INTERNATIONAL REGULATORY UPDATE 22 – 25 APRIL 2025

- **CRR: EU Commission adopts RTS on extraordinary circumstances for continuing use of internal models**
- **CRR2/CRD5: EU Commission adopts new RTS on supervisory colleges**
- **ESMA publishes risk assessment of leveraged AIFs and UCITS using absolute VaR**
- **EBA launches ESG dashboard**
- **FSB Chair writes to G20 finance ministers and central bank governors**
- **PRA publishes policy statement on step-in risk, shadow banking entities and groups of connected clients**
- **PRA consults on bringing MiFID Org Reg into its Rulebook**
- **FCA consults on definition of capital for investment firms**
- **BoE launches 2025 public CCP supervisory stress test**
- **Polish Financial Supervision Authority sets out position on creation, labelling and distribution of products enabling investment in fractions of rights arising from securities**

CRR: EU Commission adopts RTS on extraordinary circumstances for continuing use of internal models

The EU Commission has adopted a Delegated Regulation setting out regulatory technical standards (RTS) on the conditions and indicators for determining whether extraordinary circumstances have occurred under Articles 325az(5) and 325bf(6) of the Capital Requirements Regulation (CRR).

Under the CRR, competent authorities may permit institutions to derogate from certain requirements for the use of internal models in accordance with the Fundamental Review of the Trading Book (FRTB), or apply a softer version of those requirements, under extraordinary circumstances. The European Banking Authority (EBA) is required to publish an opinion which determines the occurrence of these extraordinary circumstances. The RTS specify the conditions and indicators that it shall use to determine whether extraordinary circumstances have occurred.

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

CRR2/CRD5: EU Commission adopts new RTS on supervisory colleges

The EU Commission has adopted a Delegated Regulation supplementing the Capital Requirements Directive (CRD4) with RTS specifying the general conditions for the functioning of supervisory colleges and repealing Commission Delegated Regulation (EU) 2016/98.

The Delegated Regulation replaces the current RTS on supervisory colleges to implement the requirements set out in CRD5 and CRR2, as well as to reflect observations from the EBA's ongoing college monitoring activity on the functioning of supervisory colleges.

The new RTS introduce changes relating to:

- enhanced information exchange within the college, as well as with observers, in going concern and in emergency situations;
- effective identification of emerging risks in case of an event of adverse material impact on the risk profile of the group or its entities; and
- appropriate use of the possibility for 'entrustment of tasks and delegation of responsibility' when it facilitates efficient and effective supervision of cross-border banking groups.

ESMA publishes risk assessment of leveraged AIFs and UCITS using absolute VaR

The European Securities and Markets Authority (ESMA) has published its annual risk assessment of leveraged alternative investment funds (AIFs) and its first analysis on risks in UCITS using the absolute value-at-risk (VaR) approach.

ESMA reports that while most EU investment funds make limited use of leverage, a subset of AIFs are substantially leveraged, and a group of UCITS using the absolute VaR approach has very high levels of gross leverage. Hedge funds display the highest levels of leverage, despite representing a small part of the EU fund industry. There is pressure on real estate (RE) funds in some jurisdictions due to declining real estate prices and outflows, but the RE fund sector has been resilient at the EU level. Limits on interest rate risk have increased the resilience of GBP liability-driven investment (LDI) funds and reduced leverage for some.

ESMA's analysis indicates that UCITS using the absolute VaR approach account for around 8% of the UCITS universe. A small subset of these funds shows risk profiles similar to hedge funds, with complex derivative exposures and high levels of gross leverage. This subset, although small (2% of the UCITS segment), has a larger volume of assets than EU hedge funds.

EBA launches ESG dashboard

The EBA has launched its ESG dashboard, which is intended to establish an ESG risks monitoring framework for EU and EEA banks and allow centralised access to comparable climate risk indicators.

The indicators covered by the dashboard include those relating to:

- climate-related transition risk;
- physical risk;

- exposures secured by immovable property collateral; and
- the alignment of EU and EEA banks with the EU Taxonomy.

The indicators are based on Pillar 3 ESG data disclosed by banks between 31 December 2023 and 30 June 2024. The EBA intends to update and evolve the indicators over time, and notes that charts and indicators, in particular the Taxonomy alignment indicators, may be adjusted in future updated versions.

FSB Chair writes to G20 finance ministers and central bank governors

The Chair of the Financial Stability Board (FSB), Klaas Knot, has written a letter to G20 finance ministers and central bank governors ahead of their meeting on 23-24 April.

In the letter, the Chair reflects on recent episodes of financial market turmoil and emphasises the importance of vigilance and international cooperation to address emerging risks and ensure the continued resilience of the financial system.

The letter highlights the role played by non-bank financial entities in recent periods of market turmoil, outlining the FSB's work to strengthen the resilience of non-bank financial intermediation (NBFI). The FSB is finalising recommendations to address financial stability risks arising from leverage in NBFI that will be delivered to the G20 in July 2025.

The letter also notes the FSB's work to address cyber risks, culminating in the recent publication of the FSB's Format for Incident Reporting Exchange (FIRE), and work to enhance cross-border payments, where efforts are focused on intensifying the FSB's engagement with the private sector and regulators to encourage implementation of the G20 Roadmap. The letter, Knot's final one as FSB Chair, also calls on authorities to remain committed to implementing the agreed international reforms in order to preserve financial stability in an evolving risk environment and avoid fragmentation.

PRA publishes policy statement on step-in risk, shadow banking entities and groups of connected clients

The Prudential Regulation Authority (PRA) has issued a policy statement (PS5/25) providing feedback to the responses it received to its December 2023 consultation (CP23/23) on its proposals regarding step-in risk, shadow banking entities and groups of connected clients.

PS5/25 also contains the PRA's final policy on the identification and management of step-in risk.

The PRA has decided to take a phased approach to finalising its policy on the chapters in CP23/23 dealing with shadow banking entities and groups of connected clients. The PRA expects to finalise its policy on groups of connected clients as part of its finalisation of proposals included in CP14/24 on the large exposures framework. The PRA then expects to finalise its policy on shadow banking entities in due course. In the meantime, the PRA expects firms to make every effort to comply with the existing EBA guidelines on limits on exposures to shadow banking entities and the EBA guidelines on groups of connected clients.

PRA consults on bringing MiFID Org Reg into its Rulebook

The PRA has published a consultation paper (CP9/25) on the Markets in Financial Instruments Directive Organisational Regulation (MiFID Org Reg), which sets out organisational requirements for investment firms and CRR firms in the UK, including outsourcing, record keeping, control procedures, risk management, compliance, internal audit functions, and governance.

The PRA intends to restate the existing requirements from the MiFID Org Reg into its Rulebook, following HM Treasury (HMT)'s announcement that it intends to revoke the MiFID Org Reg as part of broader changes to the MiFID2 framework under FSMA 2023. This move is intended to maintain continuity in supervision and enforcement without introducing new requirements and the PRA has emphasised that it is not planning to change any of the substance of these rules.

The proposals cover:

- general organisational requirements;
- outsourcing;
- record keeping;
- compliance and internal audit;
- risk management; and
- technical standards regulation.

The implementation date for the changes is proposed for H2 2025.

Comments on CP9/25 are due by 23 June 2025.

FCA consults on definition of capital for investment firms

The Financial Conduct Authority (FCA) has published a consultation paper (CP25/10) proposing the removal of references to the UK CRR from the definition of regulatory capital for FCA investment firms within MIFIDPRU 3.

The FCA is proposing to streamline the rules on the types of funds investment firms must hold to absorb losses and maintain financial resilience during periods of stress.

CP25/10 does not propose changes to the levels of regulatory capital firms must hold but focuses on simplifying and consolidating the existing rules about what qualifies as regulatory capital. The FCA notes that many UK CRR rules on own funds were designed for banks and are not fully aligned with the business models of investment firms. The FCA intends to create a more proportionate and standalone prudential framework tailored to investment firms.

Comments are due by 12 June 2025.

The final rules are expected to be published in H2 2025 and come into force on 1 January 2026.

BoE launches 2025 public CCP supervisory stress test

The Bank of England (BoE) has launched its fourth public supervisory stress test (SST) for UK central counterparties (CCPs).

The SST is intended to assess the financial resilience of the three UK CCPs (ICE Clear Europe Limited (ICEU), LCH Limited (LCH), and LME Clear Limited (LMEC)) and to promote transparency and confidence in the UK clearing system. The 2025 test:

- will focus on assessing the resilience of UK CCPs to the default of two or more of its members during a severe market stress, including a core credit stress test and additional reverse stress testing and sensitivity testing that explores how the results change under increasingly severe assumptions;
- will not include a full liquidity stress test, instead the BoE intends to explore liquidity risks in a more qualitative manner and to assess how risks have evolved since the last SST;
- will consider the impact on the wider financial system via initial margin and variation margin calls; and
- centre on a bespoke 'baseline market stress scenario', which is intended to represent extreme market moves over a period of two to five days in which there is escalating concern about fragmentation in global trade and sovereign debt risks, resulting in a sharp decline in equity markets, rising interest rate expectations and mixed movements in commodities markets.

The BoE intends to report on the results and findings from the SST in 2025 Q4.

Polish Financial Supervision Authority sets out position on creation, labelling and distribution of products enabling investment in fractions of rights arising from securities

The Polish Financial Supervision Authority (KNF) has issued a position paper on selected aspects concerning the creation, labelling and distribution of products enabling investment in fractions of rights arising from securities. The position paper concerns investment in fractions of securities, such as shares or exchange-traded funds (ETFs). These products, often referred to as 'fractional shares' (akcje ułamkowe), allow investors to participate proportionally in the price movements of the underlying instruments and enable the receipt of benefits corresponding to the fractional value of the entitlements arising from those securities.

In its position paper, the KNF emphasises that when creating and distributing such products, investment firms must ensure an appropriate legal structure, which affects the rights of purchasers, such as voting rights or participation in corporate events.

The KNF also notes that these products may be classified as derivatives, which entails counterparty credit risk, as the client is only the economic beneficiary and does not hold ownership rights to the underlying instrument. Investment firms are obliged to create and distribute these products in a reliable manner, in accordance with investor protection principles, and to label the products appropriately so as not to mislead clients.

CLIFFORD

CHANCE