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### MiFIR review: EU Commission consults on post-reform changes

The EU Commission has launched a [consultation](#) on a draft Delegated Act updating Delegated Regulation (EU) 2017/567 following reforms to the Markets in Financial Instruments Regulation (MiFIR).

The MiFIR review amended MiFIR and MIFID2 to remove the main obstacles to the creation of consolidated tapes (CTs) for bonds, shares and exchange-traded funds (ETFs), and over the counter derivatives.

The draft act amends and deletes certain provisions relating to the concept of reasonable commercial basis (RCB), the determination of liquid markets for equity instruments, and post-trade risk reduction services (PTRR).

Comments are due by 5 September 2025.

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## **CRR2/CRD5: RTS and ITS on supervisory colleges published in Official Journal**

The following Level 2 measures supplementing the Capital Requirements Directive (CRD4) have been published in the Official Journal:

- [Commission Delegated Regulation \(EU\) 2025/791](#) setting out regulatory technical standards (RTS) specifying the general conditions for the functioning of supervisory colleges, and repealing Commission Delegated Regulation (EU) 2016/98; and
- [Commission Implementing Regulation \(EU\) 2025/790](#) setting out implementing technical standards (ITS) with regard to the operational functioning of colleges of supervisors.

The two measures implement the requirements set out in CRD5 and the Capital Requirements Regulation (CRR2) and reflect observations from the European Banking Authority (EBA)'s ongoing college monitoring activity on the functioning of supervisory colleges.

Both measures will enter into force on 28 August 2025.

## **EBA confirms its response to new Delegated Act postponing market risk framework**

The EBA has issued a [statement](#) confirming its response to the EU Commission's Delegated Act postponing the application of the market risk framework in the EU. This follows the Commission's adoption in June 2025 of a Delegated Regulation further delaying the application date of the Fundamental Review of the Trading Book (FRTB) by one year until 1 January 2027 under Article 461a of the Capital Requirements Regulation.

The EBA has confirmed that its no action letter published on 12 August 2024 will remain fully valid and in place. The letter advises competent authorities not to prioritise supervisory or enforcement actions regarding the application of the boundary between the trading and non-trading book, until the full FRTB framework is implemented for the purposes of calculating binding own funds requirements.

The EBA has also confirmed that its considerations on specific issues arising from the FRTB postponement will also remain valid and applicable during the extended postponement period.

## **EBA reports on use of SupTech in AML and CFT supervision**

The EBA has published a [report](#) on the use of supervisory technology (SupTech) in anti-money laundering and countering the financing of terrorism (AML/CFT) supervision. The report summarises findings from a survey of national competent authorities and a workshop with the EU Commission's AMLA Task Force, identifying trends, challenges, and good practices in SupTech use. It outlines current SupTech deployments across the EU, with 47% of tools in production, 38% under development, and 15% in exploratory phases. Reported benefits include improved data quality, enhanced collaboration, and more efficient risk identification, but the EBA also notes that resource constraints, legal uncertainty, and data governance issues remain.

## **SRB consults on updated approach on separability and transferability**

The Single Resolution Board (SRB) has launched a [consultation](#) on its updated operational guidance for banks on separability and transferability.

The guidance is aligned with the SRB's updated approach to crisis readiness, includes an annex on testing and adds detail on transfer with an operational framework for developing transfer playbooks. The update does not introduce new deliverables, but is intended to make existing ones more effective to ensure a more efficient use of resources and reduce administrative burden.

Comments are due by 22 October 2025. The SRB has indicated that it will meet the banking industry and any other relevant stakeholders in September to address any questions until the consultation period ends.

## **HM Treasury issues policy statement on Appointed Representatives Regime**

HM Treasury has published a [policy statement](#) setting out the Government's overall approach to the regulation of Appointed Representatives (AR) carrying on regulated financial services activity in the UK.

The Government acknowledges the importance of the AR regime in supporting innovation and competition in the financial services sector, but it is concerned that poor oversight of some Appointed Representatives is putting some consumers at risk. It intends to preserve the AR regime in its current scope, using targeted and proportionate reforms to encourage its use and prevent misconduct, so that businesses and consumers can benefit long term. In particular, following these reforms:

- authorised firms will need to obtain FCA permission before appointing ARs. This is intended to enable the FCA to ensure authorised firms have appropriate expertise and resources to effectively oversee their ARs and act responsibly; and
- consumers will be able to raise complaints with the Financial Ombudsman Service (FOS) if they are unable to resolve a dispute involving an AR where the authorised firm is not responsible for the issue in dispute.

The Government will consult on the details of these reforms in due course.

## **Financial Ombudsman Service consults on case fees**

The Financial Ombudsman Service (FOS) has launched a [consultation](#) on changes to its case fees.

Under the current FOS rules, firms pay a fixed fee of GBP 650 for every case against them investigated, with fees being reduced to GBP 475 if the complaint is submitted by a professional representative and not upheld. Most businesses also receive three free cases a year.

The FOS is proposing a number of options for changing the approach to case fees, including:

- differentiating case fees based on the stage at which a case is resolved;
- differentiating case fees based on complaint outcome;
- changing the free case allowance to a monetary value; and

- changing the payment mechanism to charge quarterly and in advance, based on a forecast of case volumes.

Comments are due by 8 October 2025.

## **ASIC consults on proposed updates to conflicts management guidance**

The Australian Securities and Investments Commission (ASIC) has launched a [consultation](#) proposing updates to its conflicts management guidance for financial services businesses. The proposed changes to Regulatory Guide 181: Licensing – Managing Conflicts of Interest (RG 181) are intended to align the guidance with developments in law and policy and are informed by ASIC's private markets surveillance work.

The updated guidance sets out how Australian financial services (AFS) licensees should comply with their conflicts management obligation and explains:

- how the law applies, including its scope and interaction with other related obligations;
- the types of conflicts AFS licensees need to identify and manage to meet their obligation;
- the need to have robust and tailored arrangements that are adequate to manage conflicts; and
- how licensees can effectively manage conflicts.

It includes a roadmap that sign-posts other related conflicts management obligations that AFS licensees need to be aware of.

ASIC also intends to publish findings from its surveillance focusing on auditors' compliance with their independence and conflicts of interest obligations later in 2025.

Comments are due by 5 September 2025.

## **ASX updates waiver disclosure requirements for listed entities**

The Australian Securities Exchange (ASX) has [announced](#) that it will update its approach to the disclosure of waivers by listed entities to provide investors with greater transparency.

The update is part of a commitment made by ASX in April 2025 to consider changes to its listing rules that would better reflect investor interests. Under the updated approach:

- ASX will now require a listed entity that is granted a waiver to disclose the nature and effect of the waiver, and the reasons for seeking it within one business day of it being granted;
- the disclosure can be made later than one business day if it relates to a confidential or incomplete proposal or negotiation, and the timing will then be triggered by the matter no longer being confidential or incomplete;
- all waivers will still be published by ASX in the waivers register in the ordinary course, regardless of whether the matter has ceased to be confidential or incomplete; and

- if the waiver is granted, the entity will be required to release the statement on the market announcements platform, either as a standalone announcement or as part of a related announcement.

These changes will be supported by updates to ASX's Guidance Note 17, which take effect from 11 August 2025.

## RECENT CLIFFORD CHANCE BRIEFINGS

### New EU and UK rules on ESG ratings – Impact on cross-border access to ESG ratings

Both the EU and the UK are creating new regulatory regimes for providers of ESG ratings which could significantly affect cross-border access to ESG ratings. The new EU regime includes a relatively restrictive third-country regime for non-EU rating providers while the UK has yet to specify what market access regime will be available to non-UK rating providers.

This briefing paper provides a comparative overview of the planned timing of the new EU and UK regimes regulating ESG ratings, the territorial scope of the new regimes, the application of exemptions and exclusions in relation to cross-border business, the third-country regime under the new EU regulation and the UK proposals for a market access regime, and the possible impact on cross-border access to ESG ratings. It also includes a comparison of the new EU third-country regime for ESG ratings with the corresponding regimes under the EU Credit Rating Agencies Regulation and the recently amended EU Benchmarks Regulation.

<https://www.cliffordchance.com/briefings/2025/08/new-eu-and-uk-rules-on-esg-ratings--impact-on-cross-border-access.html>

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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