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additional years

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EBA reports on regulatory frameworks, regulatory status and authorisation approaches applicable to fintech activities

The European Banking Authority (EBA) has published a report on the regulatory framework applicable to fintech firms when accessing the market. The report sets out the EBA's findings from an analysis of national developments on the regulatory perimeter for fintech activities and services, the national regulatory status of fintech firms and the authorisation approaches of national competent authorities (NCAs) under the current EU legal framework.

Key findings of the report include:

- there is little national legislative activity impacting the regulatory perimeter of NCAs under the EBA's remit;
- certain activities by fintech firms, such as payment initiation services and account information services, now fall under regulatory regimes due to the transposition of PSD2;
- ancillary or non-financial services provided by fintech firms remain outside of regulatory regimes, with the exception of those related to crowdfunding and, to some extent, cryptoassets; and
- principles of proportionality and flexibility during the authorisation process are applied in the same way irrespective of whether the applicant is a traditional or fintech firm.

In light of these findings the EBA intends to continue observing activities in the market but does not feel it is necessary to make any specific recommendations at this time. It does note, however, that additional work could be carried out on the special regime under CRD5 which allows institutions with a capital lower than EUR 1 million to be authorised as a credit institution, and the application of this regime to fintech firms.

MMF Regulation: ESMA issues guidelines on reporting to competent authorities

The European Securities and Markets Authority (ESMA) has issued its final report on guidelines on reporting to competent authorities under Article 37 of the Money Market Funds (MMF) Regulation.

In November 2017 ESMA finalised draft implementing technical standards (ITS) establishing a reporting template containing all the information MMF managers must send to the competent authority of the MMF.

Following the publication of the ITS, ESMA worked on the accompanying guidelines and IT guidance that will complement the information in the ITS so that managers can include all the necessary information in the reporting template. ESMA has confirmed that managers must send their first quarterly reports in Q1 2020.

Following the publication of its guidelines on MMF reporting and on MMF stress tests, ESMA will now work to finalise the corresponding IT specifications. The guidelines will apply two months after their publication on ESMA's website in all official EU languages.

MiFID2: ESMA consults on updating compliance function guidelines

ESMA has published a consultation on draft guidelines on certain aspects of the MiFID2 compliance function requirements.

Building on the current guidelines issued in 2012, the proposed draft guidelines aim to:

- reflect the strengthening and enhancement of the function under MiFID2;
- take into account the results of NCAs' supervisory activities on the implementation of the compliance function requirements; and
- provide additional detail on some aspects covered under the 2012 guidelines.

The consultation closes on 15 October 2019. ESMA intends to publish a final report in Q2 2020.

UCITS: ESMA consults on guidelines for performance fees

ESMA has launched a consultation on draft guidelines on performance fees under the Undertakings for Collective Investments in Transferable Securities (UCITS) Directive. The guidelines aim to harmonise how performance fees can be charged to the UCITS and its investors while ensuring common standards of disclosure.

At the beginning of 2018, ESMA conducted a mapping exercise among NCAs analysing the current practices in different Member States in relation to some aspects of performance fees. ESMA found a lack of harmonisation among EU jurisdictions and decided to carry out further convergence work, leading to the development of the consultation paper.

ESMA's draft guidelines set out common criteria promoting supervisory convergence on the following areas:

- general principles on performance fee calculation methods;
- consistency between the performance fee model and the fund's investment objectives, strategy and policy;
- frequency for the crystallisation of the performance fee;
- the circumstances where a performance fee should be payable; and
- disclosure of performance fee model.

Responses to the consultation are due by 31 October 2019.

ESMA advises on credit rating sustainability issues and sets disclosure requirements

ESMA has published its technical advice to the EU Commission on sustainability considerations in the credit rating market and its final guidelines on disclosure requirements applicable to credit ratings.

ESMA has assessed the level of consideration of Environmental, Social and Governance (ESG) factors in both specific credit rating actions, and the credit rating market in general. It found that, while credit rating agencies (CRAs) are considering ESG factors in their ratings, the extent of their consideration can vary significantly across asset classes, according to each CRA's methodology.

However, ESMA takes the view that given the specific role that credit ratings have in the EU regulatory framework for the purposes of assessing credit risk, it would be inadvisable to amend the CRA Regulation to explicitly mandate the consideration of sustainability characteristics in all rating assessments. In its technical advice, ESMA proposes that the EU Commission assesses whether there are sufficient regulatory safeguards in place for other products that will meet the demand for pure sustainability assessments.

ESMA has also published its final guidelines on disclosure requirements for credit ratings, which:

- provide detailed guidance as to what CRAs should disclose when they issue a credit rating, with the aim of ensuring better consistency in terms of the critical information included in CRAs' press releases; and
- require greater transparency around whether ESG factors were a key driver of the credit rating action, so that users of ratings can better assess where ESG factors are affecting credit rating actions.

FSB adjusts implementation timelines for SFT recommendations

The Financial Stability Board (FSB) has adjusted the implementation timeline of some its recommendations on securities financing transactions (SFTs) relating to minimum haircut standards for non-centrally cleared SFTs.

The FSB has observed delays by member jurisdictions to the implementation of policy recommendations set out in its November 2015 report on a regulatory framework for haircuts on non-centrally cleared SFTs. These delays are related mainly to the new January 2022 implementation deadline for minimum haircut standards on bank-to-non-bank SFTs into banking regulation as part of the Basel III framework.

As a result, the FSB has decided to delay the implementation timelines for some its recommendations related to minimum haircuts standards. The recommendations cover:

- improvements to regulatory reporting and market transparency of SFTs (Recommendations 1-5);
- regulation of SFTs (Recommendations 6-9 and 12-18); and
- structural aspects of SFT markets (Recommendations 10-11.

The implementation timelines for other recommendations remain unchanged. The FSB has published updated annexes to its November 2015 report showing the amended timelines on its website.

IOSCO issues statement on liquidity risk recommendations for investment funds

The International Organization of Securities Commissions (IOSCO) has issued a statement on its February 2018 Liquidity Risk Management Recommendations, which were issued following a public consultation.

In July 2019, the Bank of England's (BoE) Financial Policy Committee (FPC) published its Financial Stability Report discussing potential mismatches between the liquidity of fund assets and redemption terms offered to investors by funds.

The FPC's report asserts that, while it supported the Financial Stability Board's (FSB) 2017 recommendation that funds' assets and investment strategies be consistent with redemptions terms, IOSCO's February 2018 recommendations did not set out how this should be achieved.

IOSCO's statement sets out why it believes its recommendations provide a comprehensive framework for regulators to manage liquidity risks in investment funds.

IOSCO advises that domestic securities regulators are expected to ensure its 2018 recommendations have been implemented. In 2020 IOSCO intends to assess how its recommendations have been implemented in practice.

Brexit: SIs under the EU (Withdrawal) Act for 15 – 19 July 2019

HM Government published new draft statutory instruments (SIs) under the EU (Withdrawal) Act 2018 last week.

The draft Financial Services (Miscellaneous) (Amendment) (EU Exit) (No. 3) Regulations 2019 were laid before Parliament, amending the:

- Criminal Justice Act 1993;
- Insider Dealing (Securities and Regulated Markets) Order 1994;
- Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017;
- Data Reporting Services Regulations 2017;
- Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019;
- Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc.) (EU Exit) Regulations 2019;
- Financial Regulators' Powers (Technical Standards etc.) (Amendment) (EU Exit) Regulations 2018;
- Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018;
- Money Market Funds (Amendment) (EU Exit) Regulations 2019;
- Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019;
- Securitisation (Amendment) (EU Exit) Regulations 2019;
- Public Record, Disclosure of Information and Cooperation (Financial Services) (Amendment) (EU Exit) Regulations 2019;

- Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019; and
- Commission Implementing Decision (EU) 2019/541 on Singapore equivalence for MiFIR derivatives trading obligation.

The draft SI also revokes Commission Delegated Regulation (EU) 2019/360 on ESMA registration fees for trade repositories.

The draft Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 were also laid, amending the:

- Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019;
- Accounts and Reports (Amendment) (EU Exit) Regulations 2019; and
- International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019.

The draft SI also updates the list of revocations of directly applicable EU legislation concerning international accounting standards in Schedule 2 to the Accounting Standards SI.

For information on all draft SIs under the EU (Withdrawal) Act, visit www.gov.uk and www.legislation.gov.uk.

FCA launches survey on data collection and replacement of Gabriel

The Financial Conduct Authority (FCA) has launched a survey on a new platform to replace Gabriel and to improve the way the FCA collects data from firms.

Gabriel is the FCA's main regulatory data collection system, facilitating the collection of over 500,000 submissions annually, across 120,000 users and 52,000 firms.

The FCA wants to implement an easy-to-use system so that data can be submitted efficiently and through a system that can be adapted to the FCA's changing needs. The introduction of a new data collection platform will support the FCA's Digital Regulatory Reporting work, which explores how technology can make it easier for firms to meet their regulatory reporting requirements and improve the quality of information they provide.

Along with the survey, the FCA intends to run a programme of events and activities to capture more feedback and to test the new platform. The FCA plans to publish feedback received to this survey later in 2019.

FCA Chief Executive discusses preparation for the end of LIBOR

Andrew Bailey, the Chief Executive of the FCA, has given a speech on preparation for the end of LIBOR.

Mr. Bailey gave an update on the progress made on transitioning away from LIBOR to risk-free rates (RFRs) such as the Secured Overnight Financing Rate (SOFR) and Sterling Overnight Index Average (SONIA).

In particular, Mr. Bailey discussed:

- the progress made across derivatives and securities markets, noting that transition in loan markets is a key next step;
- the benefits to borrowers of the move to risk-free interest rate benchmarks; and
- the expectation that LIBOR panels will dwindle or disappear after end-2021, adding that firms should reduce the stock of 'legacy' LIBOR contracts and be able to run their business without LIBOR from this date.

Mr. Bailey reported that the Loan Market Association (LMA) and the Loan Syndications and Trading Association (LSTA) are progressing on developing new standardised documentation for syndicated loans referencing overnight RFRs, and that delivery of that documentation and its use in loan markets will be key next steps in preparing for the end of LIBOR.

PRA consults on reciprocation of French large exposures measures

The Prudential Regulation Authority (PRA) has published a consultation paper (CP15/19) setting out its proposal to apply a tighter limit for large exposures (LE) to certain French non-financial corporations (NFCs), to reciprocate the same measure imposed by the Haut Conseil de stabilité financière (HCSF) in France. The proposal is in accordance with the European Systemic Risk Board (ESRB)'s recommendation of European Economic Area (EEA)-wide reciprocation of the French measure and with HM Treasury's decision to reciprocate under Article 458(5) of the Capital Requirements Regulation (575/2013/EU) (CRR).

The HCSF measure lowers the LE limit for French G-SIIs and French O-SIIs in respect of their exposures to French NFCs that are 'highly indebted'. 'Highly-indebted' is defined as having both a leverage ratio greater than 100%, and a ratio of earnings before interest and taxation to interest payment of below three, calculated at the highest level of group consolidation. The new limit for these exposures is 5% of the institution's eligible capital.

The proposed measure applies on a consolidated basis to firms identified by the PRA as global systemically important institutions (G-SIIs) and other systemically important institutions (O-SIIs) under the Capital Requirements Directive (2013/36/EU) (CRD), as implemented in the Capital Requirements (Capital Buffers and Macro-prudential measures) Regulations 2014.

The planned implementation date for the proposal is 1 January 2020 and comments are due by 6 September 2019.

BaFin consults on amendment of Financial and Risk-Bearing Capacity Information Regulation

The German Federal Financial Supervisory Authority (BaFin) has launched a consultation on a draft ordinance amending the Financial and Risk-Bearing Capacity Information Regulation (Finanz- und Risikotragfähigkeitsinformationenverordnung, FinaRisikoV).

In particular, the amendment is intended to implement two sets of EBA guidelines. The national implementation of the EBA guidelines on ICAAP and ILAAP information collected for SREP purposes (EBA/GL/2016/10) requires two new reporting forms to be included in the FinaRisikoV. Information on

multi-year capital planning as an element of institutions' internal capital adequacy process (ICAAP) has so far not been collected through a uniform reporting system. The same applies to the Internal Liquidity Adequacy Assessment Process (LAAP). In addition, the implementation of the EBA guidelines on the management of interest rate risks in the banking book (EBA/GL/2018/02) requires the collection of further information on interest rate shock scenarios not provided for in the previous reporting forms.

BaFin is also taking this opportunity to harmonise the remittance reference dates for risk-bearing capacity information and to make further changes designed to improve the efficiency of the reporting process.

BaFin will accept written comments until 31 August 2019.

MiFID2: BaFin adopts ESMA guidelines on application of definitions in C6 and C7 of Annex 1

ESMA has published the German version of its guidelines on the application of C6 and C7 of Annex 1 of MiFID2 (ESMA-70-156-869). BaFin will adopt these guidelines into its supervisory practice.

The purpose of the guidelines is to ensure a common, uniform and consistent understanding of the concept of financial instruments. The new guidelines are an update to the guidelines originally adopted by ESMA under MiFID1 and have been adapted to the new MiFID2 regulatory framework without any change to the substance.

Payment Accounts Directive: Bank of Italy publishes new resolution

A new Bank of Italy resolution has been published in the Official Gazette (No. 156 dated 5 July 2019). The resolution, dated 18 June 2019, sets out provisions on the transparency of banking and financial transactions and services and on the relationships between intermediaries and customers and is intended to fully implement the Payment Accounts Directive 2014/92/EU (PAD) and Chapter II-ter, Title VI, of Legislative Decree no. 385/1993 (Italian Banking Act). These amendments, which integrate and supplement the Bank of Italy regulation on transparency dated 29 July 2009, will apply from 1 January 2020.

Law introducing new sanction powers for CSSF and CAA regarding EuVECA, EuSEF, ELTIF, MMF and Securitisation Regulations and specific amendments to RAIF Law published

The Luxembourg law of 16 July 2019 implementing the EuVECA Regulation, EuSEF Regulation, ELTIF Regulation, Money Market Funds Regulation and Securitisation Regulation, and amending the Luxembourg law of 23 July 2016 on reserved alternative investment funds (RAIF Law) and the Luxembourg law of 5 April 1993 on the financial sector, has been published in the Luxembourg Official Journal.

The initial purpose of the law is to make the EuVECA Regulation, EuSEF Regulation, ELTIF Regulation, Money Market Funds Regulation and Securitisation Regulation operational in Luxembourg. In this respect, the law provides for (i) the appointment of the Luxembourg supervisory authority of the financial sector (CSSF) and the Luxembourg supervisory authority of the

insurance sector (CAA) as the competent authorities to ensure compliance with the above EU regulations in Luxembourg, and (ii) the necessary control and investigation powers of the CSSF/CAA for the exercise of their respective competences within the framework of the above EU regulations. In particular, the law specifies a set of sanctions and penalties that may be applied by the CSSF/CAA for certain breaches of the EuVECA Regulation, EuSEF Regulation, ELTIF Regulation, Money Market Funds Regulation and Securitisation Regulation, including without limitation pecuniary fines for both natural and legal persons and the publication of the imposed sanctions on the CSSF/CAA websites.

In addition, the law also introduces amendments to the RAIF Law in relation to RAIFs set up under the contractual form of a mutual fund or 'FCP'.

Brexit: CSSF issues press release on mandatory notification for UK firms

The CSSF has issued a press release providing further guidance on the temporary permissions regime and the process for authorisations for UK firms (currently authorised and passported under CRD, MiFID2, PSD2 or EMD in the UK) in the event of a no-deal Brexit. The CSSF distinguishes between existing activities and new contracts entered into after the no-deal Brexit date.

Existing activities are covered by the law of 8 April 2019 on Brexit allowing the CSSF to take temporary measures to ensure the orderly functioning and stability of the financial markets by allowing currently passported UK firms to continue to provide services in respect of existing contracts and closely-related contracts after the date of a no-deal Brexit. The press release confirms that:

- the transitional period will apply for twelve months following the date of a no-deal Brexit; and
- UK firms that are planning to continue to service existing contracts in Luxembourg under the transitional regime will be required to notify such intention via a dedicated notification portal on the CSSF website by no later than 15 September 2019. The dedicated notification portal will be opened in the coming weeks and the CSSF will inform the public of the date of availability.

The CSSF will assess each notification received with respect to the existence of the passporting rights and the information provided on the activities and inform the firms individually as to whether they can benefit from the transitional regime or not.

UK firms intending to continue their business and conclude new contracts in Luxembourg following a no-deal Brexit are being requested to apply for required authorisations as soon as possible. The CSSF notes that authorisation procedures can take up to twelve months and that in the event of a no-deal Brexit a UK firm not holding the necessary authorisation will be required to cease its business as of the date of the no-deal Brexit.

Brexit: CSSF issues press release on mandatory notification for UCIs and their managers

The CSSF has issued a press release concerning the mandatory notification and the subsequent corresponding application for authorisation or corresponding notification/information on actions taken, to be complied with by

undertakings for collective investment (UCIs) and their managers established in the UK and currently authorised under the UCITS Directive and/or the AIFMD (i.e. UK UCITS ManCos and/or UK AIFMs) in the event of a no-deal Brexit.

The press release notes that, in this scenario, UK UCIs and UK UCITS ManCos/AIFMs will be considered 'third-country entities' from an EU perspective and will lose the benefit of their passporting rights under the UCITS Directive and/or AIFMD. The CSSF also notes that the Luxembourg legislator adopted two laws on 8 April 2018 (Brexit Laws) to address certain potential consequences of such an exit in relation to the UCI sector. The Brexit Laws provide, in particular, for the possibility for UK UCIs and UK UCITS ManCos/AIFMs to benefit, under certain conditions and subject to the CSSF's approval as the case may be, of a temporary transitional period following the date of a no-deal Brexit during which they may continue to use their current passporting rights under the UCITS Directive and/or AIFMD to access the Luxembourg market.

In this context, the CSSF has decided to set the temporary transitional period to twelve months following the date of a no-deal Brexit, and require that UCIs and UK UCITS ManCos/AIFMs that will be affected by a loss of their current UCITS and/or AIFMD passporting rights:

- notify the CSSF by 15 September 2019 at the latest of their intention and way forward to continue providing services in Luxembourg in case of a no-deal Brexit, such notification to be done via a dedicated notification portal to be opened on the CSSF website in the coming weeks (further information in this respect will be communicated in due course by the CSSF); and
- submit to the CSSF as soon as possible but no later than 31 October 2019 the subsequent corresponding application for authorisation or, as the case may be, the corresponding notification or information regarding the actions taken to address the loss of their passporting rights (the scope of the relevant submission depending on the nature of the activities that the affected entities intend to pursue after a no-deal Brexit and/or on the steps undertaken).

FSC to resume procedures to approve additional digital banks in Korea

The Financial Services Commission (FSC) has announced its plan to resume a new round of procedures for granting preliminary approval for additional digital banks in Korea.

In early 2019, the FSC intended to approve one or two additional digital banks under the Special Act on Online-only Banks, which allows non-financial companies to own a 34% stake in an online-only bank. However, no preliminary approval was granted to the applicants due to non-fulfilment of the evaluation committee's standards. In order to ensure more effective evaluations, the FSC has decided to make some operational changes in the procedures from application to operation of the evaluation committee. Under the procedural improvements:

- the Financial Supervisory Service will consult with applicants throughout the entire application process to help keep them informed;

- if necessary, the chairman of the evaluation committee will attend the FSC meetings to explain the evaluation criteria so that the FSC commissioners can have in-depth discussions on and review the committee's evaluation results; and
- applicants will be given enough opportunities to express their opinions during the evaluation committee's evaluation process.

The FSC has indicated that it plans to receive applications for granting preliminary approval for an internet-only bank from 10 October to 15 October 2019, and the announcement of preliminary approval will be made within 60 days of the date of application. It has also indicated that the announcement of official approval will be made within one month of the date of application for official approval.

MAS publishes guidelines on provision of financial advisory services

The Monetary Authority of Singapore (MAS) has published the final guidelines on provision of financial advisory services, as well as its responses to feedback received on its June 2018 consultation paper on the same.

The guidelines seek to provide greater clarity on what constitutes the provision of financial advisory services under the Financial Advisers Act (FAA), and set out a two-stage test to assess if a person is carrying on a business of providing financial advisory services and hence subject to regulation under the FAA.

The first stage involves determining whether the activity in question amounts to providing financial advice. The second stage involves determining whether the person is carrying on a business in such activity.

The guidelines also set out the MAS' position on the specific activities of (i) distribution or reproduction of research reports and (ii) portfolio allocation advice, and contain a flowchart illustrating how the guidelines should be applied when assessing a communication.

Federal bank regulatory agencies extend no-action relief previously granted to certain foreign excluded funds under Volcker Rule for two additional years

The Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency have issued a statement indicating that they would not take action during the two-year period ending 21 July 2021 against a foreign banking entity based on attribution of the activities and investments of a qualifying 'foreign excluded fund' (i.e., a fund that is organized and offered outside the United States and that is excluded from the definition of a 'covered fund' under the Volcker Rule) to the foreign banking entity, or against a qualifying foreign excluded fund as a banking entity, in each case where the foreign banking entity's acquisition or retention of any ownership interest in, or sponsorship of, the qualifying foreign excluded fund would meet the requirements for permitted covered fund activities and investments solely outside the United States, as provided in section 13(d)(1)(I) of the Bank Holding Company Act and section 13(b) of the agencies' implementing rules, as if the qualifying foreign excluded fund were a covered fund. The statement extends no-action relief granted by the agencies with respect to qualifying foreign excluded funds in a policy statement issued on 21

July 2017 (and subsequently extended by the agencies' 17 July 2018 notice of proposed rulemaking), which was set to expire on 21 July 2019.

The agencies have consulted with the staffs of the Securities and Exchange Commission and the Commodity Futures Trading Commission regarding this matter.

CFTC approves proposals to amend oversight of non-US derivatives clearinghouses

The Commodity Futures Trading Commission (CFTC) has issued a press release concerning its 11 July 2019 open meeting at which a unanimous vote was taken to approve a proposed rule on registration with alternative compliance for non-US derivatives clearing organizations. This proposal would allow non-US clearinghouses to offer their swap clearing services to institutional investors and other 'eligible contract participants' as long as they fall below a certain threshold of importance to the US financial system. Eligible clearing houses would still be required to register with the CFTC, but the CFTC's oversight would be limited to issues involving customer protection. The proposal will shortly be published for public comment.

In addition, the CFTC has approved a supplemental proposal to exempt foreign clearinghouses from US regulation if they are subject to regulation in their home countries that is comparable to the US regulatory system.

SEC staff statement encourages companies to prepare for LIBOR transition and provides disclosure guidance

The SEC staff has issued a statement indicating that it is actively monitoring the extent to which market participants are identifying and addressing risks related to the expected discontinuation of LIBOR. In the statement, the SEC staff encourages market participants to identify, evaluate and engage in mitigation efforts related to:

- risks arising in connection with existing and new contracts that reference LIBOR and extend beyond 2021; and
- other consequences the discontinuation of LIBOR may have on their business, such as on strategy, products, processes, and information systems.

Public reporting companies may be required to provide disclosures related to the expected discontinuation of LIBOR pursuant to the SEC's disclosure rules related to:

- risk factors;
- management's discussion and analysis;
- board risk oversight; and
- financial statements.

The staff is encouraging investment companies to provide their investors with tailored risk disclosures that specifically describe the impact of the transition on their holdings.

SEC staff is also encouraging broker-dealers, central counterparties, and exchanges to analyse how the transition away from LIBOR will impact their business, systems, models, processes, risk management frameworks, and

clients – and to take steps to mitigate these risks. These entities should also consider whether to inform their clients and the markets of these risks.

The statement has been jointly issued by the staff of the Divisions of Corporation Finance, Investment Management, and Trading and Markets as well as the Office of the Chief Accountant. The statement constitutes staff guidance regarding application of existing SEC regulations. It does not create any new or additional obligations.

RECENT CLIFFORD CHANCE BRIEFINGS

Brexit – key questions answered

Amidst a flurry of campaign promises, policy announcements and discussions of parliamentary procedure, Brexit continues to dominate the UK political agenda.

This briefing paper looks at some of the key questions as the UK prepares to leave the EU. To help businesses make sense of the months ahead, we look at the Withdrawal Agreement, the Political Declaration, and the Irish backstop. We also analyse key concepts of WTO law and trade policy, as well as the likelihood of an early election and what the concept of a 'managed' no-deal Brexit means in practice.

https://www.cliffordchance.com/briefings/2019/07/brexit_key_questionsanswered.html

France leads the way with a dedicated legal regime for digital assets and ICOs

The French 'loi Pacte', enacted in May 2019, introduced a comprehensive new regulatory framework for digital assets in France reflecting the strong support of the French regulators and government for innovation through the creation of legal regimes for tokens in the primary (ICOs) and secondary markets (digital assets service providers).

This briefing paper discusses the new regime.

https://www.cliffordchance.com/briefings/2019/07/france_leads_thewaywithadedicatedlega.html

Abstract nature of the on-demand guarantee

The judgment of the Spanish Supreme Court dated 5 April 2019 sheds some light on our understanding that an on-demand guarantee should in no way appear to be associated with the underlying contractual relationship.

This briefing paper discusses the judgment.

https://www.cliffordchance.com/briefings/2019/07/abstract_nature_oftheon-demandguarantee.html