SLAUGHTER AND MAY/

20 FEBRUARY 2025

ISSUE 1290

FINANCIAL REGULATION WEEKLY BULLETIN

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

QUICK LINKS

If you have any comments or questions, please contact: Selmin Hakki.

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

SELECTED HEADLINES //

Enforcement

Selected Headlines
General
Asset Management
Enforcement
Banking and Finance
Insurance
Securities and Markets
Financial Crime

GENERAL //

1 EUROPEAN SUPERVISORY AUTHORITIES

1.1 **DORA - ESAs publish roadmap towards designation of CTPPs** - *18 February 2025* – The European Supervisory Authorities (comprising the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) (ESAs) have published a roadmap for the designation of critical ICT third-party service providers (CTPPs) under the Regulation on digital operational resilience for the financial sector ((EU) 2022/2554) (DORA).

CTPPs will be notified of their DORA classification as critical by July 2025. This notification triggers a six-week period during which CTTPs can object to the assessment, following which the ESAs will finalise their designation and start oversight engagement with the designated CTTPs.

The ESAs intend to organise an online workshop with CTPPs in Q2 2025 to provide clarity on preparatory activities, the designation process and the ESAs' oversight approach. The date of the workshop will be published in due course.

Roadmap

Press release

2 UK GOVERNMENT

2.1 **UK ETS - UK government consults on extending scheme** - *14 February 2025* – The UK Emissions Trading Scheme (UK ETS) Authority has published a consultation paper seeking input on its proposal to extend the UK ETS beyond the end of Phase I on 31 December 2030 into a second phase from 1 January 2031 onward. The consultation further presents three options for the length of a post-2030 second phase and asks whether to allow banking of emissions allowances (UKAs) between Phase I and a post-2030 second phase of the Scheme.

Comments on the proposals are welcomed by 9 April 2025.

Consultation paper

Webpage

3 PRUDENTIAL REGULATION AUTHORITY

3.1 **PRA policy-making - Policy statement on approach published** - *20 February 2025* – The PRA has published a policy statement (PS3/25) containing its final approach to policy document and responding to feedback on its December 2023 consultation (CP27/23) on policymaking under the Financial Services and Markets Act 2023. The PRA explains that it has made several changes to the approach document on which it consulted, including in relation to the secondary competitive and growth objective, in response to feedback and recommendations from the Bank of England's Independent Evaluation Office. It has also further elaborated on its approach to stakeholder engagement and implementing international standards. The final version of the approach document (which can be found in Appendix 1 of the policy statement) will take effect from 20 February 2025.

PRA policy statement: The PRA's approach to policy (PS3/25)

Approach document

Webpage

BANKING AND FINANCE //

4 FINANCIAL CONDUCT AUTHORITY AND PAYMENT SYSTEMS REGULATOR

4.1 **Big tech and digital wallets - FCA and PSR publish joint feedback statement** - *19 February 2025* – The FCA and the Payment Systems Regulator (PSR) have published a joint feedback statement assessing the use and impact of digital wallets (FS25/1), following the July 2024 PSR and FCA call for information on big tech and digital wallets (CP24/9). In short, the FCA and PSR found that consumers benefit from the convenience of a more seamless payments journey and that increased choice of payment methods between and within wallets has the potential to benefit consumers and merchants through increased competition. Respondents have, however, also raised potential competition, consumer protection and operational resilience issues.

Separately, the FCA and the PSR have published a letter sharing these findings with the Competition and Markets Authority (CMA) in response to the CMA's invitation to comment on its current investigations into mobile ecosystems under section 9 of the Digital Markets, Competition and Consumers Act 2024.

The FCA and the PSR note that they are not planning new in-depth work but will engage with the CMA and HM Treasury to continue to monitor developments.

FCA/PSR feedback statement: Big tech and digital wallets (FS25/1)

Letter

Press release

SECURITIES AND MARKETS //

5 EUROPEAN SECURITIES AND MARKETS AUTHORITY

5.1 **CSDR Refit - ESMA publishes first set of technical standards** - *20 February 2025* - The European Securities and Markets Authority (ESMA) has published three final reports containing the first set of draft technical standards on certain aspects of the Regulation amending the Central Securities Depositories Regulation ((EU) 909/2014) (CSDR) ((EU) 2023/2845) (CSDR Refit).

The first report (ESMA74-2119945925-1951) contains draft regulatory technical standards (RTS) on the substantial importance of central securities depositories (CSDs), which will form the basis for determining the CSDs for which colleges of supervisors must be established. The second report (ESMA74-2119945925-2089) contains draft RTS and implementing technical standards (ITS) on review and evaluation processes. The third report (ESMA74-2119945925-2141) contains draft RTS on the information notified by third country CSDs.

ESMA has submitted the final reports to the European Commission for adoption.

ESMA final report: Draft RTS on the Substantial Importance of CSDs (ESMA74-2119945925-1951)

ESMA final report: Draft technical standards on review and evaluation under CSDR (ESMA74-2119945925-2089)

ESMA final report: Draft RTS on the information notified by third country CSDs (ESMA74-2119945925-2141)

Press release

6 HM TREASURY

6.1 Accelerated settlement (T+1) - HM Treasury publishes UK government response to the Accelerated Settlement Taskforce plan - *19 February 2025* – HM Treasury has published the UK government's response to the implementation plan produced (on 6 February 2025) by the Accelerated Settlement Taskforce (AST) Technical Group to move the UK to faster settlement of securities trades. The report, among other things, recommended that the UK should move to a T+1 standard for settling securities trades on 11 October 2027 and proposed 12 'critical' and 27 'highly recommended' actions to facilitate a successful transition, as reported in a previous issue of this Bulletin. The UK government has accepted all the recommendations made in the report and has confirmed that it will bring forward legislation to implement the transition.

Alongside the government's response, HM Treasury has published updated terms of reference that set out the objectives and governance structure of the AST as it moves into the next phase of its work. The AST will manage the implementation of the recommendations up until the implementation of T+1, and for a short period afterwards to evaluate the short-term impacts.

Separately, the FCA has published a new webpage explaining that it expects firms to engage with the recommendations of the AST to understand which are relevant to them, along with a press release welcoming the recommendations.

UK government response

Updated terms of reference

FCA new webpage

HM Treasury press release

Selected Headlines

General | Asset Management | Enforcement

Banking and Finance | Insurance

Securities and Markets | Financial Crime

FCA press release

ASSET MANAGEMENT //

7 EUROPEAN SECURITIES AND MARKETS AUTHORITY

7.1 **UCITS and AIFMs - ESMA launches a common supervisory action on compliance and internal audit functions** – *14 February 2025* – The European Securities and Markets Authority (ESMA) has announced that it will be launching a common supervisory action (CSA) with national competent authorities on compliance and internal audit functions of UCITS management companies and alternative investment fund managers (AIFMs) across the EU. ESMA explains that the CSA will be conducted throughout 2025, aiming to assess the extent to which UCITS management companies and AIFMs have established effective compliance and internal audit functions to perform their duties under the UCITS Directive (2009/54/EC) and the AIFM Directive (2011/61/EU).

ESMA will publish a final report with the results of the exercise in 2026.

Press release

8 UK GOVERNMENT

8.1 **Dormant assets scheme - DCMS publishes first Parliamentary review -** *14 February 2025* – The Department for Culture, Media and Sport (DCMS) of the UK government has published its first Parliamentary review of the dormant assets scheme for the period between 24 February 2022 and 12 February 2025, pursuant to section 30 of the Dormant Assets Act 2022 (DAA 2022). DAA 2022 expanded the scheme to enable dormant assets in the insurance and pensions, investment and wealth management, and securities sectors to be included alongside dormant deposits in the banking sector.

The review found, among other things, that the scheme continues both to deliver operational value to industry participants and to prioritise consumer protection. However, DCMS observes that progress to fully operationalise expansion of the scheme has been slower than anticipated owing to technical and regulatory barriers.

The next review of the scheme will be laid in Parliament by February 2030.

Parliamentary review (HC 669)

9 FINANCIAL CONDUCT AUTHORITY

9.1 **Authorised fund applications - FCA sets out its expectations -** *14 February 2025* – The FCA has published a document outlining its expectations for firms applying for collective investment schemes to be authorised unit trusts, authorised contractual schemes or authorised open-ended investment companies. The FCA explains that document covers some of the specific questions it asks in the fund authorisation application forms, along with some of the main areas where applicants have not provided necessary information. The FCA notes that if an application does not contain the necessary detail, it is likely to consider it incomplete.

FCA expectations document

9.2 **Extending SDR regime to portfolio management - FCA updates webpage on its consultation paper to reflect new timelines** - *14 February 2025* – The FCA has updated its webpage on its consultation paper on extending the sustainability disclosure requirements (SDR) and investment labelling regime to portfolio management (CP24/8) to reflect new timelines.

The FCA explains that it wants to ensure an extension of the SDR delivers good outcomes for consumers, is practical for firms and supports growth of the sector. Accordingly, the FCA will take the necessary time to deliver these outcomes, and no longer intends to publish a policy statement in Q2 2025. The FCA will continue to reflect on the feedback and provide further information in due course.

Updated webpage

INSURANCE //

10 EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

10.1 **Solvency II - Supervisory statement on deduction of foreseeable dividends published by EIOPA** - *20 February 2025* - The European Insurance and Occupational Pensions Authority (EIOPA) has published a supervisory statement (EIOPA-25/135) on the deduction of foreseeable dividends from own funds under the Solvency II Directive (2009/138/EC).

Commission Implementing Regulation (EU) 2023/894 requires (re)insurers and groups to deduct their annual foreseeable dividend from own funds in full. That said, EIOPA acknowledges in the supervisory statement that, over time, various approaches have emerged, including: the annual full deduction approach; the quarterly accrued deduction approach; and the approach where foreseeable dividends are deducted after approval from the administrative, management or supervisory body (or AMSB). As EIOPA is currently reviewing Commission Implementing Regulation (EU) 2023/894 to reflect changes stemming from the Solvency II review, it expects supervisory authorities not to prioritise supervisory actions where a firm or group uses the quarterly accrued approach. Despite this, when firms or groups operate in a stable and predictable environment, or if there is a history of fixed dividends, EIOPA considers that the annual full deduction method remains a feasible option. The deduction of dividends after formal approval from the AMSB is considered by EIOPA as a feasible option only in certain limited circumstances.

Supervisory statement (EIOPA-25/135)

Webpage

Press release

Selected Headlines

General | Asset Management | Enforcement

Banking and Finance | Insurance

Securities and Markets | Financial Crime

FINANCIAL CRIME //

11 OFFICE OF FINANCIAL SANCTIONS IMPLEMENTATION

11.1 **Financial services threat assessment - OFSI publishes report** - *14 February 2025* - The Office of Financial Sanctions Implementation (OFSI) has published a report on its assessment of threats to sanctions compliance involving UK firms since February 2022.

The report provides information on suspected sanctions breaches, focusing on threats to compliance relating to transactions handled by UK financial or credit institutions, including banks and non-bank payment service providers. OFSI explains, however, that the assessment is not necessarily a direct reflection of its ongoing investigations or enforcement activity but based on widely available information. Key judgements include that:

- it is likely that some UK financial services firms have not self-disclosed all suspected breaches to OFSI;
- it is highly likely that most non-compliance by UK financial services firms has occurred due to several common issues, including improper maintenance of frozen assets and breaches of licence conditions; and
- it is almost certain that Russian designated persons have turned to new professional and non-professional enablers in their attempt to breach UK financial sanctions prohibitions.

Financial services threat assessment

ENFORCEMENT //

12 FINANCIAL CONDUCT AUTHORITY

12.1 **Financial crime failings - FCA publishes Final Notice and fines firm** - *18 February 2025* - The FCA has published a Final Notice and imposed a fine of £1,662,700 on Mako Financial Markets Partnership LLP (the firm) for failing to have in place adequate systems and controls against financial crime between 16 December 2013 and 16 November 2015. The firm agreed to resolve the matter and qualified for a 30% (Stage 1) discount under the FCA's executive settlement procedures. Were it not for this discount, the FCA explains that it would have imposed a fine of £1,887,800 on the firm.

This is the eighth enforcement case brought by the FCA in relation to cum-ex trading and withholding tax schemes and concludes its investigations into this trading. In an accompanying press release, the FCA notes that it has imposed fines of more than £30 million in relation to cum-ex trading by working closely with EU and global law enforcement agencies.

Final Notice

Press release

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**.

If you would like to find out more about our Financial Regulation Group or require advice on a financial regulation matter, please contact one of the following or your usual Slaughter and May contact:

Jan Putnis	jan.putnis@slaughterandmay.com
Nick Bonsall	nick.bonsall@slaughterandmay.com
David Shone	david.shone@slaughterandmay.com
Kristina Locmele	kristina.locmele@slaughterandmay.com
Sabine Dittrich	sabine.dittrich@slaughterandmay.com

London
T +44 (0)20 7600 1200
F +44 (0)20 7090 5000

Brussels
T +32 (0)2 737 94 00
F +32 (0)2 737 94 01

Hong Kong
T +852 2521 0551
F +852 2845 2125

Beijing
T +86 10 5965 0600
F +86 10 5965 0650