

# FINANCIAL REGULATION WEEKLY BULLETIN

Major UK and European regulatory developments of interest to banks, insurers and reinsurers, asset managers and other market participants

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Slaughter and May also produces a periodical Insurance Newsletter. If you would like to go on the distribution list, please contact: [Beth Dobson](#).

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## GENERAL //

### 1 EUROPEAN BANKING AUTHORITY

- 1.1 Governance, conflicts of interest and remuneration under MiCA - EBA publishes final reports on draft RTS and guidelines - 6 June 2024** - The European Banking Authority (EBA) has published final reports on governance, remuneration and conflicts of interest under the Regulation on markets in cryptoassets ((EU) 2023/1114) (MiCA).

The reports contain draft regulatory technical standards (RTS) setting out the minimum content for governance arrangements on the remuneration policy and draft RTS specifying requirements for policies and procedures on conflicts of interest for issuers of asset-referenced tokens. The European Securities and Markets Authority (ESMA) has separately developed similar RTS for crypto-asset service providers. The draft RTS will be submitted to the European Commission for endorsement, after which they will be scrutinised by the European Parliament and the Council of the EU.

The EBA has also published a final report on draft guidelines on the minimum content of the governance arrangements for issuers of asset-referenced tokens (ARTs) (EBA/GL/2024/06).

[EBA final report: Draft RTS specifying the requirements for policies and procedures on conflicts of interest for issuers of ARTs under Article 32\(5\) of MiCA \(EBA/RTS/2024/07\)](#)

[EBA final report: Draft RTS on the minimum content of the governance arrangements on the remuneration policy under Article 45 of MiCA \(EBA/RTS/2024/06\)](#)

[EBA final report: Guidelines on the minimum content of the governance arrangements for issuers of ARTs \(EBA/GL/2024/06\)](#)

### 2 EUROPEAN SUPERVISORY AUTHORITIES

- 2.1 Registers of information under DORA - ESAs publish materials for 'dry run' - 31 May 2024** - The European Supervisory Authorities (ESAs) (comprising the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) have published various templates and tools for use in a voluntary 'dry run' exercise as part of the implementation of the Regulation on digital operational resilience for the financial sector ((EU) 2022/2554) (DORA).

The dry run is intended to help firms prepare for the requirement under DORA to compile and submit a register of information of all their contractual arrangements with ICT third-party service providers from January 2025. The ESAs are running a virtual workshop on 10 June 2024 to support participation in the dry run exercise.

[Webpage](#)

[Press release](#)

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- 2.2 Greenwashing in the financial sector - ESAs publish reports - 4 June 2024** - The ESAs (namely the EBA, EIOPA and ESMA) have each published a final report on greenwashing in the financial services sector (EBA/REP/2024/09; ESMA36-287652198-2699; and EIOPA-BoS-24-159). EIOPA has also published an opinion (EIOPA-BoS-24/160) on sustainability claims and greenwashing in the insurance and pensions sectors to complement its final report.

Each of the reports outlines the current supervisory response to greenwashing risks under each remit and considers potential improvements to the applicable regulatory framework. It is acknowledged that a global response is required, involving the development of interoperable standards for sustainability disclosures.

In a related press release, ESMA has set out several priority actions to enable supervisors to better mitigate greenwashing risks, which include making investments in supervisory tools such as SupTech solutions. ESMA also invites the Commission to reinforce the mandates of national competent authorities in certain areas, such as for benchmarks, and to ensure that the legislative framework supports their access to data.

**[EBA final report: Greenwashing Monitoring and Supervision \(EBA/REP/2024/09\)](#)**

**[ESMA final report: Response to the European Commission’s request for input on “greenwashing risks and the supervision of sustainable finance policies” \(ESMA36-287652198-2699\)](#)**

**[EIOPA final report: Advice to the European Commission on greenwashing risks and the supervision of sustainable finance policies \(EIOPA-BoS-24-159\)](#)**

**[EIOPA opinion on sustainability claims and greenwashing in the insurance and pensions sectors \(EIOPA-BoS-24/160\)](#)**

**[Press release](#)**

- 2.3 Cybersecurity - ESAs enter into MoU with ENISA - 5 June 2024** - The ESAs (namely the EBA, EIOPA and ESMA) have published a multilateral memorandum of understanding (MoU), dated 4 June 2024, with the European Union Agency for Cybersecurity (ENISA).

The MoU sets out the framework for co-operation and exchange of information between the ESAs and ENISA with reference to the Regulation on digital operational resilience for the EU financial sector ((EU) 2022/2554) (DORA), the Network and Information Security Directive ((EU) 2022/2555) (NIS 2 Directive) and other areas of mutual interest. Among other things, the parties agree to collaborate on the implementation of efficient incident reporting processes. ENISA will also support the ESAs to implement an IT tool for incident reporting purposes based on its Cyber Incident, Reporting and Analysis System tool.

**[MoU on cooperation between the EBA, EIOPA, ESMA, and ENISA](#)**

**[Press release](#)**

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### 3 UK GOVERNMENT

- 3.1 Digital Markets, Competition and Consumers Act 2024 - full text published - 3 June 2024** - The House of Commons has published the full text of the Digital Markets, Competition and Consumers Act 2024. The Act is concerned largely with the creation of a new pro-competition regime for the digital market, though there are a number of provisions relating to financial services. For example, the Act provides for co-ordination between the Competition and Markets Authority (CMA) and each of the Financial Conduct Authority (FCA) and the Bank of England (BoE). Moreover, the FCA is one of the public designated enforcers for the purposes of consumer protection orders and undertakings made under the Act.

The Act will largely be brought into force by subsequent regulations.

[Digital Markets, Competition and Consumers Act 2024](#)

### 4 FINANCIAL CONDUCT AUTHORITY

- 4.1 SDR and investment labels regime - FCA publishes updated webpage - 31 May 2024** - The FCA has published an updated webpage on its sustainability disclosure requirements (SDR) and investment labelling regime, as set out in Policy Statement PS23/16, published in November 2023.

The updated webpage reflects the fact that the FCA's anti-greenwashing rule (and accompanying final guidance (FG24/3)) came into force on 31 May 2024. Moreover, it adds further colour to the criteria for using a label, including the requirement for a product to have a 'clear, specific and measurable' sustainable objective. The webpage notes that a firm's pre-contractual disclosures must include details of the KPIs that will be used to measure progress towards meeting the sustainability objective (as well as other metrics that a retail client may reasonably find useful in understanding the investment policy and strategy for the relevant product).

Firms are required to make any changes to meet the naming and marketing requirements by 2 December 2024.

[Updated webpage](#)

### 5 PAYMENT SYSTEMS REGULATOR

- 5.1 Departure of Managing Director announced by PSR - 3 June 2024** - The Payment Systems Regulator (PSR) has announced that Chris Hemsley will be standing down as Managing Director (MD) from 7 June 2024. The PSR has appointed David Geale as Interim MD for a period of 9 months from 10 June 2024. The PSR will begin recruiting for a new MD after the General Election.

[Press release: Chris Hemsley to take on new role outside the PSR](#)

[Press release: PSR Board confirms appointment of David Geale as Interim Managing Director](#)

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## 6 FINANCIAL MARKETS LAW COMMITTEE

- 6.1 Digital assets - FMLC publishes report on governing law and jurisdiction - 6 June 2024** - The Financial Markets Law Committee (FMLC) has published a report on the governing law and jurisdiction concerning digital assets. It follows an earlier FMLC report on distributed ledger technology (DLT), published in March 2018, and considers developments in DLT systems and digital assets in the intervening period.

Among other things, the FMLC recommends establishing a new statutory rule to give primacy to the system of law specified in a digital asset or in the DLT system. Furthermore, the FMLC proposes a new jurisdictional gateway which would allow the courts of England and Wales to have jurisdiction to determine proprietary disputes in relation to digital assets in certain situations.

[FMLC report: Digital Assets: Governing Law and Jurisdiction](#)

[Webpage](#)

# BANKING AND FINANCE //

## 7 EUROPEAN COMMISSION

- 7.1 MREL - European Commission adopts ITS on supervisory reporting and public disclosures - 6 June 2024** - The European Commission has adopted an Implementing Regulation (C(2024) 3624 final) amending Implementing Regulation (EU) 2021/763 and containing implementing technical standards (ITS) on supervisory reporting and public disclosure of the minimum requirement for own funds and eligible liabilities (MREL). The Implementing Regulation will enter into force on the 20<sup>th</sup> day after its publication in the Official Journal of the EU and will apply six months after that.

[Commission Implementing Regulation \(EU\) .../... of 6.6.2024 amending Implementing Regulation \(EU\) 2021/763 laying down ITS for the application of Regulation \(EU\) No 575/2013 and Directive 2014/59/EU with regard to the supervisory reporting and public disclosure of the MREL \(C\(2024\) 3624 final\)](#)

## 8 EUROPEAN BANKING AUTHORITY

- 8.1 Operational risk loss under CRR - EBA consults on draft RTS - 6 June 2024** - The European Banking Authority (EBA) has published a consultation paper (EBA/CP/2024/13) on draft Regulatory Technical standards (RTS) under the Capital Requirements Regulation (575/2013) (CRR). More specifically, these are:
- draft RTS establishing a risk taxonomy on operational risk that complies with international standards and a methodology to classify the loss events included in the loss data set based on that risk taxonomy on operational risk under Article 317(9) of CRR;

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- draft RTS specifying the condition of ‘unduly burdensome’ for the calculation of the annual operational risk loss under Article 316(3) of Regulation CRR; and
- draft RTS on specifying how institutions shall determine the adjustments to their loss data set following the inclusion of losses from merged or acquired entities or activities under Article 321(2) of CRR.

The deadline for responses is 6 September 2024.

[EBA consultation paper on draft RTS under CRR \(EBA/CP/2024/13\)](#)

[Press release](#)

## 9 EUROPEAN CENTRAL BANK

- 9.1 **Outsourcing cloud services - ECB consults on guide - 3 June 2024** - The European Central Bank (ECB) has published a consultation on a draft guide for banks on outsourcing cloud services to cloud service providers. The guide is intended to clarify the ECB’s expectations in this area and covers, among other things, the governance of outsourcing, data security measures and firms’ exit strategies and termination rights. It also deals with the availability and resilience of cloud services, oversight monitoring and internal audits. Where appropriate, the ECB has set out examples of good practice observed during its supervisory activities.

The guide is not legally binding and should be read alongside the Regulation on digital operational resilience for the financial sector ((EU) 2022/2554) (DORA) and the EBA’s guidelines on cloud outsourcing arrangements (EBA/GL/2019/02).

The deadline for responses is 15 July 2024.

[ECB consultation paper: Guide on outsourcing cloud services to cloud service providers](#)

[Webpage](#)

[Press release](#)

## 10 UK GOVERNMENT

- 10.1 **Building Societies Act 1986 (Amendment) Act 2024 - full text published - 3 June 2024** - The House of Commons has published the full text of the Building Societies Act 1986 (Amendment) Act 2024. This follows the Building Societies Act 1986 (Amendment) Bill receiving Royal Assent on 24 May 2024.

The Act will come into force on 24 July 2024.

[Building Societies Act 1986 \(Amendment\) Act 2024](#)

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## 11 BANK OF ENGLAND AND PRUDENTIAL REGULATION AUTHORITY

**11.1 RAF assessment and disclosures - modification by consent offered by PRA - 6 June 2024** - The Bank of England has confirmed on an updated webpage that, as with previous general elections, it will be following the Cabinet Office's election guidance, which includes limiting communications activities until after the election. In line with this approach, the Bank of England and PRA have chosen to delay publication of the second Resolvability Assessment Framework (RAF) assessment of the major UK banks to early August 2024.

The publication of the Bank's assessment was due by 14 June 2024 alongside firms' own public disclosures (as required by Rule 4.1 of the Resolution Assessment Part of the PRA Rulebook). As such, the PRA is offering a modification by consent to Rule 4.1 of the Resolution Assessment Part of the PRA Rulebook to delay the deadline for firms to publish their RAF disclosures from the second Friday in June 2024, to the second Friday in August 2024 at the latest.

Each firm that wishes to take advantage of this modification should send a short email to [PRA-Waivers@bankofengland.co.uk](mailto:PRA-Waivers@bankofengland.co.uk)

[Updated waivers and modifications webpage](#)

## 12 BUSINESS BANKING RESOLUTION SERVICE

**12.1 Closure of scheme - announced by BBRs - 3 June 2024** - The Business Banking Resolution Service (BBRS) has announced that its scheme will close to new registrations on 13 December 2024. Eligible SMEs with a business banking complaint are reminded to register their complaint before this date. The BBRs, which is wholly funded by seven participating banks, was originally intended to close in 2023 but was given a temporary extension to operate beyond this deadline.

[Press release](#)

# SECURITIES AND MARKETS //

## 13 INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS

**13.1 Leveraged loans and CLOs - IOSCO publishes report on good practices - 3 June 2024** - The International Organization of Securities Commissions (IOSCO) has published its final report on Leveraged Loans and Collateralised Loan Obligations (CLOs): Good Practices for Consideration (FR03/2024).

In its analysis, IOSCO considers whether there is adequate transparency in these markets and the scope for potential conduct-related issues to arise. It describes various good practices which are designed to support market participants in their decision-making, grouped into the following five themes:

- origination and refinancing based on a sound business premise;
- EBITDA and loan documentation transparency;



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- strengthening alignment of interest from loan origination to end investors;
- addressing interests of different market participants throughout the intermediation chain; and
- disclosure of information on an ongoing basis.

[IOSCO final report: Leveraged Loans and CLOs - Good Practices for Consideration \(FR03/2024\)](#)

[Press release](#)

## 14 EUROPEAN SECURITIES AND MARKETS AUTHORITY

**MiCA - ESMA publishes final report on RTS - 31 May 2024** - The European Securities and Markets Authority (ESMA) has published its final report on draft regulatory technical standards (RTS) on conflicts of interest for cryptoasset service providers (CASPs) under the Regulation on markets in cryptoassets ((EU) 2023/114 (MiCA)). ESMA has submitted the draft RTS to the European Commission, which has three months to decide whether to adopt them.

[ESMA final report: Draft RTS specifying certain requirements in relation to conflicts of interest for crypto-asset service providers under MiCA \(ESMA18-72330276-1634\)](#)

[Press release](#)

## 15 FINANCIAL CONDUCT AUTHORITY

### 15.1 Publication of synthetic US dollar LIBOR - FCA notice of first decision - 3 June 2024 -

The FCA has published a notice of first decision, dated 17 May 2024, issued to ICE Benchmark Administration Limited (IBA) under Article 21(3) of the UK Benchmarks Regulation (EU/2016/1011).

In the decision, the FCA confirms that it has decided to compel IBA to continue publishing the one-, three- and six-month US dollar LIBOR versions (the US dollar LIBOR versions) under a synthetic methodology for a further three months before they would otherwise cease. The compulsion period will start immediately after the publication of the US dollar LIBOR versions on 28 June 2024 is concluded and will end immediately after the final publication on 30 September 2024.

[FCA notice of first decision](#)



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## ASSET MANAGEMENT //

### 16 EUROPEAN BANKING AUTHORITY AND EUROPEAN SECURITIES AND MARKETS AUTHORITY

#### 16.1 IFD and IFR prudential framework - EBA and ESMA publish discussion paper - 3 June 2024 -

The European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA) have jointly published a discussion paper (EBA/DP/2024/01) on a potential review of the Investment Firms Regulation ((EU) 2019/2033) (IFR) and the Investment Firms Directive ((EU) 2019/2034) (IFD).

The discussion paper seeks views on various issues that have been raised by market participants and supervisors in relation to the regime, including the categorisation of investment firms. The EBA is considering whether to revise the existing K-factor framework to cover risks currently only addressed under the Pillar 2 framework or as possible alternatives to existing K-factors. The paper also examines the existing remuneration regime for investment firms, AIFMs and UCITS management companies.

The EBA and ESMA have launched a data collection relating to the discussion paper. The deadline for responses is 3 September 2024. The bodies intend to publish a final report by December 2024.

[EBA and ESMA discussion paper: Call for advice on the investment firms prudential framework \(EBA/DP/2024/01\)](#)

[Press release](#)

## INSURANCE //

### 17 PRUDENTIAL REGULATION AUTHORITY

#### 17.1 Review of Solvency II and reform of the MA - PRA publishes Policy Statement (PS10/24) - 6

*June 2024* - The Prudential Regulation Authority (PRA) has published a Policy Statement on the reform of the Matching Adjustment (MA) under the Solvency II regime (PS10/24). The Policy Statement summarises responses received to the PRA's consultation paper (CP19/23) of September 2023, which was the second major PRA consultation to deliver significant reforms to Solvency II. Some respondents raised concerns with the tight timelines for implementing the MA reforms. A number of amendments have been made to the earlier consultation and are outlined in the document, particularly in chapter 1.21.

The final policy is intended to implement and work alongside the government's MA reforms, including the Insurance and Reinsurance Undertakings (Prudential Requirements) Regulations 2023. These Regulations maintain most of the existing methodology and calibration of the fundamental spread (FS), widen the MA eligibility criteria to allow assets with highly predictable cash flows, and reform the PRA's powers where firms breach MA eligibility conditions.

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The implementation date is 30 June 2024, unless otherwise stated. This means that firms that use the MA will be able to take advantage of the reforms in advance of the remainder of the Solvency II reforms, which will be implemented on 31 December 2024. Final versions of the relevant supervisory statements and statement of policy are included in the appendices and explained in the relevant chapters.

**[Policy Statement](#)**

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This Bulletin is prepared by the Financial Regulation Group of Slaughter and May in London. The Group comprises a team of lawyers with expertise and experience across all sectors in which financial institutions operate.

We advise on regulatory issues affecting firms across the financial services sector, including banks, investment firms, insurers and reinsurers, brokers, asset managers and funds, non-bank lenders, payment service providers, e-money issuers, exchanges and clearing systems. We also advise non-regulated businesses involved in financial regulatory matters. In addition, our leading financial regulatory investigations practice is regularly instructed by financial institutions requiring specialist knowledge of financial services regulation together with experience in high profile and complex investigations and contentious regulatory matters.

Most of the projects that we advise on have an extensive international or cross-border element. We work in seamless integrated teams with leading independent law firms which offer many of the most highly regarded financial institutions lawyers in Europe, the US and Asia, as well as strong and constructive relationships with local regulators.

Our Financial Regulation Group also produces occasional briefing papers and other client publications. The five most recent issues of this Bulletin and our most recent briefing papers and client publications appear on the Slaughter and May website [here](#).

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