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MiCA: EBA publishes final draft technical standards on authorisation as issuer of ARTs, assessment of acquisitions of qualifying holdings in issuers of ARTs, and approval of white papers for ARTs

The European Banking Authority (EBA) has [published](#) three sets of final draft regulatory technical standards (RTS) and one set of final draft implementing technical standards (ITS) relating to the authorisation as issuer of asset-

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referenced tokens (ARTs), to the information for the assessment of acquisitions of qualifying holdings in issuers of ARTs and to the procedure for the approval of white papers for ARTs issued by credit institutions under the Markets in Cryptoassets Regulation (MiCA).

In particular:

- the RTS on authorisation lay down the information requirements to be included when applying for authorisation to offer to the public or seek admission to trading of an ART, in order to enable a comprehensive assessment of the application by the competent authority;
- the ITS on authorisation set out a standard application letter and an application template and seek to clarify the process relating to the assessment of completeness of the application by the competent authority;
- the RTS on the information to be included in a notification of a proposed acquisition of direct or indirect qualifying holdings set out the information requirements that are necessary for the competent authority to carry out the prudential assessment in case of proposed acquisitions in issuers of ARTs that are not credit institutions; and
- the RTS on the procedure for the approval of white papers for ARTs issued by credit institutions set out the timeframes that credit institutions, competent authorities and the European Central Bank (ECB) or other central banks must follow during the procedure for the approval of a cryptoasset white paper.

UCITS: ESMA publishes call for evidence on eligible assets

The European Securities and Markets Authority (ESMA) has published a [call for evidence](#) on the review of the Undertakings for Collective Investment in Transferable Securities (UCITS) Eligible Assets Directive (EAD).

The call for evidence is intended to gather information from stakeholders to assess possible risks and benefits of UCITS gaining exposure to various asset classes. Based on the evidence and feedback it receives, ESMA will develop technical advice to the EU Commission on the UCITS EAD review.

Comments are due by 7 August 2024.

FSMA 2023 (Commencement No. 6) Regulations made

[The Financial Services and Markets Act 2023 \(Commencement No. 6\) Regulations 2024](#) (SI 2024/620) have been made.

Amongst other things, SI 2024/620 brings into force on 31 December 2024 provisions of the Financial Services and Markets Act 2023 (FSMA 2023) relating to:

- the revocation of the Solvency 2 Regulations (SI 2015/575) and the Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 (SI 2019/407);
- the revocation of EU tertiary legislation made under Solvency II; and
- the revocation of the Insurance and Reinsurance Undertakings (Prudential Requirements) (Risk Margin) Regulations 2023.

House of Lords Committee issues call for evidence on proposals in FCA consultation on enforcement investigations

The House of Lords Financial Services Regulation Committee (FSRC) has issued a [call for evidence](#) on the proposals set out in the Financial Conduct Authority (FCA) consultation on enforcement investigations (CP24/2), which closed on 30 April 2024.

In CP24/2, the FCA proposed changes to the way it publishes information on enforcement cases. Specifically, it proposed to start publishing more information while investigations were in progress, including the identity of the firm or individual being investigated (provided there are no compelling legal or other reasons not to). In a letter addressed to the FCA, dated 18 April 2024, the FSRC expressed its concern over these proposals, noting, in particular, the disproportionate impact on the named subjects of investigations that are subsequently cleared.

The FSRC has asked the FCA not to take steps to implement the changes until it has taken its own evidence on the proposal. It is now seeking stakeholders' input on CP24/2, including any views in favour of, or concerns about, the FCA's proposals. Comments are due by 4 June 2024.

House of Lords Committee launches inquiry into FCA and PRA secondary competitiveness and growth objective

The House of Lords Financial Services Regulation Committee has [launched](#) an inquiry into the secondary international competitiveness and growth objective given to the FCA and the Prudential Regulation Authority (PRA) under the FSMA 2023.

The Committee intends to explore:

- the extent to which the FCA and PRA are focused on their secondary objective of facilitating the international competitiveness and growth of the UK economy and the balance between the regulators' primary and secondary objectives;
- whether the resources and culture of the FCA and the PRA facilitate the effective implementation of their secondary objective;
- what opportunities there are for the regulators, in delivering their secondary objective on growth and competitiveness, to help to promote and support innovation in the financial services sector;
- whether agreed metrics related to the secondary growth and competitiveness objective allow for sufficient scrutiny of any progress made by the regulators;
- how effectively the FCA and the PRA have consulted with industry in relation to their secondary growth and competitiveness objective;
- how the FCA and PRA might draw on examples of regulatory policies in other jurisdictions to further the implementation of their secondary objective; and
- how the regulatory landscape is affecting the UK's attractiveness to domestic and international investors, and in particular to UK pension funds.

The Committee has issued a call for evidence and comments are due by 11 July 2024.

BaFin consults on general decree on investment firm remuneration notifications

The German Federal Financial Supervisory Authority (BaFin) has [launched](#) a consultation on a draft general decree regarding remuneration notifications of investment firms for the reporting date 31 December 2023 (Allgemeinverfügung bezüglich der Vergütungsanzeigen von Wertpapierinstituten zum Meldestichtag 31. Dezember 2023).

The general decree relates to the obligation on investment firms to report data on natural persons that are remunerated EUR 1 million or more per financial year to Deutsche Bundesbank on an annual basis, pursuant to the German Investment Firm Act (WpIG) in connection with the Investment Firms Directive (EU) 2019/2034 (IFD) or Capital Requirements Directive 2013/36/EU (CRD).

The EBA issues guidelines specifying the reporting obligations under these EU Directives. The EBA has published fundamentally revised guidelines on the data collection exercises regarding high earners under Directive 2013/36/EU and under Directive (EU) 2019/2034 (EBA/GL/2022/08), which replace EBA/GL/2014/07 and which large and medium-sized investment firms and supervisory authorities must apply for the first time from 31 December 2022.

As national supervisors are obliged to provide the EBA with the information required under the new guidelines by 31 July 2024, but the process of incorporating the new requirements into the WpIG and the German Investment Firm Notification Ordinance (WpI-AnzV) will extend beyond that date, BaFin intends to issue a general decree.

A general decree with essentially the same content was already consulted on in 2023 and published on 2 August 2023.

Comments are due by 23 May 2024.

Luxembourg Central Bank amends regulation on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral

The Luxembourg Central Bank (BCL) has [adopted](#) a new Regulation 2024/No. 34, which amends BCL Regulation 2024/No. 18 implementing Guideline ECB/2014/31 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral.

In particular, the Regulation implements the following amendments to the Guideline:

- the acceptance of certain short-term debt instruments issued by non-financial corporations which do not fulfil the eligibility criteria for marketable assets as collateral for Eurosystem monetary policy operations is discontinued;
- the provisions of the Guideline allowing Eurosystem national central banks to accept as eligible collateral, for the purposes of Eurosystem credit operations, marketable debt instruments issued by the central Government of the Hellenic Republic that do not meet the Eurosystem's credit quality requirements for marketable assets but fulfil all other eligibility criteria for

marketable assets, subject to a specific haircut table, have become obsolete and are repealed, as the marketable debt instruments issued by the central Government of the Hellenic Republic have become compliant with the Eurosystem's credit quality requirements; and

- further clarification is provided on the treatment of interest rate benchmarks.

The amendments to the Regulation entered into force on 6 May 2024.

ASIC consults on updated guidance for carbon market participants

The Australian Securities and Investments Commission (ASIC) has launched a [consultation](#) on proposed updates to its regulatory guidance for participants in the carbon market in relation to Australian financial services (AFS) licensing requirements.

The proposed updates are intended to address the implications of the safeguard mechanism reforms to the financial services and markets section of the Corporations Act 2001, as well as changes in the regulatory landscape for carbon markets, particularly Australian Carbon Credit Units (ACCUs), that have occurred since Regulatory Guide 236 (RG 236) entitled 'Do I need an AFS licence to participate in carbon markets?' was last re-issued in May 2015.

ASIC has also proposed to update several examples in RG 236, including those relating to derivatives over emissions units and financial product advice on safeguard mechanism credits units (SMCs) and ACCUs. In addition, ASIC is seeking input on whether there are other common real-world scenarios of activities in the carbon market that the industry considers ASIC's guidance should address.

ASIC will also update INFO 156 entitled 'Regulated emissions units: Applying for or varying an AFS licence' when the updated RG 236 is published.

The updated RG 236 is expected to be published in the second half of 2024. Comments on the consultation are due by 3 June 2024.

Hong Kong Government gazettes Deposit Protection Scheme (Amendment) Bill 2024

The Hong Kong Government has [gazetted](#) the Deposit Protection Scheme (Amendment) Bill 2024, which is intended to enhance the Deposit Protection Scheme (DPS) to strengthen the protection for depositors, maintain banking stability and keep up with international standards and the latest developments in Hong Kong.

The Bill, which follows the Hong Kong Government's public consultation during July to October 2023, is intended to amend the DPS Ordinance and the DPS (Representation on Scheme Membership and Protection of Financial Products under Scheme) Rules to implement the following enhancements:

- raising the protection limit from the current HKD 500,000 to HKD 800,000;
- refining the levy system to enable the DPS Fund underpinning the Scheme to reach the target fund size within a reasonable timeframe under the increased protection limit;
- providing enhanced coverage to affected depositors upon a bank merger or acquisition;

- requiring the display of the DPS membership sign on the electronic banking platforms of DPS members; and
- streamlining the negative disclosure requirement on non-protected deposit transactions for private banking customers.

The Bill will be introduced into the Legislative Council for first reading on 8 May 2024.

Hong Kong Taxonomy for Sustainable Finance published

The Hong Kong Monetary Authority (HKMA) has [published](#) the Hong Kong Taxonomy for Sustainable Finance, which is intended to enable informed decision making on green and sustainable finance and facilitate relevant finance flows.

The HKMA has been developing a green classification framework for adoption in the local market and a discussion paper to gather feedback from stakeholders on a prototype of the framework was released in May 2023. Based on consultation feedback, the prototype has been adjusted and published as the Hong Kong Taxonomy. Currently, it encompasses 12 economic activities under four sectors, namely power generation, transportation, construction, and water and waste management.

Steered by the Green and Sustainable Finance Cross-Agency Steering Group, the development of the prototype was guided by the principles of interoperability, comparability and inclusiveness. The HKMA notes that the prototype also facilitates navigation among the Common Ground Taxonomy, China's Green Bond Endorsed Projects Catalogue and the European Union's Taxonomy for Sustainable Activities. The HKMA encourages the financial sector to use the Hong Kong Taxonomy to assess the greenness of projects and assets when labelling and developing products, as well as making disclosures.

The HKMA has published its consultation report to summarise the feedback received, together with responses and recommendations on future work. To help users to understand and apply the Hong Kong Taxonomy, the HKMA has also prepared supplemental guidance to provide background information, illustrative use cases, and responses to frequently asked questions.

As a next step, the HKMA will seek to expand the coverage of the taxonomy to include more sectors and activities, including transition activities.

Prevention of Proliferation Financing and Other Matters Act 2024 (Commencement) Notification 2024 gazetted

The Singapore Government has gazetted the [Prevention of Proliferation Financing and Other Matters Act 2024 \(Commencement\) Notification 2024](#) to designate 1 May 2024 as the commencement date for the Prevention of Proliferation Financing and Other Matters Act 2024.

The Act is intended to:

- align the regulatory regimes for the precious stones and precious metals dealers (PSMDs), moneylending, pawnbroking, and legal services sectors with the updated Financial Action Task Force (FATF) standards on countering proliferation financing;
- strengthen the regulatory regime for PSMDs; and

- improve operational effectiveness in regulating PSMDs.

The following amendment rules and regulations have also been gazetted to update provisions consequential to the commencement of the Act:

- Legal Profession (Prevention of Money Laundering and Financing of Terrorism) (Amendment) Rules 2024;
- Moneylenders (Amendment No. 2) Rules 2024;
- Moneylenders (Composition of Offences) (Amendment) Rules 2024;
- Moneylenders (Prevention of Money Laundering and Financing of Terrorism) (Amendment) Rules 2024;
- Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) (Amendment) Regulations 2024; and
- Trustees (Transparency and Effective Control) (Amendment) Regulations 2024.

The amendment rules and regulations are effective from 1 May 2024.

Singapore Government gazettes Securities and Futures (Corporate Governance of Approved Exchanges, Approved Clearing Houses, Licensed Trade Repositories and Approved Holding Companies) Regulations 2024

The Singapore Government has gazetted the [Securities and Futures \(Corporate Governance of Approved Exchanges, Approved Clearing Houses, Licensed Trade Repositories and Approved Holding Companies\) Regulations 2024](#).

Amongst other things, the Regulations revoke the Securities and Futures (Corporate Governance of Approved Exchanges, Approved Clearing Houses and Approved Holding Companies) Regulations 2005 (G.N. No. S 742/2005) (Previous Regulations).

The Regulations do not apply to a regulated institution (i.e. an approved exchange, an approved clearing house, a licensed trade repository or an approved holding company) in the period commencing on 15 July 2024 and ending on the date of the first annual general meeting of the regulated institution held after 15 July 2024, and the Previous Regulations as in force immediately before 15 July 2024 will continue to apply to the regulated institution in that period.

The Regulations come into operation on 15 July 2024.

RECENT CLIFFORD CHANCE BRIEFINGS

CRD6 – New EU rules for bank senior managers and governance

The new EU Capital Requirements Directive (CRD6) will introduce a revised framework for assessing the suitability of directors and other senior managers of EU banks, including new requirements for key function holders and a new supervisory process for the prior assessment of the suitability of some appointments. It will also make other changes to the EU rules on bank governance.

The text of CRD6 has now been adopted by a resolution of the European Parliament and the new rules for bank senior managers and governance are expected to take effect by end-2025.

This briefing paper discusses the new rules.

<https://www.cliffordchance.com/briefings/2024/05/crd6--new-eu-rules-for-bank-senior-managers-and-governance.html>

The FCA publishes finalised guidance on the anti-greenwashing rule

On 23 April 2024, the FCA issued finalised guidance on the 'anti-greenwashing rule'. The guidance takes into account feedback received by the FCA in response to its consultation on the anti-greenwashing rule, which was launched in November 2023 alongside its Policy Statement on Sustainability Disclosure Requirements (SDR) and investment labels (PS23/16).

This briefing paper outlines the key elements of the guidance and some of the important clarifications that have been made by the FCA in response to feedback from the market.

<https://www.cliffordchance.com/briefings/2024/05/the-fca-publishes-finalised-guidance-on-the-anti-greenwashin.html>

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