RegTalk blog post discusses the proposals and highlights the key takeaways from the Bill's passage through Parliament.

https://financialmarketstoolkit.cliffordchance.com/en/financial-markets-resources/resources-by-type/blogs/reg-radar/Financial_Services_and-Markets-Act_2023---june-2023-1.html

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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