Clifford Chance

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EU Commission President delivers State of the Union address

The President of the EU Commission, Ursula von der Leyen, has delivered her 2026 State of the Union address setting out the Commission's agenda to strengthen European competitiveness, security and economic resilience.

Key announcements include:

- a forthcoming Banking Package aimed at simplification and reducing fragmentation in EU banking markets;
- continued work to advance the Savings and Investments Union and mobilise investment across the EU;
- proposals to improve access to capital for innovative and high-growth European businesses;
- measures to strengthen European economic security and resilience;
- plans to strengthen European defence capabilities, security cooperation, trade and international partnerships;
- the creation of a European Corporation on Critical Raw Materials;
- the intention to present a new climate resilience framework and establish a Climate Insurance Alliance to help address protection gaps arising from climate-related risks, and introduce further measures relating to water security, disaster preparedness and adaptation;
- initiatives on AI governance, computing capacity and investment in European AI capabilities; and
- renewed focus on regulatory simplification including a call for Member States to support a 'pact against gold-plating', arguing that efforts to reduce administrative burdens at EU level should not be undermined by additional national requirements.

Alongside the speech, the Commission has published a letter of intent outlining its key priorities for 2027. The letter indicates that, in order to prioritise its ongoing work, the Commission will focus on delivering the next Multiannual Financial Framework identified as a central priority, to allow new programmes to start from January 2028.

Sustainable Finance: EU Parliament publishes adopted report on amendments to SFDR 2.0

The EU Parliament's Committee on Economic and Monetary Affairs (ECON Committee) has published a report on the Commission's proposed set of amendments to the Sustainable Finance Disclosure Regulation (SFDR 2.0).

The proposed amendments are intended to result in simpler and more usable information for investors, enabling them to make better informed choices. They include significantly reducing product-level disclosures and a simpler categorisation system for financial products making environmental, social and governance (ESG) claims, comprising three categories for 'sustainable', 'transition', and 'ESG basics' products.

The report was adopted on 10 September 2026. The Parliament intends to announce the negotiating mandate at the start of the October plenary session, following which trilogue negotiations with the Council can begin.

ECON Committee publishes draft report on competitiveness of banking sector

The ECON Committee has published a draft report containing a motion on the competitiveness of the banking sector in the European Union.

In the motion, the ECON Committee sets out its suggestions that are intended to strengthen the competitiveness of the sector. These include:

- progressing towards integration of the European banking market by completing the Banking Union Consolidation;
- ensuring that the principles of competitiveness and proportionality are fully integrated into banking regulation and supervision, such as by tailoring prudential requirements to institutions' characteristics and needs;
- simplifying the regulatory and supervisory framework to reduce the burden on institutions, including launching an omnibus initiative; and
- regulating to enable European banks to finance growth and benefit from technological transformation, including facilitating the adoption of artificial intelligence and asset tokenisation.

CRD4: Commission adopts RTS on booking arrangements for third-country branches

The EU Commission has adopted a Delegated Regulation setting out regulatory technical standards (RTS) specifying the booking arrangements that third-country branches are to apply for the purposes of Article 48h of the Capital Requirements Directive (CRD4).

Under CRD4, the transactions of third-country branches, including transactions on the basis of their authorised activities, transactions that do not require authorisation or concern intragroup transactions, and transactions entered into on the basis of reverse solicitation of services, should be recorded in a registry book. The adopted RTS specify:

- the approach for identifying and recording assets and liabilities booked or originated by the third-country branch, including off-balance sheet items;
- the minimum information necessary to keep a comprehensive and precise track record of booked or originated assets and liabilities; and
- the risk data and associated risk management measures that must be maintained in the registry book for the activities of the branch.

The Delegated Regulation will enter into force on the twentieth day following its publication in the Official Journal and will apply from 11 January 2027.

EBA publishes guidelines on third-party risk management for non-ICT services

The European Banking Authority (EBA) has published its final guidelines on the sound management of third-party risk regarding non-ICT services.

The guidelines are aligned with the Digital Operational Resilience Act (DORA) and have a particular focus on third-party arrangements (TPAs) supporting critical or important functions (CIFs); with this focus, the EBA intends the guidelines to maintain sound risk management while reducing operational and supervisory burdens for less critical arrangements.

According to the guidelines:

- each financial entity's management body remains responsible for its activities including managing and overseeing risks relating to third-party functions;
- where third-party service providers (TPSPs) are located in third countries, financial entities must ensure that EU legislation and regulatory requirements are complied with; and
- competent authorities are required to effectively supervise financial entities' third-party arrangements with a particular focus on non-ICT services supporting critical or important functions provided by TPSPs.

The guidelines also clarify the definition of critical or important functions that have a material impact on a financial entity's risk profile.

There will be a two-year transition period for financial entities to review their critical or important TPAs and comply with documentation requirements.

SRB publishes guidance on banks' communication in resolution

The Single Resolution Board (SRB) has published operational guidance for banks on communication in resolution. The guidance is intended to clarify the communication dimension of the SRB's expectations for banks document.

The guidance sets out expectations for communication in a resolution scenario and for the resolution communication plans that banks are expected to develop and maintain. It also clarifies expectations for banks in the event that the SRB or national resolution authorities use the moratorium powers granted by the Bank Recovery and Resolution Directive (BRRD).

The SRB has also published a communication testing supplement to its operational guidance for resolvability testing for banks.

Banks are expected to meet the full set of expectations set out in the guidance by 30 April 2028.

FCA finalises guidance on the cryptoasset regulatory perimeter

The Financial Conduct Authority (FCA) has published a policy statement (PS26/18) finalising its guidance on the cryptoasset perimeter ahead of the UK's new regulatory regime coming into force on 25 October 2027.

The guidance is intended to help firms understand how the UK's future cryptoasset regime applies to their business and sets out which activities may require FCA authorisation, noting that existing registrations and permissions will not convert automatically. The guidance covers activities including issuing qualifying stablecoins, operating cryptoasset trading platforms, dealing and arranging deals, safeguarding cryptoassets, and arranging cryptoasset staking. The guidance was consulted on earlier this year in CP26/13: Cryptoasset Perimeter Guidance.

The FCA has confirmed that it will consult in October on targeted updates to this guidance in light of some proposed amendments to the framework (including some limited exclusions and further clarity for certain technical services providers) pursuant to the draft Financial Services and Markets Act 2000 (Cryptoassets) (Miscellaneous Amendments) Regulations 2026, which were laid in Parliament on 15 September 2026.

For firms wishing to use the transitional arrangements, the application window for FCA authorisation opens on 30 September 2026 and closes on 28 February 2027.

Financial Services Regulation Committee launches inquiry into regulatory sandboxes

The House of Lords Financial Services Regulation Committee has launched an inquiry into regulatory sandboxes in financial services.

The inquiry aims to examine how regulators and firms use regulatory sandboxes and whether they drive innovation in the industry. The Committee is exploring:

- whether regulatory sandboxes support innovation;
- what their role in supporting the development of regulation is;
- whether they represent value for money and public benefit; and
- the degree to which the selection of participating firms can influence the market.

Comments are due by 23 October 2026.

FCA publishes feedback statement on tokenisation in wholesale markets and call for input on tokenised gold

The FCA has published a feedback statement (FS26/1) summarising the responses received to a call for input jointly issued by the FCA and the Bank of England (BoE) on tokenisation in UK wholesale markets.

The call for input, which was launched in May 2026, sought industry views on whether existing rules and infrastructure support or constrain the safe use of tokenisation in wholesale markets. It also set out how the UK authorities intend to support the adoption of tokenised securities, including planned priority initiatives going forward.

The feedback statement notes that respondents were generally very supportive of the positions and commitments set out in the call for input. Key requests from firms included:

- faster progress on the prudential treatment of tokenised assets, rules under the FCA's Client Assets Sourcebook (CASS), synchronisation and tokenised deposits;
- a move from pilots to full and permanent implementation;
- further clarity on the eligibility of tokenised collateral and on the commitment to treat tokenised and non-tokenised assets the same 'where legal rights are identical and underlying risks are comparable';

- assurance that blockchain-settled transactions would be able to access insolvency protections under the settlement finality regulations;
- the prioritisation of regulatory work on interoperability; and
- consideration of the implications for decentralised finance technology if a requirement is introduced that all regulated activities must have an accountable person associated with them.

The FCA and BoE intend to use the feedback received to develop a joint roadmap, which will set out in detail how they intend to progress work on wholesale tokenisation, including specific target dates.

The FCA has also published a call for input on tokenised gold, in response to its mention by several respondents in their feedback to FS26/1. In particular, the FCA is seeking views on use cases for tokenised gold in wholesale markets, specific barriers to its use, and the impact of any perceived uncertainty around the collective investment scheme and alternative investment fund regulatory perimeter.

Comments are due by 23 October 2026.

Draft Financial Services and Markets Act 2000 (Cryptoassets) (Miscellaneous Amendments) Regulations 2026 laid

The draft Financial Services and Markets Act 2000 (Cryptoassets) (Miscellaneous Amendments) Regulations 2026 have been laid in Parliament.

The draft Regulations make targeted changes to the incoming cryptoasset regulatory framework by amending the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO), the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (FPO) and the Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026.

The amendments include:

- excluding activities involving UK-issued qualifying stablecoins from the cryptoasset dealing and arranging regulated activities;
- excluding temporary stablecoin holding for payments and stablecoin backing-asset arrangements from the safeguarding regulated activity;
- adding targeted exclusions for certain proprietary trading, market making, technical services and central securities depository activities;
- creating a new controlled activity of issuing qualifying stablecoin and adding qualifying stablecoins as a new controlled investment under the FPO;
- accelerating commencement of provisions confirming stablecoin backing assets do not constitute collective investment schemes, alternative investment funds or e-money, ahead of the wider regime taking effect on 25 October 2027.

Subject to parliamentary approval, the Regulations are expected to come into force on the day after the day on which they are made, except for the amendments to the RAO and FPO which will come into force on 25 October 2027.

Central Counterparties (Transition Provision) (Extension and Amendment) Regulations 2026 made and laid

The Central Counterparties (Transition Provision) (Extension and Amendment) Regulations 2026 have been made and laid before Parliament.

The instrument extends the transitional regime for overseas qualifying CCPs (QCCPs) contained within Article 497 of the Capital Requirements Regulation (UK CRR) by a further twelve months. For some CCPs within the regime, the current expiry date of this transition falls on 31 December 2026 which, if not extended, could risk disruption to international financial markets. The transitional regime for QCCPs ensures that UK firms with indirect exposures to these overseas CCPs can continue to benefit from the lower capital requirements associated with QCCP status.

The instrument also amends the Financial Services and Markets Act 2023 (Commencement No. 15 and Saving and Transitional Provisions) Regulations 2026 to align with the extended expiry date under Article 497.

The Regulations come into force on 1 December 2026.

BaFin consults on increase of Austrian sectoral systemic risk buffer

The German Federal Financial Supervisory Authority (BaFin) has launched a consultation on a draft general decree (Allgemeinverfügung) concerning the reciprocal application of the sectoral systemic risk buffer (SyRB) introduced by the Austrian Financial Market Authority (FMA) for certain real estate loans in Austria secured by commercial property.

BaFin currently applies the buffer reciprocally under its general decree of 25 February 2026. The buffer, currently set at 1%, is to increase in two stages: first to 2% and then, from 1 July 2027, to 3.5%.

The proposed adjustment follows the FMA's decision to raise the applicable buffer rates. The measure applies to institutions authorised in Germany whose relevant risk exposures exceed EUR 100 million on a consolidated, sub-consolidated or individual basis.

Comments are due by 28 September 2026.

BaFin updates audit rules for investment firms and crowdfunding service providers

The ordinance issued by BaFin amending the Investment Firms Audit Report Ordinance (Wertpapierinstituts-Prüfungsberichtsverordnung) and the Crowdfunding Service Providers Audit Ordinance (Schwarmfinanzierungsdienstleister-Prüfungsverordnung) entered into force on 11 September 2026.

The ordinance supplements the implementation of Regulation (EU) 2022/2554 (DORA) into German law. DORA has applied since January 2025 and must already be taken into account by statutory auditors when conducting annual regulatory audits.

The new ordinance aligns the audit regulations with the existing legal framework and further specifies the audit requirements.

BaFin announces it will apply forthcoming ESMA guidelines on product supplements to base prospectuses with immediate effect

BaFin has announced that it will apply, with immediate effect, the forthcoming European Securities and Markets Authority (ESMA) guidelines on supplements which introduce new securities to a base prospectus (product supplements), as a facilitation for market participants.

ESMA published its final report introducing the guidelines on 9 September 2026. The guidelines are set out in Annex III of the final report and will apply two months after their publication in all official EU languages on the ESMA website.

The guidelines aim to clarify when a supplement must be regarded as introducing a new type of security for the purposes of Article 23(4a) of the Prospectus Regulation (Regulation (EU) 2017/1129). Under that provision, a supplement to a base prospectus shall not be used to introduce a new type of security for which the necessary information has not been included in that base prospectus, unless this is necessary to comply with capital requirements under EU law or national law transposing EU law. The guidelines are intended to ensure consistent and efficient supervision and application of the relevant provisions by national competent authorities across the EU.

By applying the new guidelines, BaFin is departing from its previous administrative practice on supplements that change the product characteristics of securities under a base prospectus. Issuers of base prospectuses may already align the preparation of supplements with the requirements set out in the guidelines.

MAS responds to feedback received on proposed amendments to related party transaction requirements for banks

The Monetary Authority of Singapore (MAS) has published its responses to the feedback it received on its October 2025 consultation on proposed amendments to related party transaction (RPT) requirements for banks. Currently, the MAS's requirements relating to banks' RPTs are set out in Notice 643 on Transactions with Related Parties, Notice 643A on Exposures and Credit Facilities to Related Concerns, and Notice 656 on Exposures to Single Counterparty Groups for Banks Incorporated in Singapore, as well as the Banking Act 1970.

Amongst other things, the MAS has confirmed that:

- the approach for how banks may comply with the introduction of 'extended senior management group' (ESMG) and 'extended director group' (EDG) will be revised. A person will be included in the ESMG and EDG only where: (a) the MAS is of the opinion that the person is in such a position and designates the person accordingly, or (b) the bank has reasonable grounds, based on credible information, to believe that the person is in a position to exert significant influence on the executive officer or director in a way that may affect the discharge of that person's bank duties. All other persons need not be considered for inclusion in the ESMG or the EDG;
- the existing 'senior management group' and 'director group' will be removed from MAS Notices 643 and 643A;

- to facilitate implementation of the indirect controller group, banks will be required to apply RPT requirements to the indirect controller group upon becoming aware of an indirect controller of the bank. Banks will not be expected to adopt identification practices beyond those currently applied;
- the exclusion from RPT governance requirements will apply to transactions with entities within the bank group, parent bank group, or holding company group, provided the holding company is subject to minimum prudential standards, including risk-based capital standards and liquidity standards, and consolidated supervision by the MAS or, in the case of a foreign headquartered bank, an equivalent bank regulatory agency of the home jurisdiction;
- the tightened scope of intragroup exclusions will apply prospectively and not retrospectively. Ongoing intragroup transactions that currently rely on the existing exclusion will not be subject to the RPT governance requirements until the transaction is renewed by the bank, or its terms and conditions are materially changed;
- banks will be required to provide a one-time update to their board on all intragroup transactions that have no specified end date or fixed duration, and that continue to rely on the existing exclusion;
- the existing exemption for certain RPTs with non-subsidiary major stake entities (MSEs) will be retained, such that prior board approval will not be required. However, where a non-subsidiary MSE also falls within another related party group, and transactions may be influenced by that relationship, the bank must classify the MSE under that other group and apply the governance requirements applicable to that group, including the prior board approval requirement;
- the ‘connected related party group’ will not be introduced into MAS Notice 643 as part of the proposed related party exposure limit framework for Singapore-incorporated banks (RPT limit framework). The rest of the RPT limit framework will be implemented as proposed. The MAS has also clarified that exposures to related parties and other connected persons meeting the definition of connected counterparty group in the Notice 656 must continue to be aggregated and subject to the large exposures limit, except for exempt exposures specified in Annex A of MAS Notice 656;
- the existing scope for disaggregation of exposures will be retained and will continue to apply only to the substantial shareholder group and major stake entity group. The MAS will consider requests to disaggregate exposures on a case-by-case basis where banks face difficulties in complying with the limits for other related party groups; and
- in recognition of potential challenges arising from the differing reporting frequencies, all banks will be required to submit the reporting statement in Appendix 1 of MAS Notice 643A on a semi-annual basis, aligning it with the reporting frequency proposed for Appendix 9 of MAS Notice 643A.

Based on the consultation feedback, the MAS has also published the revised versions of Notices 643, 643A and 656. To provide banks with additional time to implement the amendments set out in these notices, the MAS has extended the implementation timeline to twelve months from the date of issuance of the revised notices, with the amendments taking effect on 4 September 2027. Banks that face specific implementation challenges and require additional time may apply to MAS for an extension, supported by appropriate justification. The MAS will assess such requests on a case-by-case basis.

MAS responds to feedback received on proposed changes to group capital framework for designated financial holding companies (licensed insurer)

The MAS has published its responses to the feedback it received on its July 2025 consultation on proposed changes to the Group Capital Framework for Designated Financial Holding Companies (Licensed Insurer) (DFHC (licensed insurer)).

Based on the feedback received, the MAS has confirmed that it will fine-tune the risk charging approach of certain non-insurance entities (NIEs) under Notice FHC-N133 on valuation and capital framework for DFHC (licensed insurer) (Notice FHC-N133) by:

- defining an NIE as an insurance group entity that is not a licensed insurer or a foreign insurance entity; and
- clarifying that the NIE risk charge will not apply to the NIEs where one or more of the following criteria are met: NIEs that do not undertake significant businesses other than holding subsidiaries or holding the group's assets within the FHC group, and whose cash flows consist primarily of upstreamed dividends, investment income of assets held and capital support for subsidiaries; special purpose vehicles held solely for investment purposes; and investment funds held for investment purposes, including collective investment schemes.

Whilst these NIEs will not be subject to the NIE risk charging approach, their underlying risks will continue to be captured through the relevant risk charges under the enhanced risk-based capital framework (RBC 2 framework), such as market-related risk charges on the assets held by these entities. For other NIEs, the NIE risk charging approach will apply in calculating the total risk requirement (TRR). Other RBC 2 risk charges will not apply to such NIEs unless the MAS determines that additional risk charges are necessary to more appropriately capture material risks posed by the entity.

The MAS has also clarified that, for the purpose of calculating the group TRR, the NIE risk charges will not yield any diversification benefits with other RBC 2 risk charges, as they are similar in nature to the operational risk charge under RBC 2. Diversification benefits may apply only where other RBC 2 risk charges, such as market-related risk charges, are imposed on the NIE.

In addition, the MAS will retain the approach of limiting the amount of non-controlling interests (NCI) recognised in group financial resources (FR), rather than deducting the NCI's entire share of FR and TRR from group capital adequacy ratio (CAR). The NCI limit will similarly apply to Common Equity Tier 1 (CET1) capital and Tier 1 capital when deriving the respective quality of capital ratios.

The MAS has further indicated that the formula for determining the NCI limit will be refined. As diversification benefits are recognised at the group level, the NCI's share of the group TRR will be lower than its TRR at the solo entity level, or the same if there are no diversification benefits recognised at the group level.

The MAS intends to issue the amendments to the Notice FHC-N133 by 31 December 2026, with the amendments taking effect on 1 January 2027.

Recent Clifford Chance briefings

Polish Banking Law: transposition of CRD6 – branch requirement and removal of grandfathering protection

Poland's Parliament has adopted legislation implementing Directive 2013/36/EU as amended by CRD6. The Act was published in the Journal of Laws on 14 September 2026. This briefing paper discusses the Act of 31 July 2026, which amends the Banking Law and certain other statutes and introduces, among other changes, a new branch requirement for third-country banks and third-country non-bank entities that wish to carry out lending and deposit-taking activities in Poland.

Whilst the Act is broadly consistent with the requirements of CRD VI, a critical grandfathering provision protecting clients' acquired rights under pre-existing contracts was removed during parliamentary proceedings without sufficient justification.

https://www.cliffordchance.com/briefings/2026/09/polish-banking-law-transposition-of-crd-vi-branch-requirement-and-removal-of-grandfathering-protection.html

Proposed overhaul of third-party risk management guidance – US agencies propose a more flexible, risk-based replacement to the 2023 interagency guidance

On 11 September 2026, the US agencies jointly proposed new third-party risk management guidance that would replace and supersede the 2023 interagency guidance on third-party relationships and its related supplemental resources. This briefing paper outlines the proposed guidance and the 2023 guidance. The 2023 guidance remains in effect until final guidance is adopted, but we anticipate the substance of the proposed guidance will be finalised largely as proposed.

Comments are due by 16 November 2026. It is not known precisely when the proposed guidance will be finalised and put into effect, but we expect that will not occur until next year.

https://www.cliffordchance.com/briefings/2026/09/proposed-overhaul-of-thirdparty-risk-management-guidance.html