

European Regulatory Reform Progress Report – Update 3 November 2011

C L I F F O R D
C H A N C E

Introduction

The European Union (EU) agenda for regulatory reform in the financial sector continues to take shape. The EU has played a leading role in the development of the G20's action plan to respond to the financial crisis and many of the actions being taken aim to implement the G20 plan. However, not all initiatives are crisis driven. A number of reviews of existing EU legislation were already scheduled to take place and the European Commission continues to develop proposals to further integrate the Single Market.

Since we published the June 2011 edition of this Progress Report, a number of significant initiatives have evolved. In particular, the following legislative initiatives have been launched:

- the fourth package of proposed amendments to the Capital Requirements Directive (CRD 4), implementing Basel III;
- amendments to the Markets in Financial Instruments Directive (MiFID);
- amendments to the Market Abuse Directive; and
- a proposal for an EU Financial Transaction Tax.

Final agreement between the European Parliament and Council of Ministers on the short selling regulation has been reached, with the new short selling regime to apply from November 2012. In addition, the European Market Infrastructure Regulation is also nearing the final stages of negotiation and agreement could be reached before the end of the year.

Some initiatives have been delayed, however, including:

- rules regulating Central Securities Depositories;
- a Securities Law Directive; and
- a review of the close-out netting framework.

National measures have also evolved. In particular, the UK Independent Commission on Banking published its final recommendations for changes to the structure of the UK banking industry, calling for the ring-fencing of retail banking activities into separate subsidiaries, stricter capital requirements for ring-fenced and other UK banks, and greater competition in retail banking. The UK government is expected to consult on implementation before the end of the year.

This paper does not purport to be comprehensive or to provide legal or other advice. For more information, speak to one of the partners listed at the end of this paper or your usual Clifford Chance contact.

This paper aims to present a very brief overview of the progress on the regulatory reform agenda, grouping the measures under six headings:

- Institutional structure of supervision;
- Prudential regulation;
- Too big to fail – institutional structure and crisis management;
- Markets and infrastructures;
- Funds, investment management and retail; and
- Other

The paper also indicates the current status, next main steps and estimated implementation date for each measure. Although the focus is on EU-level reforms, we have included some coverage of national reforms.

The colour code indicates whether the measure is in the pre-legislative/policy development, legislative/rule-making, or adoption/implementation phase. The red "New" in the first column indicates that there has been a new or significant development in the featured area since our June 2011 report.

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1. Institutional structure of supervision

	Development / pre-legislative phase
	Legislative / rulemaking phase
	Implementation / entry into force

EU Financial Supervisory Reform	Macro: European Systemic Risk Board (ESRB) Micro: European Supervisory Authorities (ESAs) – EBA, ESMA, EIOPA – replaced CEBS, CESR, CEIOPS with increased powers	<p>Status: Regulations establishing ESRB and ESAs adopted and published in OJ. ESA Chairpersons and Executive Directors confirmed. ESMA, EBA and EIOPA stakeholder groups established.</p> <p>Implementation: ESAs became operational 1 Jan 2011</p>
UK Financial Supervisory Reform NEW	Bank of England (BoE) to have enhanced powers – Macro: Financial Policy Committee (FPC) to be established in BoE Micro: Prudential Regulatory Authority (PRA) to be operationally independent subsidiary of BoE New Financial Conduct Authority (FCA) to oversee retail/wholesale business conduct and markets regulation	<p>Status: FSA moved to shadow PRA and FCA structure on 4 Apr 2011. Government published White Paper including draft text of Financial Services Bill 2011-12 on 16 Jun 2011 – comments were due 8 Sep 2011. Government published consolidated version of the Financial Services and Markets Act (FSMA) on 5 Jul 2011, highlighting amendments by the draft Bill, and published an amended consolidation on 6 Sep 2011. Pre-legislative scrutiny of draft Bill underway. Joint Committee to report on Bill by 16 Dec 2011.</p> <p>Next: Government to introduce legislation late-2011? Bill to receive Royal Assent before end-2012?</p> <p>Implementation: New structure operational by early-2013</p>
Belgian Financial Supervisory Reform	National Bank of Belgium (NBB) in charge of prudential Supervision Banking, Finance and Insurance Commission (CBFA) renamed 'Financial Services and Markets Authority' (FSMA) and left in charge of rules of conduct and investor protection	<p>Status: Royal Decree, dated 3 Mar 2011, published in 9 Mar 2011 Belgian State Gazette</p> <p>Implementation: Operational as of 1 Apr 2011</p>
EU Omnibus II Directive	Proposal for a Directive to amend the Prospectus Directive and the Solvency II Directive to set out the scope for ESMA and EIOPA to exercise their powers, including developing draft technical standards and settling disagreements between national supervisors	<p>Status: EU Commission published proposed amending Directive 19 Jan 2011. EU Parliament and Council negotiating text.</p> <p>Next: Final agreement Q1 2012?</p> <p>Implementation: Entry into force Q2 2012?</p>

2. Prudential regulation

EU Capital Requirements Directive (CRD)	CRD 2 – Amendments to CRD to introduce securitisation retention and improved supervision (amending directive)	<p>Status: Adopted and published in OJ</p> <p>Implementation: Member States were to apply changes by 31 Dec 2010</p>
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2. Prudential regulation

	Development / pre-legislative phase
	Legislative / rulemaking phase
	Implementation / entry into force

EU Capital Requirements Directive (CRD) (continued) NEW	<p>CRD 3 – Amendments to CRD to address remuneration, trading book and re-securitisation (amending directive)</p>	<p>Status: Adopted and published in OJ. CEBS final guidelines on remuneration policies and practices published 10 Dec 2010. FSA Remuneration Code also finalised.</p> <p>Next: ESMA to carry out implementation study Q4 2011</p> <p>Implementation: CRD 3 remuneration rules and CEBS guidelines from 1 Jan 2011; other CRD 3 requirements by 31 Dec 2011. FSA remuneration rules from 1 Jan 2011.</p>
	<p>CRD 4 – proposed directive and regulation to implement Basel III framework (capital, leverage, liquidity, etc)</p> <p>In addition, proposal consolidates the CRD and is intended to replace the existing CRD (2006/48/EC and 2006/49/EC) together with their successive amendments, including the CRD 2 and CRD 3 packages of amendments</p>	<p>Status: EU Commission published proposed Directive and Regulation 20 Jul 2011. EU Parliament and Council examining text.</p> <p>Next: Parliament and Council negotiation and approval</p> <p>Implementation: CRD 4 will repeal existing CRD, together with successive amendments, with effect from 1 Jan 2013. Member States to apply provisions from 1 Jan 2013 to meet Basel III implementation deadline.</p>
EU Solvency II NEW	<p>Review of insurance industry's solvency framework</p>	<p>Status: Solvency II Level 1 Directive adopted Nov 2009. QIS5 completed and EIOPA reported results on 14 Mar 2011. EU Commission drafting Level 2 implementing measures.</p> <p>Next: Commission to publish proposed Level 2 measures by end-2011/early-2012? EU Parliament and Council to negotiate text. Final agreement on Omnibus II Q1 2012?</p> <p>Implementation: Member States to transpose Directive by 1 Jan 2013 and industry to apply measures by 1 Jan 2014</p>
	<p>Omnibus II Directive will give EIOPA enhanced powers to produce draft technical standards relating to Solvency II Directive</p>	
EU Financial Conglomerates Directive (FCD) NEW	<p>Review of the FCD to give national financial supervisors new powers to oversee conglomerate holding companies</p>	<p>Status: Final agreement between EU Parliament and Council on amending Directive reached 5 Jul 2011.</p> <p>Next: Formal approval by Council and publication in OJ</p> <p>Implementation: Member States to transpose majority of amendments 18 months after publication in OJ – likely implementation by mid-2013?</p>

3. Too big to fail – institutional structure and crisis management

	Development / pre-legislative phase
	Legislative / rulemaking phase
	Implementation / entry into force

EU Taxation of Financial Sector NEW	EU Commission proposal for a Financial Transaction Tax (FTT) in the EU. As the proposal is a Council Directive, Member States must agree unanimously in the Council of Ministers to give it effect.	Status: Proposed Financial Transaction Tax Directive published 28 Sep 2011 Next: FTT proposal to be discussed in Council of Ministers and Commission to present it to G20 Summit on 3-4 Nov 2011 Implementation: Proposal indicates Member States to implement Directive by 31 Dec 2013 and FTT to come into effect in the EU from Jan 2014
	In parallel, Commission promoting development of an FTT at a global level in the framework of the G20	
Bank Levies (UK, Germany, France and the Netherlands)¹	UK bank levy (to finance general budget) Bank levy rules: Section 73 and Schedule 19 of Finance Act 2011. Collection and management: The Corporation Tax (Instalment Payments) (Amendment) Regulations 2011. Double taxation relief (UK and French bank levies): draft The Bank Levy (Double Taxation Relief) Regulations 2011.	Status: Finance Act 2011 received Royal Assent 19 Jul 2011. Collection regulations laid 21 Jul 2011. Draft double taxation regulations published 1 Jul 2011 – comments were due 15 Jul 2011. Next: Draft double taxation regulations to enter into force. Bank Levy Manual to be finalised. Implementation: Levy applied from 1 Jan 2011. Collection regulations entered into force 11 Aug 2011. Formal review of Finance Act in 2013.
	German bank levy (to finance a restructuring fund)	Status: Bank Restructuring Act published in Federal Law Gazette 14 Dec 2010. Regulation on bank levy adopted on 20 Jul 2011. Implementation: Act applied from 1 Jan 2011. Levy collected for first time on 30 Sep 2011.
	French bank levy (to finance general budget) – based on minimum capital requirements of preceding year	Status: Finance Bill 2011, which includes bank levy provisions, published in Journal Officiel Implementation: Levy applied from 1 Jan 2011 and due by 30 Jun 2011 at latest
	Netherlands bank levy (to finance state guarantees)	Status: Dutch government preparing a legislative proposal Next: Proposal to be issued end-2011? Implementation: Not yet indicated
UK Independent Commission on Banking NEW	UK Commission recommendations for reforms to the UK banking sector Structural reform/financial stability: retail ring-fencing and higher capital requirements Non-structural reform: increased competition in retail banking sector	Status: Final Report and recommendations published 12 Sep 2011 Next: Government to consult on implementation and issue policy response by end-2011 Implementation: Some recommendations might be implemented through Financial Services Bill 2011-2012. Changes to be legislated within current Parliament and complete by 2019, in line with Basel III timeline. Competition requirements to be met by 2015.

¹ Other EU countries that have introduced bank levies: Austria, Belgium, Cyprus, Denmark, Hungary, Latvia, Portugal and Sweden. EU countries in the process of introducing systems of levies and taxes: Ireland, Poland, Slovakia and Slovenia.

3. Too big to fail – institutional structure and crisis management

Development / pre-legislative phase
Legislative / rulemaking phase
Implementation / entry into force

EU Bank Crisis Management and Resolution	Proposal to create EU framework for cross-border crisis management and resolution in banking sector, allowing for bail-ins, establishment of bridge banks and temporary control of banks	<p>Status: Responses to EU Commission's 6 Jan 2011 consultation and overview of results published 5 May 2011</p> <p>Next: Commission to issue legislative proposal on a 'framework for bank recovery and resolution' 15 Nov 2011</p> <p>Implementation: Not yet indicated</p>
Bank Recovery and Resolution Plans (RRPs) and Bank Restructuring (UK, Ireland, the Netherlands, Germany) NEW	UK Financial Services Act 2010 gives FSA powers relating to RRP ('living wills')	<p>Status: HMT published revised code of practice on special resolution regime under Banking Act 2009. FSA consultation paper (CP11/16) published 9 Aug 2011.</p> <p>Next: Responses to FSA consultation due 9 Nov 2011. FSA to issue final rules in a Policy Statement Q1 2012.</p> <p>Implementation: FSA rules come into effect during Q1 2012, but transitional provisions will give firms until Jun 2012 to prepare initial RRP</p>
	Irish government establishing a permanent special resolution regime with legislation to replace the Credit Institutions (Stabilisation) Act 2010, which was introduced as an emergency measure	<p>Status: Central Bank and Credit Institutions (Resolution) Act enacted 20 Oct 2011</p> <p>Implementation: Act will come into force on such day as the Minister may appoint by order (possibly 1 Jan 2013 as 2010 Act powers expire 31 Dec 2012)</p>
	Netherlands Intervention Act to create special resolution and restructuring powers. Ring-fencing will not be required, but banks will need to be made 'ring-fence ready'.	<p>Status: Consultation paper and first draft published 4 Mar 2011 – consultation responses were due 15 Apr 2011. Bill submitted to Dutch parliament 28 Oct 2011.</p> <p>Next: Parliament to consider legislation</p> <p>Implementation: Not yet indicated</p>
	Restructuring of German credit institutions	<p>Status: Bank Restructuring Act published in Federal Law Gazette 14 Dec 2010</p> <p>Implementation: Act applied from 1 Jan 2011</p>
UK Investment Bank Resolution Regime NEW	Special administration UK regime for failing investment firms	<p>Status: 'The Investment Bank Special Administration Regulations 2011', 'The Investment Bank (Amendment of Definition) Order 2011' and 'The Investment Bank Special Administration (England and Wales) Rules 2011' published.</p> <p>Next: HMT to introduce insolvency rules to accompany Regulations late-2011?</p> <p>Implementation: Regulations and Order entered into force 8 Feb 2011. Rules entered into force 30 Jun 2011.</p>

3. Too big to fail – institutional structure and crisis management

Development / pre-legislative phase
Legislative / rulemaking phase
Implementation / entry into force

EU Investor Compensation NEW	EU Commission proposal to amend Investor Compensation Schemes Directive	<p>Status: Proposed amending Directive issued 12 Jul 2010. EU Parliament adopted first reading opinion 5 Jul 2011.</p> <p>Next: Awaiting Council common position – 8 Nov 2011? Second reading to follow.</p> <p>Implementation: Member States to transpose Directive 12 months after it enters into force</p>
EU Deposit Guarantee Schemes	EU Commission proposal to amend Deposit Guarantee Schemes Directive and to further harmonise deposit guarantee schemes	<p>Status: Proposed amending Directive issued 12 Jul 2010. EU Parliament and Council negotiating text.</p> <p>Next: Awaiting first reading agreement between Parliament and Council – 30 Nov 2011?</p> <p>Implementation: Proposal indicates Member States to transpose most measures by 31 Dec 2012</p>
EU Insurance Guarantee Schemes	EU Commission considering legislation to ensure that IGS exist in all Member States and that they comply with a minimum set of design features	<p>Status: EU Commission White Paper published 12 Jul 2010. Responses were due 30 Nov 2010. Summary of responses published 16 Feb 2011.</p> <p>Next: Commission intended to issue legislative proposal Dec 2011, but delayed to 2012</p> <p>Implementation: Not yet specified</p>

4. Markets and infrastructures

EU OTC Derivatives Regulation NEW	Proposed Regulation on Over-the-Counter (OTC) Derivatives, Central Counterparties and Trade Repositories	<p>Status: EU Parliament partial vote at first reading 5 Jul 2011. Council agreed a general approach 4 Oct 2011. Informal triologue negotiations among EU Parliament, Council and Commission taking place.</p> <p>Next: Final agreement before end-2011?</p> <p>Implementation: Regulation enters into force 20 days after publication in OJ. ESMA to submit various binding technical standards to Commission by 30 Jun 2012.</p>
EU Securities Law Directive (SLD)	Harmonisation of law on legal certainty of securities holding and transactions	<p>Status: EU Commission drafting legislation</p> <p>Next: Commission to issue legislative proposal 2012?</p> <p>Implementation: Not yet indicated</p>

4. Markets and infrastructures

	Development / pre-legislative phase
	Legislative / rulemaking phase
	Implementation / entry into force

EU Central Securities Depositories (CSD)	EU Commission preparing legislation (likely a Regulation) as part of its work to regulate European market infrastructures	<p>Status: EU Commission drafting legislation</p> <p>Next: Commission to issue legislative proposal Nov 2011?</p> <p>Implementation: Not yet indicated</p>
EU Close-out Netting Review	EU Commission examining current EU legal framework for close-out netting and implications of proposed EU crisis management framework	<p>Status: EU Commission considering measures</p> <p>Next: Consultation on legislative initiative to allow recognition and enforceability of close-out netting agreements 2012?</p> <p>Implementation: Not yet indicated</p>
EU MiFID Review NEW	EU Commission review of Markets in Financial Instruments Directive (MiFID) to address market regulation and investor protection. Legislative proposal consists of an amending Directive and a new Regulation.	<p>Status: Commission proposal (Directive and Regulation) published 20 Oct 2011</p> <p>Next: EU Parliament and Council to negotiate texts</p> <p>Implementation: Directive – timeline for Member State transposition and ESMA's technical standards (rules) subject to negotiation. Regulation – will apply 24 months after entry into force except for specific articles which will apply immediately following entry into force. Commission FAQs indicate that, once adopted, Directive, Regulation and technical rules will apply together as of the same date.</p>
EU MAD Review NEW	EU Commission review of Market Abuse Directive (MAD) to extend scope and enhance enforcement. Legislative proposal consists of a Regulation to replace the old MAD and create a single, directly applicable EU-wide rulebook for market abuse and a new Directive on criminal sanctions in the financial sector.	<p>Status: Commission proposal (Directive and Regulation) published 20 Oct 2011</p> <p>Next: EU Parliament and Council to negotiate texts</p> <p>Implementation: Directive – Member States to transpose 24 months after entry into force. Regulation – repeals old MAD 24 months after entry into force. Timeline for ESMA technical standards (rules) required by Regulation subject to negotiation.</p>
EU Market Abuse Framework for Energy Market NEW	New EU Regulation on Energy Market Integrity and Transparency (REMIT) imposing EU-wide rules on insider dealing and market manipulation for wholesale electricity and gas markets (including derivatives)	<p>Status: Agreement reached between EU Parliament and Council. EU Parliament adopted regulation at first reading 14 Sep 2011 and Council formally adopted regulation 10 Oct 2011</p> <p>Next: Publication in OJ Nov 2011? Commission to adopt Level 2 implementing acts on scope, content and timing requirements for reports.</p> <p>Implementation: Regulation enters into force 20 days after publication in OJ. Reporting and registration requirements to apply 6 months after Commission adopts implementing acts. Members States will have until 3 months after adoption of implementing acts to establish national registers, and 18 months to adopt penalty regimes for infringements.</p>

4. Markets and infrastructures

	Development / pre-legislative phase
	Legislative / rulemaking phase
	Implementation / entry into force

EU Short Selling Regulation NEW	EU Commission proposed regulation on short selling (including disclosure and restriction on naked short sales) and certain aspects of credit default swaps	<p>Status: EU Commission, Parliament and Council reached agreement 18 Oct 2011</p> <p>Next: Formal approval by EU Parliament Nov 2011. Formal approval by Council to follow. Publication in OJ by 1 Jan 2012? Commission to issue delegated acts and ESMA to issue technical standards (rules) in 2012.</p> <p>Implementation: Short selling regime to apply from Nov 2012</p>
German Short Selling Regulation	Regulation on short selling, including prohibition of naked short selling and disclosure and restriction on covered short sales. Regulation detailing reporting requirements in relation to short selling.	<p>Status: BaFin transparency requirements extended to 25 Mar 2012</p> <p>Implementation: New law entered into force 27 Jul 2010. Regulation on reporting requirements entered into force 16 Apr 2011.</p>
German Compliance Register Act	Requirement to register for chief compliance officers, sales people responsible and investment adviser employees	<p>Status: Act published in Federal Law Gazette</p> <p>Next: Transitional provisions for registration requirements – up to 18 months</p> <p>Implementation: Entered into force 8 Apr 2011</p>
EU Regulation on Credit Rating Agencies (CRAs)	CRA 2 – Amendment to Regulation on CRAs transferring supervision of CRAs to ESMA	<p>Status: Amending regulation published in OJ 31 May 2011</p> <p>Implementation: Effective from 1 Jan 2011. Regulation entered into force 1 Jun 2011 (day following publication in OJ).</p>
	CRA 3 – Further amendments to Regulation on CRAs to reduce over-reliance on ratings, address potential conflicts of interest due to the ‘issuer-pays’ model, increase competition, and possibly introduce civil liability	<p>Status: EU Commission consultation closed – responses were due 7 Jan 2011. EU Parliament voted on 8 Jun 2011 in favour of Wolf Klinz’s own-initiative-report which advocated increased disclosure, enhanced liability and setting up an independent European rating foundation.</p> <p>Next: Commission to issue legislative proposal 15 Nov 2011?</p> <p>Implementation: Not yet indicated</p>
EU Commodity Markets and Raw Materials	EU Commission developing proposals on the regulation, functioning and transparency of financial and commodity markets. Commission taking steps to implement the Raw Materials Initiative which it adopted in 2008.	<p>Status: EU Commission Communication published 2 Feb 2011. Commission conference on commodities and raw materials held 14 Jun 2011.</p> <p>Next: Commission was expected to present legislative proposal, including obligation for companies to publish information about their activities, Q4 2011 – publication postponed to 2012?</p> <p>Implementation: Not yet indicated</p>
EU Prospectus Directive (PD)	EU Commission conducting scheduled review of application of PD	<p>Status: Amending Directive finalised and published in OJ. Entered into force 31 Dec 2010.</p> <p>Implementation: Member States have 18 months to transpose – until 1 Jul 2012</p>

4. Markets and infrastructures

	Development / pre-legislative phase
	Legislative / rulemaking phase
	Implementation / entry into force

EU Transparency Directive (TD) Review NEW	<p>EU Commission reviewing Transparency Directive and introducing changes as part of its 'Responsible Lending Initiative' package of measures</p> <p>Proposal to require disclosure of major holdings, to abolish requirement to publish quarterly financial information, and to broaden definition of financial instrument</p>	<p>Status: EU Commission published proposed amending Directive 25 Oct 2011</p> <p>Next: EU Parliament and Council to negotiate text</p> <p>Implementation: Not yet indicated</p>
EU Accounting Directives Review NEW	<p>EU Commission proposing amendments to Directives on the annual and consolidated financial statements of limited liability companies in Europe as part of its 'Responsible Lending Initiative' package of measures. Includes all companies which are listed on EU regulated markets even if they are registered in a third country.</p> <p>New obligations for large extractive and logging companies to report the payments they make to governments ('Country-by-country reporting' requirements)</p>	<p>Status: EU Commission published proposed amending Directive 25 Oct 2011</p> <p>Next: EU Parliament and Council to negotiate text</p> <p>Implementation: Member States to transpose Directive by 1 Jul 2014</p>
Netherlands Disclosure Rules	<p>New disclosure rules for cash settled derivatives relating to listed companies</p>	<p>Status: Legislative proposal being considered in lower house of Dutch parliament</p> <p>Next: Legislative proposal to be considered by Senate (Eerste Kamer)</p> <p>Implementation: Likely to enter into force Jan 2012</p>

5. Funds, investment management and retail

EU AIFM Directive NEW	<p>Directive to regulate managers of alternative investment funds (AIFs), including hedge funds and private equity firms</p> <p>EU Commission preparing separate legislative proposal (UCITS V) to align UCITS Directive with AIFM Directive</p>	<p>Status: Directive published in OJ 1 Jul and entered into force 21 Jul 2011. ESMA preparing draft technical advice which will form basis of Commission's implementing legislation. ESMA held two consultations on technical advice (13 Jul consultation closed 13 Sep; 23 Aug consultation closed 23 Sep 2011).</p> <p>Next: ESMA to report to Commission on technical advice by 16 Nov 2011. Commission to publish draft Level 2 implementing legislation Mar/Apr 2012? and issue final Level 2 legislation Jul 2012? ESMA to issue draft binding technical standards (rules) for Commission's approval – timeline not yet specified.</p> <p>Implementation: Member States to transpose into national law by 22 Jul 2013</p>
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5. Funds, investment management and retail

	Development / pre-legislative phase
	Legislative / rulemaking phase
	Implementation / entry into force

EU UCITS V	EU Commission reviewing framework applicable to Undertakings for Collective Investment in Transferable Securities (UCITS) depositaries regime to align with AIFM Directive and planning to introduce new provisions on remuneration of UCITS managers	<p>Status: EU Commission feedback statement issued in Feb 2011 in response to Dec 2010 consultation</p> <p>Next: Commission to issue legislative proposal Feb 2012?</p> <p>Implementation: Not yet indicated</p>
EU PRIPs (Packaged Retail Investment Products) Regime NEW	EU Commission aiming to harmonise disclosure and distribution rules for PRIPs. Disclosure rules to be addressed through new PRIPs legislation. Distribution rules to be addressed through MiFID Review and IMD Review.	<p>Status: Responses to EU Commission consultation on possible legislative steps were due 31 Jan 2011. MiFID Review Directive (distribution rules) issued 20 Oct 2011.</p> <p>Next: Commission to issue PRIPs legislative proposal (disclosure rules) Feb 2012? IMD Review legislative proposal (distribution rules) expected Feb 2012?</p> <p>Implementation: Not yet indicated</p>
EU Venture Capital Regime	EU Commission examining options for creation of an internal market for venture capital funds. Legislative proposal could include a European passport that would be made available to venture capital funds to raise capital throughout the EU from professional investors.	<p>Status: Responses to 15 Jun 2011 EU Commission consultation paper were due 10 Aug 2011</p> <p>Next: Commission to issue legislative proposal 30 Nov 2011?</p> <p>Implementation: Not yet indicated</p>
German Regulation on Investments in Assets NEW	Extension of definition of financial instruments to include 'grey' capital market instruments (such as closed-end funds) and application of MiFID distribution standards to those products. Intermediaries marketing closed-ended and open-ended funds to be subject to conduct of business requirements similar to investment firms.	<p>Status: Adopted by German Parliament (Bundestag) on 27 October 2011</p> <p>Next: German Parliament's second chamber (Bundesrat) to decide on draft act</p> <p>Implementation: Q1 2012?</p>
EU Insurance Mediation Directive (IMD) Review	EU Commission examining current functioning of, and considering possible changes to, IMD. PRIPs distribution rules to be addressed within revised IMD.	<p>Status: Status: Responses to EU Commission's Nov 2010 consultation were due 28 Feb 2011</p> <p>Next: Commission to issue legislative proposal Feb 2012?</p> <p>Implementation: Not yet indicated</p>
EU Single Mortgage Market ²	EU Commission aiming to create a single, integrated mortgage market and to encourage responsible mortgage lending and borrowing	<p>Status: EU Commission published proposal for a Directive, impact assessment, and working paper on national measures and practices to avoid foreclosure procedures on 31 Mar 2011</p> <p>Next: EU Parliament and Council negotiating legislation – final agreement Feb 2012?</p> <p>Implementation: Member States to transpose Directive within 2 years after entry into force</p>

² EU Single Market Act Initiative (October 2010)

5. Funds, investment management and retail

Development / pre-legislative phase
Legislative / rulemaking phase
Implementation / entry into force

EU Access to Basic Banking Services² NEW	EU Commission objective that all EU citizens/residents have right to basic banking services, including minimum electronic payment facilities Commission has issued a Recommendation, rather than a legislative initiative, as originally expected	Status: EU Commission consultation closed and summary of responses published 25 Jan 2011. Commission adopted a Recommendation on 18 Jul 2011. Next: Commission will review situation in one year's time and may propose binding measures, if necessary Implementation: Member States invited to apply Recommendation at the latest 6 months after publication – Jan 2012
EU Bank Charges²	EU Commission objective to improve transparency and comparability of bank charges	Status/Next: EU Commission announced launch of self-regulatory initiative Implementation: End-2011?
UK Client Assets Regime NEW	FSA review of UK client assets regime: CP11/15 proposes – (1) changes to rules on taking of certain liens or rights over omnibus client accounts; (2) changes in rules on liens or rights over assets held in overseas jurisdictions; (3) prohibiting use of title transfer collateral arrangements (TTCAs) in relation to rolling spot forex contracts offered to retail clients CP 11/16 – proposed requirement for firms to have resolution and recovery plans (RRPs) in relation to their investment client money and custody assets (CMA) holdings	Status: CP11/15 issued 29 Jul – responses to proposal (3) were due 29 Aug and to proposals (1) and (2) 28 Oct 2011. CP11/16 issued 9 Aug 2011. Next: Responses to CP11/16 due 9 Nov 2011. In Q1 2012 FSA to issue Policy Statements relating to CP11/15 proposals on taking liens over omnibus accounts and over assets overseas, and relating to CP11/16 proposal on RRP. Implementation: CP 11/15 rules relating to proposal (3) entered into force 1 Oct 2011 and rules relating to proposals (1) and (2) enter into force 1 Apr 2012. CP11/16 rules on RRP come into effect during Q1 2012, but transitional provisions will give firms until Jun 2012 to prepare initial RRP.
UK Retail Distribution Review (RDR) NEW	FSA review of UK retail investment market, launched in 2006, aimed at ending commission fee bias. The new framework will apply to all advisers in the retail investment market, regardless of the type of firm for which they work.	Status: Consultation Paper on potential accredited bodies (CP11/11) issued 6 Jun – responses were due 6 Jul 2011. Treasury Committee report issued 16 Jul 2011 recommending one-year delay to implementation. Policy Statement setting out final rules on platforms (PS11/9) issued 1 Aug 2011. Guidance Consultation on RDR road show FAQs (GC11/20) issued 25 Aug – responses were due 22 Sept 2011. Guidance Consultation on simplified advice (GC11/22) issued 15 Sep 2011. Next: Responses to GC11/22 due 15 Nov. Policy Statements to be issued in relation to consultation on product disclosure and changes to reflect RDR Adviser Charging and to improve pension scheme disclosure (CP 11/3), and to consultation on data collection through Retail Mediation Activities Return (RMAR) and complaints system (CP11/8). Implementation: Firms required to notify FSA of competence issues with advisors from Jul 2011. RDR requirements currently due to be effective from 31 Dec 2012.
Netherlands Inducement Ban	Dutch Finance Minister aiming to ban inducements in respect of all investment services	Status: Finance Minister hoping to introduce a ban through the MiFID Review Next: If a ban is not ultimately included in MiFID, a national proposal may be published Implementation: Not yet indicated

6. Other

	Development / pre-legislative phase
	Legislative / rulemaking phase
	Implementation / entry into force

EU Corporate Governance in Financial Institutions NEW	<p>EU Commission review of corporate governance in financial institutions, including functioning and composition of boards, risk management, remuneration policies, shareholder involvement, and supervision</p> <p>Proposals have been introduced in sectoral legislation – CRD 4 package (proposed Directive) and MiFID Review (proposed Directive)</p>	<p>Status: Feedback statement on Jun 2010 EU Commission Green Paper consultation published on 12 Nov 2010. CRD 4 proposal issued 20 Jul 2011. MiFID Review proposal issued 20 Oct 2011.</p> <p>Next: EU Parliament and Council negotiating CRD 4 and MiFID Review proposals</p> <p>Implementation: Member States to apply CRD 4 provisions from 1 Jan 2013. MiFID 2 Directive transposition timeline subject to negotiation.</p>
EU Corporate Governance Framework	<p>EU Commission review of corporate governance, including an examination of board functioning and composition, shareholder involvement and the comply-or-explain principle</p>	<p>Status: Responses to 5 Apr 2011 EU Commission Green Paper consultation were due 22 Jul 2011</p> <p>Next: Commission feedback statement to be issued Q4 2011. Parliament opinion on Green Paper to be adopted Mar 2012?</p> <p>Implementation: Not yet indicated</p>
EU Audit Initiative	<p>EU Commission examining role of audit firms and environment in which audits are conducted, weaknesses in audit sector, and whether role of auditors can be enhanced to mitigate financial risk</p>	<p>Status: Responses to 13 Oct 2010 EU Commission Green Paper were due 8 Dec 2010. Responses published 4 Feb 2011. Conference held 9-10 Feb 2011.</p> <p>Next: Commission to issue legislative proposal Nov 2011?</p> <p>Implementation: Not yet indicated</p>
EU Collective Redress	<p>Longstanding EU Commission debate about introduction of collective redress system in Europe. Commission seeking to identify common legal principles on collective redress to develop a European framework.</p>	<p>Status: Responses to 4 Feb 2011 EU Commission consultation were due 30 Apr 2011. Hearing held 5 Apr 2011. EU Parliament drafting own-initiative report in response to consultation.</p> <p>Next: Commission to issue Communication to present ‘general principles’ and ‘future policy lines’ Q4 2011? EU Parliament to adopt own-initiative report in Feb 2012.</p> <p>Implementation: Not yet indicated</p>
EU Contract Law NEW	<p>EU Commission has proposed an optional ‘Common European Sales Law’ to sit alongside existing national laws. Commission aiming to harmonise contract laws across Europe for cross-border transactions.</p>	<p>Status: EU Commission proposed a Regulation on 11 Oct 2011</p> <p>Next: EU Parliament and Council to negotiate text</p> <p>Implementation: Optional Common European Sales Law to apply from 6 months after Regulation enters into force</p>
EU Asset Freezing NEW	<p>EU Commission has proposed a Regulation creating a ‘European Account Preservation Order’ to facilitate cross-border debt recovery</p>	<p>Status: EU Commission issued proposed Regulation 25 Jul 2011</p> <p>Next: EU Parliament and Council to negotiate text</p> <p>Implementation: Regulation to apply 24 months after entry into force</p>

6. Other

	Development / pre-legislative phase
	Legislative / rulemaking phase
	Implementation / entry into force

EU Consumer Rights Directive NEW	Directive which merges four existing EU consumer directives into one set of rules, and updates and modernises existing consumer rights. The Directive does not apply to contracts for financial services.	Status: EU Parliament approved Directive on 23 Jun 2011. Council formally adopted Directive on 10 Oct 2011. Next: Publication in OJ Implementation: Member States to transpose Directive within 2 years after entry into force and apply measures within 30 months after entry into force
EU Savings Taxation Directive Review	EU Commission reviewing Savings Taxation Directive to better ensure the taxation of interest payments which are channelled through intermediate tax-exempted structures, and to enlarge scope of the Directive to include all savings income, as well as products that generate interest or equivalent income	Status: EU Commission published proposal for an amending directive on 13 Nov 2008 Next: Discussions ongoing at Council Implementation: Not yet indicated
Single Euro Payments (SEPA)	EU Commission aiming to set SEPA migration end date (SMED). EU Parliament and Council determining actual end date.	Status: EU Commission proposed regulation on SEPA migration end-dates on 16 Dec 2010 Next: EU Parliament and Council negotiating text – final agreement Jan 2012? Implementation: End-2012 for credit transfers and end-2013 for direct debits? Being negotiated.
EU Card, Internet and Mobile Payments NEW	EU Commission aiming to integrate European market for card, internet and mobile payments, and to address competition issues	Status: EU Commission considering measures Next: Green Paper consultation to be published 7 Dec 2011. Feedback on Green Paper to be accepted. EU Parliament to issue opinion. Implementation: Not yet indicated
EU Target2-Securities	ECB operated platform for cross-border securities settlement	Status: Development phase Next: Framework agreement to be adopted by ECB Governing Council Implementation: Operational by Jun 2015?
EU Data Protection Framework NEW	EU Commission review of legal framework on the protection of personal data in the EU	Status: EU Commission drafting legislation Next: Commission to propose amending Directive Dec 2011? Implementation: Not yet indicated

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