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- **Recent Clifford Chance briefings: UK regulation of buy-now, pay-later; and investment management in Japan. Follow this link to the briefings section.**

Benchmarks Regulation amendments published in Official Journal

Regulation (EU) 2025/914 amending the Benchmarks Regulation (EU) 2016/1011 as regards the scope of the rules for benchmarks, the use of benchmarks provided by administrators located in third countries, and certain reporting requirements has been published in the Official Journal.

Among other things, the amended regulation:

- removes administrators of benchmarks defined as non-significant in the EU from the scope of the rules, reducing regulatory burden;
- keeps only critical or significant benchmarks within scope;
- permits administrators outside the scope of the rules to be able to request the voluntary application of the rules (opt-in), under certain conditions;
- extends competence for the European Securities and Markets Authority (ESMA);
- requires administrators of EU Climate Transition Benchmarks and EU Paris-Aligned Benchmarks to be registered, authorised, recognised, or endorsed to ensure regulatory oversight and prevent misleading ESG claims; and
- introduces a specific exemption regime for spot foreign exchange benchmarks.

The regulation will enter into force on 8 June 2025 and will apply from 1 January 2026.

MiFIR Review: Delegated Regulation on OTC derivatives identifying reference data published in Official Journal

Commission Delegated Regulation (EU) 2025/1003 regarding OTC derivatives identifying reference data under the Markets in Financial Instruments Regulation (MiFIR) has been published in the Official Journal.

The Delegated Regulation sets out identifying reference data to be used with regard to OTC interest rate swaps and OTC credit default swaps for the purposes of the transparency requirements laid down in Article 8a(2), and Articles 10 and 21 MiFIR.

The Delegated Regulation will enter into force on 11 June 2025.

EU Commission unveils Single Market Strategy and introduces new category for small mid-caps

The EU Commission has presented its Single Market Strategy, accompanied by a new Omnibus package of simplification measures (Omnibus IV).

Amongst other things, the Commission is introducing a new category for small mid-caps (SMCs), i.e. companies with fewer than 750 employees and either up to EUR 150 million in turnover or up to EUR 129 million in total assets, to ease their transition as they grow beyond SME status.

As part of the SMC package, the Commission has put forward proposals for a directive and a regulation amending existing legislation, including MiFID2 and the Prospectus Regulation, in order to extend some of the benefits afforded to SMEs to SMCs. MiFID2 would be amended to ease the authorisation of multilateral trading facilities (MTFs) as SME growth markets, by enabling them to list all small mid-caps and still be eligible for the SME growth market status. Under the proposals, all SMCs could potentially benefit from the less stringent disclosure requirements under the EU Growth issuance prospectus regime.

The Prospectus Regulation would be further amended to include a new exemption from the obligation to publish a prospectus for offers of securities to the public where such offers result from actions taken by EU resolution authorities under the EU framework for the resolution of banks or insurers (BRRD and IRRD) or by third-country authorities under a comparable legal framework. Additionally, the existing resolution-specific exemption from the obligation to publish a prospectus for the admission of securities to trading on an EU regulated market would be extended to similar actions taken by third-country resolution authorities.

CRR: EU Parliament adopts regulation to permanently lower liquidity requirements for SFTs

The EU Parliament has adopted the proposed regulation amending the Capital Requirements Regulation (CRR) to make the current treatment of short-term securities financing transactions (SFTs) under the net stable funding ratio (NSFR) permanent.

Under the Capital Requirements Regulation (CRR), some short-term SFTs currently benefit from lower liquidity requirements than those set out in the Basel III international standards. This transitional treatment is set to expire on 28 June 2025, after which the higher requirements of the Basel standards would apply. The amending regulation is intended to ensure a level playing field between EU and international banks, supporting the liquidity of EU financial markets.

The regulation still needs to be approved by the EU Council. It would apply from 29 June 2025.

ECON Committee adopts report on transition to T+1 settlement

The EU Parliament's Economic and Monetary Affairs (ECON) Committee has adopted its report on the EU Commission's proposal for a regulation amending the Central Securities Depositories Regulation (CSDR) to shorten the settlement period for EU transactions in transferable securities from two days (T+2) to one (T+1).

The final text will now have to be negotiated with the EU Council, which has already set out its negotiating mandate. Once agreed, the new rules will apply from 11 October 2027.

MiFID2: ESMA launches call for evidence on retail investor journey

The European Securities and Markets Authority (ESMA) has launched a call for evidence on the retail investor journey under MiFID2.

The purpose of the call for evidence is to gather feedback from stakeholders to better understand how retail investors engage with investment services, and whether regulatory or non-regulatory barriers may be discouraging participation in capital markets.

In particular, the call for evidence explores:

- key retail market trends, such as the appeal of speculative products for younger investors and the influence of social media on investment decisions;
- the practical application of MiFID2 requirements in areas such as regulatory disclosures, assessment of suitability and appropriateness; and
- additional areas such as the investor experience under the European crowdfunding framework and broader reflections on how to strike the right balance between investor protection and enabling informed risk-taking.

Comments are due by 21 July 2025.

CRR3: EBA consults on amended disclosure requirements for ESG risks, equity exposures and aggregate exposure to shadow banking entities

The European Banking Authority (EBA) has launched a consultation on proposed amendments to Commission Implementing Regulation (EU) 2024/3172 on Pillar 3 disclosures under CRR3.

The proposed amendments specify enhanced disclosure requirements relating to ESG-related risks, equity exposures and aggregate exposure to shadow banking entities. They also implement the new codes for the statistical classification of economic activities in the EU (NACE).

Comments are due by 22 August 2025.

IOSCO publishes final reports on finfluencers, online imitative trading practices and digital engagement practices

The International Organization of Securities Commissions (IOSCO) has published its final reports on finfluencers, online imitative trading practices and digital engagement practices (DEPs) as part of the third wave of its Roadmap for Retail Investor Online Safety.

In particular, the three reports examine:

- the evolving landscape of finfluencers, the associated potential benefits and risks, and the current regulatory responses across jurisdictions;
- the regulatory aspects, benefits, and risks associated with online imitative trading practices, such as copy trading, mirror trading, and social trading, particularly for retail investors; and
- the various types and applications of DEPs employed by market intermediaries, highlighting both their potential benefits and associated risks.

All three reports identify good practices that regulators could consider in managing the potential risks for retail investors that may stem from the evolving retail market landscape.

IOSCO issues statement on combatting online harm and role of platform providers

IOSCO has issued a statement on combatting online harm and the role of platform providers. The statement notes that retail investors are increasingly participating in capital markets and that this trend has been accelerated by digitalisation, including the use of mobile apps, social media and online platforms to promote and purchase financial products and services. At the same time, this digitalisation has created new risks, with retail investors losing significant amounts of money to investment fraud orchestrated through online paid-for advertisements and user-generated content.

IOSCO has identified the following measures to help disrupt online harm involving financial misconduct and encourages platform providers to consider adopting them:

- conducting due diligence on unauthorised offerings;
- enforcing applicable terms of services by monitoring and swiftly removing investment scam content or advertisements that violate platform policies;
- developing and regularly updating appropriate internal rules, policies, processes, and tools for detecting scams;
- ensuring knowledge of and compliance with all applicable local laws and regulations in the jurisdictions where the platform provider company operates; and
- establishing active communication channels with financial regulators and governmental authorities to enable effective information sharing, including referrals of identified fraudulent activity.

IOSCO releases sustainable bonds report

IOSCO has published its sustainable bonds report, which identifies the key characteristics and trends tied to the sustainable bond market.

The report sets out five key considerations which are designed to address market challenges including:

- ensuring greater clarity in existing or new regulatory frameworks to demonstrate alignment with international accepted principles and standards, support consistency, build investor confidence, and support market participation;
- establishing guiding principles to help provide clarity and consistency when categorising sustainable bond types;
- enhancing transparency and disclosure requirements for reporting on issuers' progress towards sustainability-related goals or sustainability performance targets (SPTs) to promote public accountability;
- promoting the use of independent and credible external reviewers to mitigate conflict of interest; and utilising capacity building and educational programmes to increase awareness and understanding of sustainable bonds among issuers, investors, intermediaries and regulators.

HM Treasury finalises plans to regulate buy-now pay-later and consults on reform of Consumer Credit Act 1974

The Government has published its response to its October 2024 consultation on plans to regulate the buy-now pay-later (BNPL) market, summarising the feedback it received and setting out its final position on the proposals.

The proposals are intended to ensure that people using BNPL products have access to simple, clear, and understandable information, avoid unaffordable borrowing, and are protected when issues arise.

The Government notes that respondents were generally supportive of the proposed regulatory regime, and it will now proceed to lay the draft Financial Services and Markets Act 2000 (Regulated Activities etc.) (Amendment) Order 2025 as an affirmative statutory instrument, which will bring BNPL agreements under the regulation of the Financial Conduct Authority (FCA).

The Government has also launched a consultation on reforming the Consumer Credit Act 1974 (CCA). Given the scale and complexity of the work, the consultation has been split into two phases. The consultation for Phase 1 is intended to seek views on proposals in relation to information requirements, sanctions and criminal offences.

Comments on Phase 1 are due by 21 July 2025.

PRA updates policies for UK branches and subsidiaries of non-UK headquartered banks

The Prudential Regulation Authority (PRA) has issued a policy statement (PS6/25) providing feedback on its July 2024 consultation (CP11/24) on targeted updates to reflect developments since the publication of its supervisory statement on its approach to branch and subsidiary supervision of international banks (SS5/21).

PS6/25 also sets out the PRA's final rules and policy, clarifying its expectations around business conducted within branches of international banks operating in the UK, as well as its booking model expectations and liquidity reporting for such branches.

Amongst other things, the PRA has:

- increased the existing GBP 100m and GBP 500m thresholds around FSCS-covered deposits by 30% to reflect inflationary developments since these were originally calibrated; and
- introduced a new indicative threshold of GBP 300m of total retail and small business instant access deposits beyond which international banks are generally expected to operate in the UK as subsidiaries rather than branches.

The new policy updating SS5/21 took effect immediately upon publication of PS6/25.

PRA consults on proposed updates to Pillar 2A methodologies and guidance

The PRA has published a consultation paper (CP12/25) setting out proposed updates to Pillar 2A methodologies and guidance to address the consequential impacts of the near-final PRA rules that would implement the Basel 3.1 standards.

Other proposals in CP12/25 are intended to improve information, guidance and transparency for firms, including about the methodologies used by the PRA to inform the setting of Pillar 2A capital. The PRA also proposes certain changes to improve the proportionality of regulation, including proposals intended to reduce the reporting burden.

CP12/25 is structured into chapters covering:

- credit risk;
- operational risk;
- pension obligation risk; and
- market risk and counterparty credit risk.

CP12/25 is the first phase of a two-stage review. After this first phase has been completed, the PRA plans to conduct a more in-depth review of individual methodologies within Pillar 2A, on which it will publish a further consultation paper setting out its proposals. This review will consider further clarifying expectations and proportionality, opportunities to reduce burden, as well as increasing the effectiveness of the PRA's approaches where appropriate.

CP12/25 has been published alongside a near-final policy statement (PS7/25) which sets out further details on the PRA's near-final policy on the SME and infrastructure lending adjustments to Pillar 2A.

Comments on CP12/25 are due by 5 September 2025.

BaFin publishes supervisory notice on PSD2 account access interfaces regarding funds confirmation

The German Federal Financial Supervisory Authority (BaFin) has published a supervisory notice on account access interfaces under the Payment Services Directive (PSD2).

In the supervisory notice, BaFin sets out its expectations and provides certain relief on the provision of the technical endpoint for confirming fund availability as well as the respective inclusion in account servicing payment service providers' statistics pursuant to Article 32 paragraph 4 of Commission Delegated Regulation (EU) 2018/389.

Through PSD2 account access interfaces, account servicing payment service providers allow third-party service providers access to their online payment accounts.

For payment service providers issuing card-based payment instruments, this access is limited under section 45 of the Payment Services Supervision Act (Zahlungsdiensteaufsichtsgesetz - ZAG) to confirmation of the availability of the amount necessary for the execution of a card-based payment transaction on the payment account of the payer.

CSSF issues guidance for interpretation and resolution of ESA error messages related to DORA register

The Commission de Surveillance du Secteur Financier (CSSF) has published a guide providing more detailed information to financial entities on failed validation checks of registers of information under the Digital Operational Resilience Act (DORA).

The purpose of the CSSF guide is to:

- describe the most frequent errors and warnings on the submitted validation checks based on the current list of validation checks performed by the European Supervisory Authorities (ESAs) – last updated on 28 April 2025; and
- instruct financial entities on how to overcome such errors and warnings.

The new guide is not intended to be exhaustive and should be read in conjunction with the CSSF guide concerning the submission of DORA registers of information issued on 23 April 2025, as well as any other related document published by the ESAs.

Hong Kong Government welcomes passage of Stablecoins Bill

The Hong Kong Government has welcomed the passage of the Stablecoins Bill by the Legislative Council. The Bill establishes a licensing regime for fiat-referenced stablecoin (FRS) issuers in Hong Kong. The regulatory regime is intended to enhance protection for the general public and investors. Specifically, only specified licensed institutions may offer an FRS in Hong Kong, and only an FRS issued by a licensed issuer may be offered to a retail investor. To prevent fraud and scams, only advertisements of licensed FRS issuance will be allowed.

Once the Stablecoins Bill is implemented, any person who, in the course of business, issues an FRS in Hong Kong, or issues an FRS that purports to maintain a stable value with reference to Hong Kong dollars in or outside Hong Kong will need to obtain a licence from the Hong Kong Monetary Authority (HKMA). The relevant persons must satisfy reserve asset management and redemption requirements, including proper segregation of client assets, maintaining a robust stabilisation mechanism, and processing stablecoin holders' requests for redemption at par value with reasonable conditions. They must also comply with requirements related to anti-money laundering and counter-terrorist financing, risk management, disclosure and auditing, and fitness and propriety, amongst others. The HKMA will conduct further consultations on the detailed regulatory requirements in due course.

The Bill is expected to come into effect in 2025. A transitional arrangement will be implemented to support the industry in applying for a licence and making suitable business arrangements in accordance with the regulatory regime.

Following the implementation of the virtual asset (VA) trading platform and stablecoins issuers regulatory regimes, the Government will soon launch consultations on VA over-the-counter and custodian services, and promulgate the second policy statement on the development of VAs.

MAS proposes streamlined prospectus requirements and broadened investor outreach channels for initial public offerings

The Monetary Authority of Singapore (MAS) has launched a consultation seeking feedback on proposals that would streamline prospectus disclosure requirements under the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations

(SF(OI)(SSDC)R) and broaden investor outreach channels for initial public offerings (IPOs).

The proposed amendments are intended to ease the listing process and provide more options for investor outreach, with a focus on the following areas:

- streamlining prospectus disclosures for IPOs – for primary listings on the Singapore Exchange (SGX), the MAS is proposing amendments to streamline prospectus disclosure requirements so that there is clear disclosure of relevant and material information and ensure that the time and costs needed to compile information is commensurate with the value to investors. Key amendments would streamline disclosure on: (a) conflicts of interest to provide clear disclosure on the core substance of conflicts faced rather than purely factual information and (b) production facilities to allow issuers more room to explain operational capacity without overly technical specifications. Currently, issuers are required to include in the prospectus interim financial statements that cover either the first 3, 6 or 9-month period of the current financial year if the end of the financial year covered by the last full year financial statements included in the prospectus is more than 6, 9 or 12 months before the lodgement of the prospectus, respectively. The proposed amendments would only require issuers to provide interim financial statements for the first six months of the current financial year if the end of the financial year covered by the last full year financial statements in the prospectus is more than nine months before the lodgement of the prospectus, which would provide issuers with a potentially longer window to launch their IPO. Additionally, issuers that include profit forecasts in their prospectus would be allowed to look to their board to provide the required attestation rather than from a third-party professional firm;
- simplifying the process for secondary listings – for secondary listings on the SGX, the MAS is proposing to align disclosure requirements with baseline international disclosure standards. These simplified requirements would allow issuers who already have primary listings on certain recognised exchanges to prepare their prospectuses based on disclosure documents lodged in their home markets with minimal adaptation for their secondary listing on the SGX;
- providing greater flexibility and scope for issuers to gauge investor interest earlier in the IPO process – the MAS is proposing changes to existing legislation to allow issuers to gauge investor interest earlier in the IPO process. For retail investors, issuers would be allowed, upon lodgement, to disseminate the preliminary prospectus and present oral or written materials on matters contained in the preliminary prospectus (including during roadshows). For potential institutional investors and accredited investors, issuers will be allowed to conduct pre-market outreach at any time prior to the lodgement of the preliminary prospectus. The MAS has also proposed requirements that would ensure parity of information provided during pre-marketing and the preliminary and registered prospectus, including disclaimers and delivery of a final prospectus, as well as a prohibition on offers made on the basis of the preliminary prospectus and any other material presented; and
- expanding the scope of information that issuers can provide – the MAS is proposing amendments that would allow issuers to provide additional

information to the public before registration of the prospectus or profile statement, including anticipated timing, the manner through which the offering will be made and the intended use of proceeds.

The proposals set out in the consultation paper are part of the first set of measures recommended by the Equities Market Review Group to strengthen the competitiveness of Singapore's equities market and provide a more pro-enterprise regulatory scheme.

Comments on the consultation are due by 14 June 2025.

SGX RegCo consults on measures in line with more disclosure-based regime

The Singapore Exchange Regulation (SGX RegCo) has launched a public consultation proposing regulatory changes towards a more disclosure-based regime, in line with an approach that adopts a pro-enterprise stance alongside measures to strengthen investor confidence. The proposals set out in the consultation paper are part of the first set of measures proposed to strengthen the competitiveness of Singapore's equities market, announced by the Equities Market Review Group in February 2025.

Areas in which SGX RegCo has proposed reforms for public consultation include:

- streamlining of qualitative admission criteria towards a more disclosure-based regime – SGX RegCo proposes to streamline the qualitative admission criteria for the SGX Mainboard, while ensuring that listing applicants are of high quality. It intends to maintain a prescriptive approach on the listing applicant's directors, management and controlling shareholders, as well as financial position (subject to some changes). The focus for other matters such as conflicts of interest, internal control weaknesses and compliance with laws and regulations will be on ensuring relevant and robust disclosures for investors to make well informed decisions, rather than prescribing how such matters must be resolved;
- change to quantitative Mainboard admission criteria – SGX RegCo is seeking views on potential calibrations to certain quantitative admission criteria, specifically, the profit test for SGX Mainboard admission. It also seeks views as to whether to remove the exception for temporary low profits or to lower the criterion to a lower threshold, in order to simplify and streamline the profit requirements in the quantitative financial criteria. SGX RegCo is also seeking views on refinining the listing admission for life science companies to align with other leading equity markets;
- removal of the financial watch-list – SGX RegCo is seeking comments on removing the financial watch-list to address feedback from market participants on its unintended consequences for issuers, such as the negative impact on business confidence and difficulties in obtaining financing. Under the proposal, issuers must still make an announcement when they report losses for three consecutive years so investors are informed. Pending the outcome of the consultation, SGX RegCo will provisionally suspend the half-yearly reviews to place issuers on the watch-list. Issuers on the watch-list will remain listed during this time, regardless of their inability to exit the watch-list in accordance with the relevant criteria; and

- other post-listing queries and obligations – SGX RegCo proposes to adopt a more targeted approach in its administration of post-listing queries and obligations to address market feedback that issuing queries, regardless of the materiality of the matter, may cause unnecessary alarm to the market. The calibrated administration will include: (a) shifting from publicly querying issuers to private engagement when unusual trading is detected; (b) focusing public disclosure requirements on information that is materially price-sensitive or trade-sensitive; (c) limiting the validity period of trade-with-caution alerts to an initial period of two weeks; and (d) refining its approach to the suspension of issuers. However, SGX RegCo's practices for other market surveillance activities will remain unchanged, including continuous monitoring of the market for unusual trading activity and, where necessary, taking actions to forestall market abuse. In addition, failure to comply with disclosure obligations may, as is currently the case, result in penalties under the SGX Listing Rules and the Securities and Futures Act 2001. SGX RegCo has indicated that, where necessary, it will refer such cases to the MAS and other relevant authorities for further enforcement action. The Review Group is also separately reviewing investor recourse avenues in instances of market misconduct.

Comments are due by 14 June 2025.

RECENT CLIFFORD CHANCE BRIEFINGS

A new UK regulated world for buy-now, pay-later (BNPL) products

HM Treasury has laid before Parliament The Financial Services and Markets Act 2000 (Regulated Activities etc.) (Amendment) Order 2025 to bring interest-free Buy-Now, Pay-Later (BNPL) agreements into UK regulation. From around mid-2026, BNPL lenders will require authorisation by the Financial Conduct Authority (FCA) unless there is an available exemption. BNPL agreements will also be subject to a tailored application of the Consumer Credit Act 1974 (CCA), on the reform of which HM Treasury has also begun a phased consultation. Lenders will need to comply with new FCA rules which will be consulted on soon.

This briefing paper discusses the new regime.

https://www.cliffordchance.com/briefings/2025/05/a-new-uk-regulated-world-for-buy-now-pay-later-products.html

Unlocking flexibility in investment management in Japan

Effective 1 May 2025, regulatory reforms will lower barriers for investment managers in Japan and support the country's ambition to become a leading global investment management centre.

This briefing paper discusses the key changes, including easing outsourcing restrictions, that aim to modernise and diversify investment management practices in Japan.

https://www.cliffordchance.com/briefings/2025/05/unlocking-flexibility-in-investment-management-in-japan.html