Clifford Chance

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- **CRD4: Amendments to ITS on benchmark portfolios and reporting templates and instructions published in Official Journal**
- **Listing Act: Level 2 prospectus regime changes published in Official Journal**
- **MiFID2: ESMA confirms launch date for weekly commodity derivatives position reporting**
- **FCA publishes policy statement on enhancing fund liquidity risk management**
- **FCA highlights good and poor practice at high-growth firms**
- **Financial Ombudsman Service publishes policy statement on service reforms**
- **Recent Clifford Chance briefings: CFIUS Annual Report for 2025 – Key takeaways. Follow this link to the briefings section.**

CRD4: Amendments to ITS on benchmark portfolios and reporting templates and instructions published in Official Journal

Commission Implementing Regulation (EU) 2026/1872 amending the implementing technical standards (ITS) laid down in Implementing Regulation (EU) 2016/2070 as regards benchmark portfolios, reporting templates and reporting instructions to be applied under Article 78(2) of the Capital Requirements Directive (CRD4) has been published in the Official Journal. The amendments reflect new and amended requirements concerning ESG risks and supervisory benchmarking under CRD6, as well as the deferred application of the Fundamental Review of the Trading Book (FRTB) standards for the calculation of own funds requirements for market risk.

Commission Implementing Regulation (EU) 2026/1872 will enter into force on 1 September 2026.

Listing Act: Level 2 prospectus regime changes published in Official Journal

Commission Delegated Regulation (EU) 2026/1061 has been published in the Official Journal. The Delegated Regulation amends Delegated Regulation (EU) 2019/980 to implement changes to the Prospectus Regulation introduced by the Listing Act.

The Delegated Regulation shortens prospectuses and sets out a standardised format and sequence for the information included in them. It introduces the definition of an EU IPO prospectus and outlines new requirements for prospectuses with environmental, social and governance (ESG) elements. It also harmonises and clarifies the processes for scrutiny and approval of prospectuses.

The Delegated Regulation will enter into force on 16 August 2026.

MiFID2: ESMA confirms launch date for weekly commodity derivatives position reporting

The European Securities and Markets Authority (ESMA) has announced that the new weekly commodity derivatives position reporting framework will go live on 3 September 2026.

From 3 September, market participants will be required to submit weekly position reports in accordance with the updated requirements, technical specifications and validation rules introduced under Article 58 of MiFID2.

The instructions are set out in the interface specifications document and a related XML schema. The instructions apply to market operators and investment firms operating a trading venue on which commodity derivatives and derivatives on emission allowance are being traded.

FCA publishes policy statement on enhancing fund liquidity risk management

The Financial Conduct Authority (FCA) has published a policy statement (PS26/17) on enhancing liquidity risk management and anti-dilution measures for authorised fund managers (AFMs). The measures are designed to ensure AFMs have appropriate tools and systems to manage fund liquidity effectively and mitigate dilution risks.

The new rules and guidance apply to UCITS schemes and non-UCITS retail schemes (NURS), with particular focus on portfolios holding fewer liquid assets. They outline requirements for AFMs to maintain robust liquidity risk management processes and implement effective anti-dilution tools.

PS26/17 sets out the feedback received to the FCA's December 2025 consultation paper on the proposed changes (CP25/38) and its responses. The new rules and guidance come into force on 1 February 2027. Transitional provisions apply to some rules until 1 August 2027.

FCA highlights good and poor practice at high-growth firms

The FCA has published a review of good practice and areas for improvement identified through its Early and High Growth Oversight pilot with high-growth firms.

Between July 2025 and March 2026, the FCA engaged with 15 firms across asset management, wealth management and payments as part of the pilot, to help it identify rapidly growing firms earlier and support them as they establish and evolve their business.

Amongst other things, the FCA found that:

- firms with stronger arrangements ensured governance, risk management and control frameworks kept pace with business growth;
- some firms lacked sufficient independent challenge, with responsibilities concentrated among a small number of individuals;
- stronger firms had more mature risk management approaches, with some using risk-focused committees to review enterprise-wide risks and escalate issues to the Board;
- some firms relied heavily on key individuals, with limited contingency, succession planning, or broader knowledge transfer arrangements, and some failed to sufficiently consider whether their risk management resources remained appropriate for the scale and complexity of the business;
- as their business evolved, stronger firms invested in capability by recruiting and training staff, and in scalability through improved technology;
- there were weaknesses in some firms' capability and control frameworks where business models or customer populations had evolved but internal policies and procedures had not;
- stronger firms had proactive cyber and operational resilience arrangements;
- weaknesses in relation to systems, controls and management information included insufficient conflict of interest arrangements and management information that had not been updated;
- stronger firms proactively monitored key financial risks, including liquidity and counterparty exposures, but some firms needed to strengthen their financial resilience planning; and
- some firms needed to put greater emphasis on assessing customer outcomes, including fair value.

Financial Ombudsman Service publishes policy statement on service reforms

The Financial Ombudsman Service (FOS) has published a policy statement on changes to the redress system, following its joint consultation with the FCA in March 2026 (CP26/9).

The policy statement sets out feedback received on CP26/9 and the changes the FOS will take forward, which include:

- the introduction of a new registration stage to ensure that complaints referred to the FOS are within scope and ready to be investigated before being allocated to a caseworker;
- the introduction of new powers to dismiss complaints that are not appropriate for the FOS and may be better resolved, or are already being investigated, in other ways; and
- providing clarity that FOS decisions are based on the standards applicable at the time of the act or omission complained about, and will not be applied retrospectively, in preparation for the proposed amendments to the 'fair and reasonable' test in the FCA Handbook.

The FOS and FCA intend to publish their first joint thematic review which is aimed at providing more insight on the types of complaints seen and the approach to resolving them.

Recent Clifford Chance briefings

CFIUS Annual Report for 2025 – Key takeaways

The Committee on Foreign Investment in the United States (CFIUS) has released its Annual Report to Congress covering the calendar year 2025. The report, which captures the first year of the second Trump administration, shows that CFIUS remained active across transaction reviews and monitoring and enforcement activities, with many trends largely consistent with those reported in 2024. This consistency is notable given the prolonged US government shutdown in late 2025, the longest in US history, which significantly disrupted CFIUS operations for about six weeks. Several data points likely reflect the effects of the shutdown, including a decline in non-notified inquiries, an increase in withdrawals and refilings, and a rise in the number of case extensions. Beyond the formal statistics, the shutdown also delayed the CFIUS process for numerous transactions.

Total CFIUS filings increased in 2025 after decreases in the previous two years, driven by a spike in declarations. However, a higher percentage of declarations resulted in requests for a full notice than in recent years. Encouragingly for transaction parties, the lower rate of mitigation required to clear transactions in 2024 continued in 2025. At the same time, the number of transactions effectively blocked by CFIUS increased, potentially reflecting a rise in more sensitive filings. Consistent with US policy to remain the world's premier destination for foreign capital, CFIUS continued to clear most transactions without mitigation. Clifford Chance has prepared a briefing paper exploring the key takeaways from the Annual Report.

https://www.cliffordchance.com/briefings/2026/08/cfius-annual-report-2025--key-takeaways.html

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