

INTERNATIONAL REGULATORY UPDATE 30 OCTOBER – 3 NOVEMBER 2023

- Consumer Credit Directive 2 published in OJ
- CCP recovery and resolution: EU Commission adopts RTS on business reorganisation plans
- FATF announces outcomes of plenary meeting and removes Cayman Islands from grey list
- FATF consults on beneficial ownership and transparency of legal arrangements
- FATF publishes report on crowdfunding for terrorism financing
- Cross-border payments: CPMI reports on use of stablecoin arrangements
- HMT publishes consultation responses and update on regulation of cryptoassets
- FCA publishes guidance on cryptoasset financial promotions
- FCA publishes feedback statement on FSCS cover for long-term asset funds
- PRA publishes discussion paper on securitisation and capital requirements
- BaFin publishes new circular on product oversight and governance arrangements for retail banking products
- Ministry of Justice provides update on Buy-Now-Pay-Later regulations
- SNB launches pilot project with wholesale central bank digital currency
- HKEX consults on proposed amendments to listing rules relating to treasury shares
- Securities and Futures (OTC Derivative Transactions—Clearing and Record Keeping Obligations and Designation of Central Counterparties) (Amendment) Rules 2023 gazetted
- SFC consults further on proposed amendments on implementing an uncertified securities market
- SFC supports development of voluntary code of conduct for ESG ratings and data products providers
- MAS announces launch of SGQR+ proof of concept to enhance interoperability for QR payments

Clifford Chance's International Regulatory Update is a weekly digest of significant regulatory developments, drawing on our daily content from our Alerter: Finance Industry service.

To request a subscription to our Alerter: Finance Industry service, please [subscribe to our Client Portal](#), where you can also request access to the Financial Markets Toolkit and subscribe to publications, insights and events.

If you would like to know more about the subjects covered in this publication or our services, please contact:

International Regulatory Group Contacts

[Marc Benzler](#) +49 69 7199 3304
[Caroline Dawson](#) +44 207006 4355
[Steven Gatti](#) +1 202 912 5095
[Rocky Mui](#) +852 2826 3481
[Lena Ng](#) +65 6410 2215
[Gareth Old](#) +1 212 878 8539
[Donna Wacker](#) +852 2826 3478
International Regulatory Update
Editor
[Joachim Richter](#) +44 (0)20 7006 2503

To email one of the above, please use `firstname.lastname@cliffordchance.com`

Clifford Chance LLP,
10 Upper Bank Street,
London, E14 5JJ, UK
www.cliffordchance.com

- **MAS consults on proposed enhancements to Guidelines on E-Payments User Protection**
- **Australian Government consults on proposed sustainable finance strategy**
- **SEC grants exemptive relief from requirements of Exchange Act Rule 15c2-11 for Rule 144A fixed income securities**
- **Recent Clifford Chance briefings: FATF removes Cayman Islands from grey list, Basel III Endgame, and more. [Follow this link to the briefings section.](#)**

Consumer Credit Directive 2 published in OJ

[Directive \(EU\) 2023/2225 on consumer credits](#) (CCD2) has been published in the Official Journal.

CCD2 is intended to protect consumers from credit card debt, overdrafts and unsuitable loans. Amongst other things, the new legislation provides for:

- an assessment of a consumer's creditworthiness in the consumer's interest and to prevent irresponsible lending practices and over-indebtedness;
- caps on charges, to prevent abuses and ensure that consumers cannot be charged excessive interest rates, annual rates, or charges on loans or the total cost of credit; and
- the right to withdraw from a credit agreement with no reason within 14 days.

The directive will enter into force on 19 November 2023. Member States have until 20 November 2025 to adopt the necessary laws and administrative provisions to transpose the directive and shall apply them from 20 November 2026.

CCP recovery and resolution: EU Commission adopts RTS on business reorganisation plans

The EU Commission has adopted a [Delegation Regulation](#) containing regulatory technical standards (RTS) specifying the minimum elements to be included in a business reorganisation plan and the criteria to be fulfilled for its approval by the resolution authority under the Regulation on central counterparty (CCP) recovery and resolution (CCPRRR).

This follows a consultation on the draft RTS launched by the European Securities and Markets Authority (ESMA) in September 2022.

The Delegated Regulation sets out the expected descriptions and timetable in the business reorganisation plan to be submitted by the CCP within one month after the resolution authority has applied the writedown and conversion tool, in accordance with Article 32 of the CCPRRR. It also sets out the criteria that are considered and the approval procedure of the business reorganisation plan by the resolution authority.

The Delegated Regulation will enter into force on the twentieth day after its publication in the Official Journal.

FATF announces outcomes of plenary meeting and removes Cayman Islands from grey list

The Financial Action Task Force (FATF) has [announced](#) the outcomes of its plenary meeting in Paris on 25 – 27 October 2023.

The plenary discussed compliance with the FATF standards, including:

- updating the statements identifying high-risk and other monitored jurisdictions;
- Albania, Cayman Islands, Jordan and Panama no longer being under increased monitoring; and
- the joint FATF-GAFILAT assessment of Brazil.

In preparation for the next round of mutual evaluations, delegates finalised amendments to the methodology used to assess how effectively countries have implemented the FATF's beneficial ownership and transparency requirements. Additionally, the FATF agreed to a comprehensive set of procedures that relevant assessment bodies will use to assess countries' compliance with the FATF standards.

Additionally, the plenary:

- welcomed Indonesia as its 40th Member;
- discussed the situation in the Middle East;
- agreed to publish a report on crowdfunding for terrorism financing and agreed on revisions to the FATF Recommendation 8;
- agreed on a significant set of amendments to the FATF Recommendations, with the aim of providing countries with stronger measures to deprive criminals of the proceeds of crime;
- published a report that sets out recommendations to strengthen the roles and use of asset recovery networks (ARINs) in pursuing transnational money laundering cases;
- adopted reports on illicit financial flows from cyber-enabled fraud and the misuse of citizenship and residency by investment programmes; and
- agreed to release for consultation updated FATF guidance on Recommendation 25 on Beneficial Ownership and Transparency of Legal Arrangements.

FATF consults on beneficial ownership and transparency of legal arrangements

The FATF has launched a [consultation](#) on its updated risk-based guidance to Recommendation 25 on beneficial ownership and transparency of legal arrangements.

The FATF has adopted amendments to Recommendation 25 and agreed immediately to start the work to update guidance on Recommendation 25, with a view to supporting the implementation of the new requirements.

Among other things, the FATF is seeking views on:

- any other purposes of express trusts beyond what has been set out in the guidance;

- other potential scenarios concerning beneficiaries that should be included in the guidance;
- other activities that may be included in the definition of trust administration;
- additional mechanisms available to ensure access to beneficial ownership information in the context of trusts;
- possible approaches to identifying, assessing, and mitigating the money laundering and terrorist financing (ML/TF) risks linked with different types of legal arrangements; and
- non-professional trustees.

Comments are due by 8 December 2023. The FATF will consider the views received at its February 2024 Plenary.

FATF publishes report on crowdfunding for terrorism financing

The FATF has published a [report](#) on crowdfunding for terrorism financing, which analyses how terrorists misuse crowdfunding platforms and examines the challenges faced in detecting and preventing terrorist financing.

The report notes four main ways in which crowdfunding platforms can be abused for terrorism financing purposes through the:

- abuse of humanitarian, charitable or non-profit causes;
- use of dedicated crowdfunding platforms or websites;
- use of social media platforms and messaging apps; and
- interaction of crowdfunding with virtual assets.

The report also highlights the challenges that government authorities and stakeholders in the crowdfunding ecosystem encounter in detecting and deterring terrorism financing through crowdfunding, including the complexity of crowdfunding operations, the use of anonymising techniques, and lack of training and terrorist financing expertise within the crowdfunding industry to detect suspicious activity. It also highlights good practices, starting with the inclusion of crowdfunding in national terrorist financing risk assessments, outreach to the crowdfunding sector, and strong domestic and international information sharing mechanisms.

The FATF recommends that jurisdictions and all stakeholders involved in the crowdfunding industry identify and understand terrorism financing risks associated with crowdfunding and have proportionate risk-based measures in place to mitigate potential abuses, in line with United Nations Security Council Resolution 2462. It also emphasises that countries should be aware of the cross-border nature of fundraising activity, guard against their jurisdiction being used to finance terrorism abroad and should consider that the sector is evolving and therefore terrorism financing risks may change over time.

Cross-border payments: CPMI reports on use of stablecoin arrangements

The Committee on Payments and Market Infrastructures (CPMI) has published a [final report](#) highlighting a range of considerations, opportunities and challenges regarding the use of stablecoin arrangements in cross-border payments.

Among other things, the report:

- discusses key features of stablecoin arrangements that are relevant from the perspective of cross-border payments;
- highlights a range of relevant considerations and challenges;
- analyses how stablecoin arrangements might interact and coexist with other payment methods; and
- evaluates the potential impact of their use on the monetary policy, financial stability and payment functions of central banks.

The report acknowledges that there are divergent policy approaches to stablecoins across jurisdictions and that no stablecoin arrangements yet exist that are deemed to be properly designed and regulated and fully compliant with all relevant regulatory requirements.

HMT publishes consultation responses and update on regulation of cryptoassets

HM Treasury (HMT) has published two consultation responses and one policy paper on issues around the regulation of cryptoassets.

The [first paper](#) summarises the feedback the Government received to its consultation and call for evidence on the future financial services regulatory regime for cryptoassets, which ran from February to April 2023. It also sets out how the responses influenced the further development of the policies and proposals consulted upon. HMT notes that it received 131 responses from a wide range of stakeholders. Of these, around 80% were broadly supportive of the Government's approach, 10% had mixed or neutral feedback and the remaining 10% were critical of the proposals. Modifications to the proposals in light of the feedback include:

- added reassurance that the proposed regime is not intended to apply to activities relating to cryptoassets which are specified investments and are already regulated (e.g. security tokens), or to those that are more akin to digital collectibles or artwork than financial services products (e.g. non-fungible tokens (NFTs));
- updates to the timelines for phase 2 legislation and further information on the future Financial Conduct Authority (FCA) authorisation process for cryptoasset activities;
- changes to the approach towards market abuse obligations on cryptoasset exchanges to allow for a staggered implementation for cross-venue data sharing obligations; and
- accelerated work to clarify the future regulatory treatment of cryptoasset staking.

The [second paper](#) summarises the feedback the Government received to its consultation on proposed amendments to the Financial Market Infrastructure Special Administration Regime (FMI SAR) to include provisions on the management of failures of non-bank systemic digital settlement asset (DSA) firms. It notes that many respondents were supportive of the proposals to apply the FMI SAR to systemic DSA payment systems and service providers, and that the Government intends to proceed with these proposals, although it will consider whether there is a need for a bespoke failure regime in the longer term.

The Government intends initially to introduce regulations to implement the overarching framework, which will, among other things appoint the FMI SAR, with necessary amendments, as the primary regime for non-bank systemic DSA firms, establish an additional objective for the regime focused on the return or transfer of customer funds and custody assets, and provide the Bank of England (BoE) with the power to direct administrators as to the prioritisation of objectives. It will then introduce various insolvency rules, which will provide further clarity on the operation of the FMI SAR.

The final document published by HMT is a [policy statement](#) providing an update on the Government's plans for the regulation of fiat-backed stablecoins. Among other things, it notes that HMT intends to bring forward secondary legislation as soon as possible, and by early 2024 if parliamentary time allows, to bring activities relating to fiat-backed stablecoins into the regulatory perimeter. The statement then provides further detail on the objectives of the proposed legislation.

FCA publishes guidance on cryptoasset financial promotions

The FCA has published its [final non-handbook guidance](#) on cryptoasset financial promotions.

The guidance is intended to help firms comply with their regulatory obligations under the rules set out in the policy statement 'Financial promotion rules for cryptoassets' (PS23/6), which was introduced in June 2023. The guidance sets out the FCA's expectations of firms in the communication and approval of financial promotions relating to qualifying cryptoassets. It focuses, in particular, on the requirement that a financial promotion is fair, clear and not misleading.

The guidance also contains a summary of the responses the FCA received to its consultation on the guidance in its draft form. Respondents were generally supportive of the proposals, although there were some concerns raised around the treatment of complex yield models and the proportionality and clarity of due diligence requirements. The FCA has addressed these concerns in the annex of the guidance, but notes that the final version of the guidance remains largely unchanged from the version consulted upon.

FCA publishes feedback statement on FSCS cover for long-term asset funds

The FCA has published a [feedback statement](#) (FS23/7) following up on its June 2023 policy statement (PS23/7) on broadening retail and pensions access to the long-term asset fund (LTAF), which sought views on whether it might be appropriate to remove Financial Services Compensation Scheme (FSCS) cover for regulated activities relating to LTAFs, as a first step toward change with a broader consideration of FSCS coverage for non-standard assets to follow.

In light of the feedback it received, the FCA has decided not to take forward the proposal to exclude FSCS cover for regulated activities relating to LTAFs at this time.

PRA publishes discussion paper on securitisation and capital requirements

The Prudential Regulation Authority (PRA) has published a [discussion paper](#) (DP3/23) on securitisation and capital requirements.

The Capital Requirements Regulation (CRR) sets out capital requirements for securitisation exposures. The PRA intends to consult on draft PRA rules to replace firm-facing requirements in Part Three, Title II, Chapter 5 of the CRR in H2 2024, subject to HMT making the necessary legislation. DP3/23 is intended to prepare for that consultation by raising certain key issues for feedback from firms and collecting data to inform the PRA's approach.

In particular, DP3/23 covers the:

- Basel 3.1 output floor and capital requirements for securitisation exposures;
- hierarchy of methods for determining capital requirements for securitisation exposures;
- scope of the UK's framework for STS securitisations; and
- use of credit risk mitigation in synthetic securitisations.

Comments are due by 31 January 2024.

BaFin publishes new circular on product oversight and governance arrangements for retail banking products

The German Federal Financial Supervisory Authority (BaFin) has published a [new circular](#) (08/2023) on product oversight and governance arrangements for retail banking products, by means of which it has incorporated the European Banking Authority (EBA) guidelines in this area (EBA/GL/2018 of 15 July 2015) into the German supervisory practice.

Based on section 25a para 1 of the German Banking Act (Kreditwesengesetz – KWG) and section 27 para 1 of the German Payment Services Supervision Act (Zahlungsdienstenaufsichtsgesetz – ZAG), the circular deals with the establishment of regulations for product oversight and governance arrangements for banking products, payment services and e-money products as an integral part of the general organisational requirements linked to internal control systems of CRR credit institutions under the KWG and institutions under the ZAG. It is targeted at both manufacturers and distributors.

The regulations refer to internal processes, functions and strategies aimed at designing products, bringing them to the market, and reviewing them over their life cycle. They establish procedures relevant for ensuring that the interests, objectives and characteristics of the target market are met. However, the circular does not deal with the suitability of products for individual consumers.

Ministry of Justice provides update on Buy-Now-Pay-Later regulations

The Minister of Justice has written a [letter](#) to Parliament providing an update on regulations applicable to Buy-Now-Pay-Later (BNPL) arrangements.

BNPL is a service that allows consumers to purchase products and postpone the payment obligation for up to 3 months. The Minister notes that the Dutch

Supreme Court has asked preliminary questions to the European Court of Justice on whether BPNL falls within the scope of the exemption from licensing requirements, as included in the current Consumer Credit Directive (2008/48/EC), for 'credit agreements under the terms of which the credit has to be repaid within 3 months and only insignificant charges are payable', especially if the BPNL offeror may charge (significant) costs in case of non-payment. So far, Dutch case law has assumed that such costs prevent the applicability of the exemption, in particular where such costs are part of the revenue and profit model of the BPNL provider.

The Minister further notes that BNPL offerors fall within the scope of the revised Consumer Credit Directive (published as Directive 2023/2225 on 30 October 2023) and will become subject to conduct of business requirements. Pending the implementation of the new Directive, the Minister welcomes the recent development of a Code of Conduct by BNPL providers and makes a number of recommendations for improvements. The Netherlands Authority for the Financial Markets (AFM) has also welcomed the Code of Conduct but believes that it is necessary for EU rules for this form of credit to become effective.

SNB launches pilot project with wholesale central bank digital currency

The Swiss National Bank (SNB), the financial infrastructure operator SIX, and six commercial banks have [announced](#) a new pilot focused on tokenised wholesale central bank digital currency (wCBDC).

Helvetia Phase III will see the SNB issuing real wCBDC in Swiss francs on SIX Digital Exchange (SDX), a financial market infrastructure based on distributed ledger technology (DLT), and making it available for the settlement of real bond transactions. The participating banks – Banque Cantonale Vaudoise, Basler Kantonalbank, Commerzbank, Hypothekbank Lenzburg, UBS and Zürcher Kantonalbank – will carry out the transactions on the DLT platform as intermediaries for issuers and investors and the tokenised bonds will be settled against wCBDC on a delivery-versus-payment basis.

In addition to the SDX platform, the pilot project will use the Swiss Interbank Clearing SIC infrastructure for the tokenisation of central bank money and that of SIX SIS for integration with the traditional bond settlement infrastructure. SIX Repo and SDX test systems will also be used to explore the trading and settlement of repo transactions with wCBDC.

The pilot builds on the findings of earlier Helvetia Phases I and II carried out by the Bank for International Settlements (BIS) Innovation Hub, the SNB and SIX.

The pilot with real Swiss franc wCBDC is scheduled to run from December 2023 to June 2024.

The SNB has emphasised that the upcoming pilot does not constitute a commitment on its part to introduce wCBDC on a permanent basis.

HKEX consults on proposed amendments to listing rules relating to treasury shares

The Stock Exchange of Hong Kong Limited (SEHK), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (HKEX), has

launched a [consultation](#) on proposed rule amendments to introduce a new treasury share regime. The key proposals include the following:

- removing the requirement to cancel repurchased shares so that issuers may hold repurchased shares in treasury subject to the laws of their places of incorporation and their constitutional documents;
- governing the resale of treasury shares by an issuer in the same manner as the Listing Rules currently applicable to an issue of new shares;
- maintaining a fair market and mitigating the risk of market manipulation by imposing a moratorium period of 30 days on a resale of treasury shares (whether on or off-market) after a share repurchase; and an on-exchange share repurchase after an on-exchange resale of treasury shares;
- maintaining a fair market and mitigating the risk of market manipulation and insider dealing by prohibiting a resale of treasury shares on the exchange when there is undisclosed inside information; during the one-month period preceding results announcement; or if it is knowingly made with a core connected person;
- allowing new listing applicants to retain their treasury shares upon listing and restricting them from reselling their treasury shares within six months after listing; and
- making consequential amendments to require issuers (being holders of treasury shares) to abstain from voting on matters that require shareholders' approval under the Listing Rules; exclude treasury shares from an issuer's issued or voting shares under various parts of the Rules (e.g. public float and size test calculations); require an issuer to disclose in the explanatory statement its intention as to whether any shares to be repurchased will be cancelled or kept as treasury shares; and clarify that a resale of treasury shares by an issuer or its subsidiary includes resale of treasury shares through their agents or nominees.

In addition to the proposed treasury share regime, the HKEX has published a [guidance letter](#) setting out its framework for granting a waiver to allow an issuer to conduct an automatic share buy-back program on the HKEX and to continue the program throughout the Restricted Period.

Comments on the consultation are due by 27 December 2023.

Securities and Futures (OTC Derivative Transactions—Clearing and Record Keeping Obligations and Designation of Central Counterparties) (Amendment) Rules 2023 gazetted

The Hong Kong Government has published the [Securities and Futures \(OTC Derivative Transactions—Clearing and Record Keeping Obligations and Designation of Central Counterparties\) \(Amendment\) Rules 2023](#) (Clearing Amendment Rules) in the gazette.

The Clearing Amendment Rules provide for certain interest rate swap transactions referencing alternative reference rates to be subject to the clearing obligation under specified conditions. At the same time, certain interest rate swap transactions referencing interbank offered rates which are or will no longer be published or considered representative would no longer be subject to the clearing obligation.

Subject to negative vetting by the Legislative Council, the Clearing Amendment Rules will be effective on 1 July 2024.

SFC consults further on proposed amendments on implementing an uncertificated securities market

Following its March 2023 consultation on proposed subsidiary legislation for implementing an uncertificated securities market (USM), the Securities and Futures Commission (SFC) has launched a [further consultation](#) on implementing a USM in Hong Kong.

Amongst other things, the latest consultation invites views on the following:

- proposed amendments to the SFC's existing Code of Conduct for Share Registrars, which is also proposed to be renamed the Code of Conduct for Approved Securities Registrars;
- proposed amendments to the SFC's existing Guidelines for Electronic Public Offerings, which are also proposed to be renamed Guidelines for Electronic Public Offers; and
- further amendments to the Stamp Duty Ordinance.

Comments on the consultation are due by 15 December 2023.

SFC supports development of voluntary code of conduct for ESG ratings and data products providers

The SFC has [announced](#) that it supports and sponsors the development of a code of conduct for voluntary adoption by environmental, social and governance (ESG) ratings and data products providers providing products and services in Hong Kong. The voluntary code of conduct, to be developed via an industry-led working group, is intended to align with international best practices as recommended by the International Organization of Securities Commissions (IOSCO) and relevant expectations introduced in other major jurisdictions.

The initiative is the culmination of the SFC's fact-finding exercise and industry outreach conducted since mid-2022 to understand matters related to ESG ratings and data products providers, which are not regulated by the SFC. The exercise found that surveyed asset managers highlighted common concerns about ESG ratings and data product providers' data quality, transparency, and conflicts of interest management, and that they should be encouraged to adopt the IOSCO recommendations. The key observations from the exercise and proposed way forward for these providers are summarised in a report published by the SFC.

The proposed voluntary code of conduct, which will be open for ESG ratings and data products providers to sign up to voluntarily, is intended to provide a streamlined and consistent basis for asset managers to conduct due diligence or on-going assessment on ESG service providers.

MAS announces launch of SGQR+ proof of concept to enhance interoperability for QR payments

The Monetary Authority of Singapore (MAS) has [announced](#) that it will launch a proof of concept (POC) for an interoperable Singapore Quick Response Code Scheme (SGQR+).

The POC will explore the feasibility of enabling merchants in Singapore to accept QR payments from a variety of payment schemes through a single financial institution (FI). By aggregating multiple payment providers using SGQR+, it is envisaged that merchants will only need to sign up with a single FI to unlock a range of local and cross-border payment schemes. SGQR+ allows consumers to use their preferred payment application at more merchant acceptance points. Merchants empowered by SGQR+ will also be able to accept more international payment schemes.

The POC will be conducted from 1 to 30 November 2023 through two separate tracks featuring different technology solutions:

- Track I, led by Liquid Group, will operate a switch that processes payments between the FI serving the merchant and the FI serving the consumer; and
- Track II, led by NETS, will allow consumers to scan and pay at NETS' participating merchants with a variety of local and foreign payment schemes. This solution will be available to merchants that are part of the Government-subsidised Hawkers Go Digital programme.

The MAS has also published a [white paper](#) titled 'Interoperable QR Payments in Singapore'. The whitepaper provides details of the SGQR+ concept, the POC, and its constituent tracks. It provides proposals from a comprehensive feasibility study on the potential for the introduction of SGQR+ as Singapore's future interoperable payments infrastructure. The study's key areas of focus were to determine the readiness of merchants and payment providers to adopt interoperable QR payments, and the benefits of enabling seamless and secure cross-platform QR payment transactions.

The results of the POC will be published later in a report.

MAS consults on proposed enhancements to Guidelines on E-Payments User Protection

The MAS has launched a [public consultation](#) on proposed enhancements to the E-Payments User Protection Guidelines (EUPG).

The EUPG set out the responsibilities of responsible FIs and consumers in relation to unauthorised and erroneous electronic payment transactions and establish a baseline protection offered by responsible FIs to consumers for losses arising from such transactions. In light of a rising incidence of digitally enabled scams, the MAS has proposed enhancements to the EUPG.

Amongst other things, the proposed enhancements include:

- the alignment of established anti-scam industry practices across responsible FIs, by including in the EUPG the anti-scam measures that retail banks have implemented such that they would be applicable to all responsible FIs;
- enhanced duties for responsible FIs to facilitate prompt detection of scams by consumers and ensure a fairer dispute resolution process;
- enhanced duties for consumers to take necessary precautions against scams; and
- additional guidelines to clarify the processes expected of a responsible FI in rectifying erroneous transactions.

In addition the MAS has, together with the Infocomm Media Development Agency, launched a [separate consultation](#) on a proposed Shared Responsibility Framework (SRF) for phishing scams, to leverage some of the proposed enhanced anti-scam measures in the EUPG that responsible FIs would be expected to implement, and hold FIs and telecommunication operators directly accountable to consumers for phishing scam losses, should the FIs or Telcos fail to discharge their prescribed anti-scam duties. The SRF and EUPG are intended to complement each other.

Comments on the consultation are due by 20 December 2023.

Australian Government consults on proposed sustainable finance strategy

The Australian Government has launched a [consultation](#) seeking feedback on its proposed sustainable finance strategy to support Australia's pathway to net zero.

In December 2022, the Government announced its plan to pursue a coordinated and ambitious sustainable finance agenda. The consultation paper outlines immediate investments and reforms that the Government has identified as most important for supporting sustainable finance in Australia, beginning with a focus on climate-related issues, but building frameworks that can expand over time.

The proposed strategy aims to help mobilise the private investment needed in coming decades, enable Australian firms to access the capital needed to finance their own transitions and take advantage of new opportunities that arise, and ensure that the financial opportunities and risks presented by climate change are identified and well managed. The Government has structured its policy priorities around the following three key pillars, each of which contains a range of proposed tools and policies:

- Pillar 1 on improving transparency on climate and sustainability;
- Pillar 2 on financial system capabilities; and
- Pillar 3 on the Government's leadership and management.

Comments on the consultation are due by 1 December 2023.

SEC grants exemptive relief from requirements of Exchange Act Rule 15c2-11 for Rule 144A fixed income securities

The Securities and Exchange Commission (SEC) has [granted](#) exemptive relief to brokers-dealers from the requirements of Rule 15c2-11 under the Securities Exchange Act with respect to fixed-income securities that are sold in compliance with Rule 144A.

Rule 15c2-11 generally prohibits a broker-dealer from publishing quotations for an unlisted security when specified current information about the issuer is not publicly available. Since its initial adoption in 1971, Rule 15c2-11 was implemented and enforced by the SEC to target fraud in the largely retail, OTC equity markets. In recent years, market participants raised concerns with the SEC staff about the potentially significant negative effects of amendments to Rule 15c2-11 on trading in the fixed income markets.

For unlisted fixed income securities that are not sold in reliance on Rule 144A, an SEC staff no-action letter dated 30 November 2022 provides limited relief from Rule 15c2-11 that will expire on 4 January 2025.

RECENT CLIFFORD CHANCE BRIEFINGS

FATF removes Cayman Islands from grey list

In connection with an announcement by the FATF of the outcomes of its plenary meeting in Paris on 25–27 October 2023, the FATF confirmed that Cayman Islands is no longer included on its grey list.

This briefing paper discusses the announcement.

<https://www.cliffordchance.com/briefings/2023/10/fatf-removes-cayman-islands-from-grey-list.html>

Structured Credit Regulatory Update – November 2023

Clifford Chance has published the second in a briefing series: Structured Credit Regulatory Update. This comprehensive regulatory update focuses on key issues currently facing Structured Credit transactions and the CLO industry in particular. Highlights from this quarter's edition include:

- LIBOR Cessation;
- Private Funds Rule;
- NAIC Developments;
- EU Securitisation Regulation Developments;
- UK Securitisation Regulation Developments;
- Conflicts of Interest in Securitisations Rule;
- Safeguarding Rule;
- Kirschner v. JPMorgan Chase Bank;
- Predictive Data Analytics Rule;
- Basel 'Endgame' Package;
- Marketing Rule; and
- Rule 15c2-11.

<https://www.cliffordchance.com/briefings/2023/10/-structured-credit-regulatory-update--november-2023.html>

Basel III Endgame proposal could undermine US clean energy and infrastructure policy

On 27 July 2023, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency, issued a notice of proposed rulemaking that would implement the remaining elements of the Basel III Accord (Basel III Endgame) into the US bank capital framework. The proposal revises the capital requirements applicable to large banking organizations (those with total assets of USD 100 billion or more) and banking organizations with significant trading activity. Among the proposed revisions is a significant increase in the risk weight

assigned to non-publicly traded equity exposures, including certain tax equity investments. This change, if adopted, would make it prohibitively expensive for banks to make certain tax equity investments, which, given the substantial participation of banking organizations in this market, is certain to have a harmful, albeit likely unintended, impact on the financing of clean energy and infrastructure projects.

This briefing paper considers the proposal and its implications for US clean energy and infrastructure policy.

<https://www.cliffordchance.com/briefings/2023/10/basel-iii-endgame-proposal-could-undermine-u-s-clean-energy-and.html>

CLIFFORD CHANCE

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.

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street,
London, E14 5JJ

© Clifford Chance 2023

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street,
London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi • Amsterdam • Barcelona • Beijing • Brussels • Bucharest • Casablanca • Dubai • Düsseldorf • Frankfurt • Hong Kong • Istanbul • London • Luxembourg • Madrid • Milan • Munich • Newcastle • New York • Paris • Perth • Prague • Rome • São Paulo • Seoul • Shanghai • Singapore • Sydney • Tokyo • Warsaw • Washington, D.C.

Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.