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Savings and Investments Union: EU Commission launches call for evidence

The EU Commission has launched a call for evidence to collect input on its overall approach to the Savings and Investments Union (SIU).

Building on the Capital Markets Union and Banking Union, the SIU is focused on increasing returns on savings for EU citizens and financing opportunities for businesses. It encompasses capital markets and the banking sector, as well as retail investment, and is considered a key enabler of competitiveness in the EU Competitiveness Compass.

The Commission intends to present a comprehensive strategy on the SIU, aiming to ensure that all Member States and stakeholders benefit from strong, integrated financial markets, together with well-developed domestic markets.

The purpose of the call for evidence is to gather views, facts and evidence from consumers and stakeholders on progress made on the Capital Markets Union, as well as identifying significant challenges that the SIU should address.

Responses are due by 3 March 2025. The Commission intends to take these into account when drafting its communication on the SIU, which is expected in the Q1 2025.

EU Commission invites feedback on procedural rules for ESMA's exercise of power regarding consolidated tape providers

The EU Commission has published a draft delegated regulation intended to ensure that the scope of application of the procedural rules for the European Securities and Markets Authority (ESMA)'s supervision of data reporting services providers (DSRPs) includes consolidated tape providers.

The procedural rules govern:

- rights of defence;
- the collection of fines or periodic penalty payments; and
- the limitation periods for imposing and enforcing fines and periodic penalties.

Comments on draft delegated regulation are due by 6 March 2025.

MiCA: ESMA publishes supervisory briefing on authorisation of CASPs

ESMA has published a supervisory briefing on the authorisation of cryptoasset service providers (CASPs) under the Markets in Cryptoassets Regulation (MiCA). The briefing has been developed in cooperation with national competent authorities (NCAs) and is intended to promote convergence and prevent regulatory arbitrage by providing guidance on the expectations on applicant CASPs, and on NCAs when they are processing the authorisation requests.

Amongst other things, the briefing contains guidance on:

- substance and governance and the ability of CASPs offering their service in the EU to operate autonomously and with sufficient in-country personnel;

- outsourcing and the effective limits to set regarding the externalisation of functions and services; and
- suitability of personnel and the importance for CASPs, and particularly their executive management, to demonstrate effective technical knowledge of the crypto ecosystem.

MiCA: EBA resubmits draft conflicts of interest RTS for issuers of ARTs

The European Banking Authority (EBA) has published an opinion, dated 24 January 2025, on amendments proposed by the EU Commission in November 2024 to the EBA's June 2024 draft regulatory technical standards (RTS) on conflicts of interest for issuers of asset-referenced tokens (ARTs) under MiCA.

In its opinion, the EBA endorses the substantive amendments made by the Commission and accepts the remaining changes to other parts that are not considered substantive. The EBA has therefore resubmitted the amended draft RTS to the Commission for adoption.

EBA publishes final draft ITS on reporting of data on charges for credit transfers and payments accounts, and shares of rejected transactions

The EBA has published its final draft implementing technical standards (ITS) on reporting of data on charges for credit transfers and payments accounts, and shares of rejected transactions. The ITS are based on a mandate in the Instant Payment Regulation (IPR) amending the SEPA Regulation, and are intended to standardise reporting from payment service providers to their NCAs. The reported data aims to ensure consumers benefit from access to instant credit transfers, and that these are no longer more expensive than regular credit transfers. Following its public consultation, the EBA has postponed the first harmonised reporting from PSPs by 12 months, from April 2025 to April 2026.

Platform on Sustainable Finance publishes report on simplifying EU taxonomy to foster sustainable finance

The Platform on Sustainable Finance has published a report that presents a set of recommendations to simplify taxonomy reporting and enhance its effectiveness. Building on previous work, including the Platform's 2022 report on recommendations on data and usability and the 2024 report on the compendium of market practices, the report provides targeted recommendations to the EU Commission.

The report proposes five main measures to simplify taxonomy reporting:

- refining the 'do no significant harm' (DNSH) assessment and reporting obligations by distinguishing between users (non-financial vs. financial entities), uses (turnover vs. capital expenditure), and geographies (EU vs. non-EU exposures);
- introducing a materiality principle applicable to all entities, materiality thresholds for all non-financial company key performance indicators (KPIs), and a simplified DNSH assessment for the turnover KPI;
- defining clear guidelines for the use of estimates within the taxonomy framework and establishing safe harbours for financial sector reporting;

- allowing proxies and estimates across all assets in the context of the green asset ratio (GAR) and green investment ratio (GIR), while introducing a simplified retail assessment and reduced denominator for asset classes strictly measurable against the taxonomy; and
- developing simplified and voluntary approaches for small and medium-sized enterprises (SMEs), as well as for banks and investors, to integrate the taxonomy into their disclosures.

The Platform on Sustainable Finance will present the report in a webinar on 14 February 2025.

BCBS publishes 2025/26 work programme and strategic priorities

The Basel Committee on Banking Supervision (BCBS) has published its work programme and strategic priorities for 2025-26, which have been endorsed by the Group of Central Bank Governors and Heads of Supervision (GHOS).

The key themes of the 2025-26 work programme include:

- Basel III implementation;
- risk assessment and safeguarding resilience, including ongoing follow-up work in response to the lessons learnt from the March 2023 banking turmoil;
- digitalisation of finance; and
- liquidity.

The GHOS has also agreed to take stock of the Committee's work on climate-related financial risks later this year.

The BCBS intends to continue to collaborate and cooperate with a wide range of stakeholders. This includes ongoing collaboration with other standard-setting bodies and international fora on cross-sectoral financial initiatives.

BCBS consults on credit risk principles

The BCBS has published a consultation paper on principles for the management of credit risk. The principles, which were initially released in 2000, provide guidelines for banking supervisory authorities to evaluate banks' credit risk management processes. The principles cover four key areas:

- establishing a suitable credit risk environment;
- operating under a sound credit-granting process;
- maintaining an appropriate credit administration, measurement, and monitoring process; and
- ensuring adequate controls over credit risk.

In 2023, the Committee reviewed the principles to ensure that they remain relevant amid global financial market developments and regulatory changes. The review confirmed their relevance but found some parts obsolete or misaligned with the current Basel Framework. Therefore, the Committee is proposing limited technical amendments to align the principles with its latest guidelines, without changing the existing content or introducing new topics.

Comments are due 21 March 2025.

House of Commons Treasury Committee launches call for evidence on AI in financial services

The House of Commons Treasury Committee has launched a call for evidence on AI in financial services. The purpose is to explore how UK financial services can take advantage of the opportunities in AI while mitigating any threats to financial stability and safeguarding financial consumers, particularly vulnerable consumers.

In particular, the Committee is seeking views on:

- how AI is currently used in different sectors of financial services and how this is likely to change over the next ten years;
- the extent to which AI can improve productivity in financial services;
- what the risks to financial stability arising from AI are and how they can be mitigated;
- what the benefits and risks to consumers arising from AI are, particularly for vulnerable consumers; and
- how the Government and financial regulators can strike the right balance between seizing the opportunities of AI but at the same time protecting consumers and mitigating against any threats to financial stability.

Responses are due by 17 March 2025.

House of Lords Financial Services Regulation Committee highlights concerns over FCA proposals to publish enforcement investigations

The House of Lords Financial Services Regulation Committee has published a report entitled 'Naming and shaming: how not to regulate', highlighting its concerns about the proposals in the Financial Conduct Authority (FCA)'s consultation paper CP24/2 (Part 2) on publicising enforcement investigations.

The report concludes that the FCA has not made a convincing case for the proposed shift away from its current policy of publicly announcing enforcement investigations into firms before they have concluded only in 'exceptional circumstances'. It notes that the FCA's proposal to make such public announcements more frequently by means of a more flexible public interest framework affords the FCA considerable discretion and may expose firms to significant reputational damage before the facts of the case have been established. The Committee also warns that the proposals risk positioning the UK as an international outlier in a manner that appears misaligned with the FCA's secondary competitiveness and growth objective.

PSR publishes compliance monitoring framework

The Payment Systems Regulator (PSR) has published a policy statement on its compliance monitoring framework.

The policy statement explains why and how the PSR monitors compliance with its payments regulations. It sets out how the compliance monitoring team's work is structured and covers:

- the scope of monitoring work;
- the approach to compliance monitoring;

- how, in practice, the PSR intends to monitor the parties that it regulates; and
- how it will educate and engage with industry as part of its monitoring work.

The compliance monitoring team checks whether and how regulated parties are adhering to the requirements it oversees. These include:

- general directions, specific directions, and specific requirements;
- the UK Interchange Fee Regulation (UK IFR);
- Regulations 61 and 103 to 105 of the Payment Services Regulations 2017; and
- the designation of alternative switching schemes under the Payment Accounts Regulations 2015.

The PSR intends to make changes to the process and procedures guide to update its enforcement processes, and to offer more details on the process of its new compliance monitoring function. It also intends to publish a similar document to the monitoring framework regarding its enforcement work.

Wholesale Markets Review: FCA issues policy statement on reforming commodity derivatives regulatory framework

The FCA has published a policy statement (PS25/1) summarising the feedback it received to its December 2023 consultation paper (CP23/27) and setting out its final policy on reforming the commodity derivatives regulatory regime.

PS25/1 covers the key pillars of the regime:

- position limits;
- exemptions from those limits;
- position management controls;
- the position reporting regime; and
- the ancillary activities test.

Following the feedback it received to CP23/27, the FCA has sought to recognise the heterogeneity of commodity markets by providing trading venue operators with greater discretion, in certain areas, to determine the arrangements necessary to safeguard the orderliness of their market. The FCA has emphasised that this discretion will need to be exercised with reference to the criteria it has set to ensure that arrangements deliver sufficient risk monitoring and mitigation.

The final rules in PS25/1 require trading venues to have the power to collect data on OTC positions, but also set out how that power can be exercised differently, depending on the risks and characteristics of the specific market. The FCA has indicated that it will allow a substantial implementation period before the rules come into effect, during which it will assess the arrangements proposed by relevant trading venue operators.

The FCA has also made targeted changes to other parts of the proposals in CP23/27, to incorporate technical feedback received to improve the practical

implementation of its rules while maintaining the intended standards of market integrity.

Accelerated Settlement Taskforce recommends that UK move to T+1 on 11 October 2027

The Accelerated Settlement Taskforce (AST) Technical Group has published its UK implementation plan for first day of trading for T+1 settlement.

The AST was established in December 2022 as part of the Edinburgh Reforms. It is chaired by Charlie Geffen and was tasked with exploring the potential for faster settlement of securities trades in the UK. The AST's report was published on 28 March 2024, which recommended that the UK should move to a T+1 settlement cycle no later than the end of 2027.

Following this, the Government appointed Andrew Douglas to chair a Technical Group to take forward the next phase of the work. The group was asked in its terms of reference to develop a detailed implementation plan for the UK transition to T+1 and to recommend a date before the end of 2027 for this to take place.

The Technical Group's report recommends 12 'critical' and 27 'highly recommended' actions to facilitate a successful transition to T+1. It also recommends that the UK move to T+1 on 11 October 2027. The Government has welcomed the report and intends to set out its response shortly.

BaFin consults on general decree regarding diversity reporting

The German Federal Financial Supervisory Authority (BaFin) has launched a consultation (03/2025) on its draft general decree (Allgemeinverfügung) regarding diversity reporting for the reporting date 31 December 2024 (Allgemeinverfügung bezüglich der Diversitätsanzeigen zum Meldestichtag 31. Dezember 2024).

The general decree obliges CRR credit institutions that are significant within the meaning of section 1 para 3(c) of the German Banking Act (KWG) on the basis of section 24 para 3b KWG to provide the information required pursuant to Article 91 para 11 CRD in connection with the EBA guidelines on benchmarking of diversity practices, including diversity policies and gender pay gap, under Directive 2013/36/EU and Directive (EU) 2019/2034 (EBA GL/2023/08) for the reporting date 31 December 2024 until 30 April 2025 on an individual level.

This is because NCAs are obliged to collect and submit to the EBA the information specified in the EBA guidelines, which are being applied for the first time this year, until 30 April 2025 und submit such information to the EBA until 15 June 2025. In the future, the respective data is to be submitted every 3 years from selected institutions. The reporting obligations in section 24 KWG in connection with section 9a of the Notification Ordinance (AnzV) are to be amended accordingly. Since the legislative process could not be finalised in time for complying with this year's notification period, it has become necessary to impose additional reporting obligations on certain institutions by way of a general decree.

The supervisory authority will inform the other selected institutions individually of their participation.

Comments are due by 21 February 2025.

Dutch Central Bank reports on integrity supervision

The Dutch Central Bank (DNB) has published its report 'Integrity Supervision in Focus 2025' (ISF). In this annual publication, DNB shares its findings and insights from its integrity supervision. The ISF report is intended to help institutions implement their integrity policy soundly and in a risk-based manner, by providing insight into current developments, findings from DNB's supervision and emerging risks.

The report is in line with other periodic DNB supervisory publications. In its report 'Supervision in Focus' (Toezicht in beeld), DNB looks back at the efforts and results of its supervision on an annual basis and looks ahead to the supervisory priorities for the coming year. In its report 'Vision on Supervision 2025-2028' (Visie op Toezicht 2025-2028), which was published at the end of last year, DNB set out the strategic course for the coming four years, with priorities that are intended to contribute to an efficient and effective deployment of its supervisory capacity. The ISF report adds an integrated overview of the integrity risks in various sectors. DNB has emphasised that this makes the ISF report an important part of the continuous dialogue between DNB and supervised institutions on compliance with the Money Laundering and Terrorist Financing (Prevention) Act (Wwft), the Trust Offices Supervision Act 2018 (Wtt) and the Sanctions Act.

An English version of the report will be published soon.

Australian Treasury provides guidance on scams prevention framework

The Australian Treasury has released guidance with respect to the scams prevention framework. The guidance follows the introduction of the Scams Prevention Framework Bill 2024 on 7 November 2024.

The framework is intended to create new obligations and rules for certain businesses in sectors targeted by scammers. Banks, certain digital platforms (including social media), and telecommunications providers will be the first sectors required to comply with the framework. However, the Australian Treasury has indicated that, in light of changing threats to consumers due to the evolving nature of scams, the Government may expand the framework to other sectors targeted by scams, such as superannuation funds or cryptocurrency wallets.

Under the framework, mandatory industry codes of conduct will be introduced to set out baseline obligations that businesses will need to comply with to protect Australians from scams. There will be separate sector-specific codes for banks, telecommunication services and digital platforms, acknowledging that each sector has unique vulnerabilities that scammers seek to expose. Sector codes for these three initial sectors will be developed through consultation with industry and consumers in 2025.

The framework is intended to stop scams by requiring regulated businesses to take reasonable steps to prevent, detect and disrupt them. This could require banks to proactively warn customers of recent scam trends, social media companies to suspend scam accounts, and businesses to implement algorithms to detect suspicious activity on their platforms. Businesses that do not meet their obligations under the framework can face fines up to AUD 50 million.

Moreover, the framework will:

- require businesses to share scam intelligence with the Australian Competition and Consumer Commission, which will be able to distribute it to other businesses, law enforcement and international partners so they can take action to prevent, detect, and disrupt scams;
- enable consumers to seek compensation where businesses have not met their obligations and a consumer has suffered a loss as a result; and
- require businesses to have accessible and transparent internal dispute resolution processes to manage consumer complaints – under the framework, where a business is unable to satisfactorily resolve a complaint, consumers will have access to a single external dispute resolution (EDR) body. The Australian Financial Complaints Authority will deliver EDR for the three initial sectors. Further details and specific obligations relating to internal dispute resolution and EDR will be set out in subordinate legislation.

Financial Institutions (Miscellaneous Amendments) Act 2024 (Commencement) Notification 2025 gazetted

The Singapore Government has gazetted the Financial Institutions (Miscellaneous Amendments) Act 2024 (Commencement) Notification 2025 to announce 24 January 2025 as the commencement date of the second phase of the Financial Institutions (Miscellaneous Amendments) Act 2024 (FIMA Act).

The FIMA Act is intended to enhance and harmonise the investigative powers of the Monetary Authority of Singapore (MAS) across six MAS-administered Acts: the Financial Advisers Act 2001 (FAA), the Financial Services and Markets Act 2022 (FSMA), the Insurance Act 1966 (IA), the Payment Services Act 2019 (PS Act), the Securities and Futures Act 2001 (SFA), and the Trust Companies Act 2005 (TCA).

Among other things, the Commencement Notification operationalises the following provisions in the FIMA Act:

- sections 13, 25, 31, 67 and 102 of the FIMA Act amend the FAA, the IA, the PSA, the SFA and the TCA, respectively, to enhance and widen the investigative powers of the MAS under those Acts, while section 20 of the FIMA Act inserts a new Part 10A in the FSMA to provide the MAS with investigative powers under the FSMA;
- sections 7, 8 and 9 of the FIMA Act amend the FAA, sections 36, 37, 38, 40, 41, 46, 47, 48, 51, 53, 58, 59, 60, 78, 79 and 80 of the FIMA Act amend the SFA, and section 97 of the FIMA Act amends the TCA to, among other things, enhance, widen and clarify the powers of the MAS under those Acts relating to the appointment, disqualification and removal of certain officers of various financial institutions (FIs), the appointment of external auditors of FIs, and the control of FIs. The new provisions also set out that the MAS may direct various FIs to remove an individual from his or her appointment if the MAS is satisfied that the individual is not a fit and proper person to hold the relevant appointment;
- sections 8 and 59 of the FIMA amend the FAA and SFA, respectively, to, among other things, provide that a person must not obtain effective control of a licensed financial adviser or holder of a capital market services licence

without the MAS' approval, and amends the definition of 'effective control' to clarify that the MAS' approval need only be sought before a person obtains effective control of the regulated entity;

- section 80 of the FIMA Act amends the SFA to require the MAS' approval for a person to obtain effective control of an approved trustee, while sections 37 and 47 of the FIMA Act insert new provisions in the SFA requiring the MAS' approval for a person to hold 20% of the shares of, or control 20% of the voting power of, a recognised market operator incorporated in Singapore, or a recognised clearing house incorporated in Singapore;
- sections 14, 88 and 106 of the FIMA Act replace section 114 of the FAA, section 329 of the SFA and section 62 of the TCA, respectively, to, among other things, make it an offence for a person who is not an individual to fail to take due care to ensure that information provided to the MAS under the relevant Act is not false or misleading (whether or not the information is false or misleading in a material particular);
- sections 4, 57, 95 and 96 of the FIMA Act amend section 14 of the FAA, section 93 of the SFA and sections 9 and 11 of the TCA, respectively, to remove references to returning or surrender of a licence – it will no longer be possible to return or surrender a licence that is issued electronically;
- section 18 of the FIMA Act amends section 135 of the FAA to provide that regulations may be made for the MAS to be notified of adverse developments that have or are likely to have a material impact on a licensed financial adviser, or of matters affecting the fitness and propriety of substantial shareholders, directors or executive officers of the licensed financial adviser, or persons having effective control of the licensed financial adviser, to be in such positions; and
- sections 61 and 105 of the FIMA Act amend section 98 of the SFA and section 50 of the TCA, respectively, to remove the appeal process in respect of a direction for the removal of an officer from office or employment – the process is now covered by new section 97(5A), (5B) and (5C) of the SFA and new section 14(4C), (4D) and (4E) of the TCA that relate to the disqualification and removal of officers.

All sections of the FIMA Act are now in effect, except section 32, which amends section 94 of the Payment Services Act 2019 concerning the general duty of a person to use reasonable care not to provide false information to the Monetary Authority of Singapore (MAS).

In connection with the commencement of the second phase of the FIMA Act, the Singapore Government has also gazetted the:

- Financial Advisers (Amendment) Regulations 2025: effective from 24 January 2025;
- Financial Advisers (Remuneration) (Amendment) Regulations 2025: effective from 24 January 2025, except for regulations 2(a), 3(a), and 4, which are deemed to have come into operation on 31 December 2021;
- Insurance (Remuneration) (Amendment) Regulations 2025: effective from 24 January 2025, except for regulations 2 and 3(a), which are deemed to have come into operation on 31 December 2021;

- Securities and Futures (Approved Holding Companies) (Amendment) Regulations 2025: effective from 24 January 2025;
- Securities and Futures (Clearing Facilities) (Amendment) Regulations 2025: effective from 24 January 2025;
- Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2025: effective from 24 January 2025;
- Securities and Futures (Offers of Investments) (Collective Investment Schemes) (Amendment) Regulations 2025: effective from 24 January 2025;
- Securities and Futures (Offers of Investments) (Securities and Securities-based Derivative Contracts) (Amendment) Regulations 2025: effective from 24 January 2025;
- Securities and Futures (Organised Markets) (Amendment) Regulations 2025: effective from 24 January 2025;
- Securities and Futures (Trade Repositories) (Amendment) Regulations 2025: effective from 24 January 2025;
- Trust Companies (Amendment) Regulations 2025: effective from 24 January 2025; and
- Financial Institutions (Miscellaneous Amendments) (Saving and Transitional Provisions) Regulations 2025: effective from 24 January 2025, to ensure that requirements/conditions imposed under certain sections of the Financial Advisers Act 2001, the Insurance Act 1966 and the Securities and Futures Act 2001 before 24 January 2025, continue to apply.

Separately, the following MAS notices, guidelines, frequently asked questions (FAQs) and compliance toolkits have also been updated/reissued to reflect consequential changes arising from the commencement of the second phase of the FIMA Act:

- Notice SFA 04-N11: Reporting of Misconduct of Representatives by Holders of Capital Markets Services Licence and Exempt Financial Institutions;
- Notice FAA-N14: Reporting of Misconduct of Representatives by Financial Advisers;
- Guidelines on Outsourcing (Financial Institutions other than Banks);
- FAQs on: (a) Licensing of Fund Management Companies; (b) Licensing and Business Conduct (Other than for Fund Management Companies); (c) Exempt Persons; and (d) Financial Advisers Act, Financial Advisers Regulations, Notices and Guidelines; and
- Compliance Toolkits for Approvals, Notifications and Other Regulatory Submissions to MAS for: (a) Financial Advisers; and (b) Licensed Trust Companies, Exempt Persons Providing Trust Services, and Approved CIS Trustees.

Further, the MAS has updated/issued new forms in relation to the commencement of the second phase of the FIMA Act. These include (but are not limited to) the forms to apply for MAS approval to obtain effective control of a capital markets services licence holder, a licensed financial adviser, an approved trustee, control of shareholding in a recognised clearing house

(RCH) or recognised market operator (RMO) incorporated in Singapore, and the appointment of chief executive officers and directors of approved trustees, Singapore-incorporated RMOs and Singapore-incorporated RCHs.

RECENT CLIFFORD CHANCE BRIEFINGS

Data privacy legal trends 2025

Data protection and privacy laws continue to increase in number and scope globally, including a continued flow of comprehensive US state privacy laws and quickly developing regimes in Asia Pacific and the Middle East.

Legislators are also increasingly addressing data governance beyond privacy, including through laws aimed at facilitating data access, portability and re-use. European courts and regulators are focused on fundamental questions around application of privacy laws – including in relation to so-called 'Pay or Consent' models – and efforts around the world to clarify the application of privacy laws to artificial intelligence (AI) continue through enforcement, litigation and regulatory guidance.

This briefing paper highlights the five data privacy legal trends to watch in 2025.

https://www.cliffordchance.com/insights/thought_leadership/trends/2025/data-privacy-legal-trends.html

Clifford Chance Buy-Side Regulatory Horizon Scanner Q1 2025

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

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

- asset management developments;
- ESG developments; and
- cross-sectoral developments.

The horizon scanner also sets out projected timelines for the finalisation and implementation of the relevant developments, covering approximately the next two years.

This horizon scanner has been prepared as of January 2025. It does not constitute legal advice and is not intended to provide an exhaustive list of all provisions or requirements applicable to firms during this period.

https://www.cliffordchance.com/briefings/2025/01/buy-side-regulatory-horizon-scanner-q1-2025.html

The reverse solicitation exemption under MiCA – what third-country firms need to know

The MiCA is poised to further transform the European cryptoassets landscape, following the implementation of MiCA RTS. Third-country firms (i.e. from outside the EU) that do not obtain a Cryptoasset Service Provider (CASP) license or cannot benefit from the 18-month transitional period, are prohibited from providing cryptoasset services, except under a narrow reverse solicitation exemption. While this may appear stringent, it is not entirely without precedent, similar provisions exist, for instance, in MiFID2, although the scope of solicitation provisions in MiCA is notably broader than in other EU regimes.

ESMA sought feedback on its proposed guidance for the application of the reverse solicitation exemption.

The final reports following consultation were published by ESMA on 30 December 2024. In the final guidelines on reverse solicitation, ESMA maintains a strict approach on the solicitation prohibition, consistent with the narrow perimeter of the reverse solicitation exemption indicated by the draft guidelines from January 2024.

This briefing paper covers the narrow circumstances in which third-country firms that do not have a CASP licence, or cannot benefit from the transitional period, can strategically engage with the EU market in relation to cryptoassets under the reverse solicitation exemption.

https://www.cliffordchance.com/briefings/2025/01/the-reverse-solicitation-exemption-under-mica---what-third-coun.html

How long is the EU legislative process? Lessons for financial services from the 2019-24 Commission

The work of the new, 2024-29 European Commission will likely include proposals for new Level 1 legislation developing the EU's SIU as well as other legislative proposals affecting financial services. Understanding the timing of the Level 1 legislative process will be important for firms seeking to engage with the EU institutions on the development of any new legislation and to plan for its eventual implementation.

This briefing paper reviews the experience of the financial services legislative programme of the 2019-24 Commission to illustrate how the new Commission's financial services legislative programme may develop.

https://www.cliffordchance.com/briefings/2025/02/how-long-is-the-eu-legislative-process--lessons-for-financial-se.html

Managing your bond liabilities under US securities law – a guide for non-US issuers

Approximately USD 55.3 trillion of fixed income securities are outstanding in the US, including debt securities offered by non-US sovereign, investment grade and sub-investment grade corporate issuers pursuant to Rule 144A or another exemption from registration under the US Securities Act of 1933, as amended.

These issuers are expected to continue tapping the debt markets in the United States for funding. While it is relatively straightforward simply to repay debt with new money, issuers often want to explore options that may achieve the goals of extending their maturity profile and/or reducing costs or interest

expense in a more creative way in so-called ‘liability management’ transactions, including, among others:

- tender offers: a ‘public’ offer made by an issuer to repurchase all or a portion of its outstanding bonds from investors for cash; and
- exchange offers: an offer made by an issuer to repurchase its outstanding bonds in exchange for new bonds with different terms.

If US investors are approached in connection with these transactions, the US securities laws come into play.

This briefing paper provides an overview of these US securities laws and explores how transaction structures have evolved over time in response to these laws.

https://www.cliffordchance.com/briefings/2025/02/managing-your-bond-liabilities-under-us-securities-law--a-guide-.html

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