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communications

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Taxonomy Regulation: EU Commission presents Complementary Climate Delegated Act

The EU Commission has presented its [Taxonomy Complementary Climate Delegated Act](#) on climate change mitigation and adaptation covering certain gas and nuclear activities. The Delegated Act introduces:

- additional economic activities from the energy sector into the EU Taxonomy, by setting out the conditions subject to which certain nuclear and gas activities can be added as transitional activities to those already covered by the first Delegated Act on climate mitigation and adaptation, applicable since 1 January 2022; and
- specific disclosure requirements for businesses related to their activities in the gas and nuclear energy sectors.

The Commission has approved the draft Delegated Act in principle and it will be formally adopted when all the language versions are available. It will then be subject to scrutiny by the EU Parliament and Council for a period of four months.

CRR/BRRD: ECON Committee adopts amendments to daisy chain proposal

The EU Parliament's Economic and Monetary Affairs (ECON) Committee has [adopted](#) a text to amend the EU Commission's 'daisy chain' proposal.

The 'daisy chain' proposal makes targeted amendments to the Capital Requirements Regulation (CRR) and the Bank Recovery and Resolution Directive (BRRD), with the aim of improving institutions' resolvability. The ECON Committee's amendments to the 'daisy chain' proposal include:

- an introduction of a cap for the deduction mechanism;
- a request for the EU Commission to assess the impact of the daisy chain framework on the different banking group structures to avoid any unintended consequences; and
- the establishment of a transitional arrangement that allows the application by the European Resolution Authority of a transitional deduction regime applicable to multiple point of entry (MPE) groups under certain restrictive conditions.

The text was adopted with 45 votes to 2 and 11 abstentions. The ECON Committee has also voted to enter trilogue negotiations with the EU Council and the EU Commission.

Sustainable finance: ESMA consults on ESG ratings

The European Securities and Markets Authority (ESMA) has launched a [call for evidence](#) on environmental, social and governance (ESG) ratings. The call for evidence is intended to complement and inform the EU Commission's planned consultation on the reliability, comparability and transparency of ESG ratings, and its future work to address any issues identified.

ESMA is primarily seeking views from those that provide or use ESG ratings or are subject to rating assessment by ESG rating providers. The purpose of the call for evidence is to develop a picture of the size, structure, resourcing, revenues and product offerings of ESG rating providers present or operating in the EU.

Comments are due by 11 March 2022. ESMA intends to report to the EU Commission on its findings before the end of the second quarter of 2022.

Credit ratings: ESMA publishes final guidelines on disclosure requirements for initial reviews and preliminary ratings

ESMA has published its [final guidelines](#) on disclosure requirements for initial reviews and preliminary ratings.

This follows a consultation on the proposed guidelines launched in May 2021. ESMA has introduced a number of amendments and clarifications to the final guidelines following feedback received to the consultation.

The guidelines seek to improve the functioning of provisions of the Credit Rating Agencies Regulation (CRAR) that are intended to provide clarity to market participants as to whether entities or debt instruments have been subject to an initial review or preliminary rating, in order to address the issue of rating shopping.

The guidelines set out ESMA's views on:

- how the term 'initial review and preliminary rating' should be understood for the purposes of the CRAR's public disclosure requirements;
- the content and timing of CRAs' public disclosures for interactions that meet the standard of 'initial review and preliminary rating'; and
- the steps to ensure these public disclosures are more accessible for investors and the market.

The guidelines apply from 1 July 2022.

ESMA publishes final reports on CCP recovery regime

ESMA has published [seven final reports](#) setting out regulatory technical standards (RTS) and guidelines under the Central Counterparty (CCP) Recovery and Resolution Regulation.

The reports cover:

- RTS on the methodology for calculation and maintenance of the additional amount of pre-funded dedicated own resources;
- RTS on the factors to be taken into account by the competent authority and supervisory college when assessing the recovery plan;
- RTS on the recompense mechanism for non-defaulting clearing members;
- guidelines on the consistent application of the triggers for the use of early intervention measures;
- guidelines on CCP recovery plan indicators;
- guidelines on CCP recovery plan scenarios; and
- guidelines on the restrictions of dividends in case of a significant non-default event.

The final draft RTS have been submitted to the EU Commission for endorsement.

Once the guidelines have been translated into all official EU languages, ESMA intends to focus on their consistent application by competent authorities and CCPs.

ESMA launches new STS register

ESMA has [launched](#) a new Simple, Transparent and Standardised (STS) register to facilitate the notification of STS securitisations by reporting entities to ESMA.

The STS register replaces the STS list for traditional STS securitisations (non-ABCP securitisations, ABCP securitisations and ABCP programmes). ESMA intends to disable the STS list once reporting entities have had sufficient time to report their backlog of traditional STS securitisations to the register.

Until further notice, originators and sponsors should continue to report their STS notifications of synthetic STS securitisations, master trust STS securitisations and cancelled master trust STS securitisations to the STSnotifications@esma.europa.eu mailbox.

All STS notifications must be submitted to ESMA via the ESMA Extranet Register portal.

ESMA recommends June 2023 start date for clearing obligation for pension funds

ESMA has [written](#) to the EU Commission providing its views and recommendations on the clearing obligation for pension scheme arrangements (PSA).

Following its assessment, ESMA has concluded that PSAs are operationally ready to clear their over the counter (OTC) derivatives but they should be given sufficient time before a clearing obligation takes effect. ESMA has recommended that the clearing obligation should start to apply to PSAs from 19 June 2023.

ESMA believes that the proposed start of the clearing obligation may also feed into the EU's broader clearing strategy, which is intended to build clearing capacity within the EU and reduce reliance on UK central counterparties (CCPs).

The EU Commission will decide on whether to grant the suggested extension of the exemption until June 2023.

AIFs: ESMA publishes annual statistical report highlighting liquidity concerns

ESMA has published its fourth annual [statistical report](#) on the alternative investment fund (AIF) sector. According to the report, the sector increased by 8% in 2020 to EUR 5.9 trillion in net assets from EUR 5.5 trillion in 2019.

The report finds that the main risk faced by the sector, particularly for real estate funds and funds of funds, relates to the mismatch between the potential liquidity of assets and the redemption timeframe, indicating that AIFs with a liquidity deficit would face challenges if large redemptions were to occur.

Other findings of the report include:

- following the UK's withdrawal from the EU, the size of the hedge fund sector has decreased from EUR 354 billion in 2019 to EUR 89 billion;
- private equity funds experienced the largest growth in 2020;
- other EU AIFs, including those with fixed income and equity strategies, accounted for EUR 3,650 billion; and
- non-EU AIFs marketed under national private placement regime (NPPR) rules amounted to EUR 1.3 trillion.

The report also discusses the implications of Brexit for AIF statistics.

CRR: EBA publishes final draft RTS specifying advanced economies for alternative standardised approach equity risk purposes

The European Banking Authority (EBA) has published its [final draft RTS](#) on the list of countries with an advanced economy for calculating the equity risk under the alternative standardised approach (FRTB-SA).

Institutions using the alternative standardised approach to determine own funds requirements for market risk are required to compute the equity risk stemming from their trading book positions in accordance with a prescribed set of risk factors and corresponding risk weights.

To determine the appropriate risk weight, institutions are to identify whether a risk factor refers to an advanced economy or an emerging market, as those which refer to an advanced economy benefit from a lower risk weight.

While not specifying the underlying criteria to draw it, the fundamental review of the trading book (FRTB) standards provide a list of advanced economies

that leaves out some EU countries. The EBA has analysed an extensive sample of equity names to assess whether equity names related to economies included in the FRTB list are less volatile than those relating to the excluded EU countries and has determined that this is not the case.

On the basis of these results, and considering that the EU has a single market, the final draft RTS complement the FRTB list of advanced economies by including all Member States and all countries belonging to the European Economic Area (EEA).

House of Lords European Affairs Committee launches UK-EU financial services inquiry

The UK House of Lords European Affairs Committee has [launched an inquiry](#) into the UK-EU relationship in financial services.

The inquiry will examine the:

- impact of the UK's departure from the Single Market on the UK financial services sector;
- impact of the absence of a functioning framework for UK-EU regulatory cooperation;
- future of cross-border financial services in the absence of equivalence; and
- impact of regulatory divergence and agreements with third countries on UK-EU financial services trade.

The Committee expects to report by May 2022.

Decree modifying requirements applicable to counterparties of collective investment undertakings granting these guarantees under derivative contracts published

A [decree](#) amending the provisions of the French monetary and financial code relating to the requirements applicable to counterparties of collective investment undertakings granting guarantees to such undertakings under derivative contracts has been published in the Official Journal and entered into force on 31 January 2022. The relevant provisions, as amended, no longer provide the obligation for investment firms and French branches of third-country firms (referred to in article L. 532-48, §I of the French monetary and financial code) who grant guarantees to collective investment undertakings under derivative contracts to be authorised to provide the ancillary MiFID service of safekeeping and administration of financial instruments and to hold a minimum amount of own funds of EUR 3.8 million.

BaFin increases countercyclical capital buffer to 0.75%

The German Federal Financial Supervisory Authority (BaFin) [is raising](#) the ratio of the countercyclical capital buffer (CCyB) from 0% to 0.75% of the total risk exposure amount calculated pursuant to Article 92 para 3 CRR as of 1 February 2022. To this end, it has issued a general decree with the aim of preventively strengthening the resilience of the German banking system.

BaFin's purpose in increasing the CCyB is to reduce cyclical systemic risks due to strong credit growth. The increased CCyB will preventively strengthen the banking sector's capital base and increase its loss-bearing capacity.

Ultimately, this prevents potentially severely restricted lending from having a negative impact on the real economy in the future.

In this context, BaFin has also announced that it will introduce a sectoral systemic risk buffer for loans secured by residential real estate as a supplement to the CCyB as of 1 April 2022. The European Central Bank (ECB) and the European Systemic Risk Board (ESRB) will be informed of the measure shortly and may comment on it within one month. The general decree on the systemic risk buffer will therefore be published at a later stage.

CSSF issues regulation and circular on adoption of audit standards in statutory audit and standards on professional ethics and internal quality control or quality management

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued a new [regulation](#) (No 22-01) on the adoption of audit standards in the field of statutory audit and the adoption of standards on professional ethics and internal quality control, or on quality management respectively, both under the law of 23 July 2016 concerning the audit profession, as amended.

The regulation specifies the applicable standards, which are contained in the regulation's annexes. The new regulation takes into account the developments in audit standards at an internal level and EU legislation.

The CSSF has also published a related [circular](#) (22/794 dated 26 January 2022). The circular amends CSSF Circular 19/717 (more particularly its paragraph 8 and its Annex) by incorporating the amendments made by the regulation at the level of the circular letter.

The regulation entered into force on 27 January 2022 and repealed the previous CSSF Regulation No 19-02 and its annexes on the same matters. Circular 22/794 entered into force on the same date.

CSSF issues circular on application of revised EBA guidelines on sound remuneration policies under CRD 4

The CSSF has issued [Circular 22/797](#) on the application of the (EBA guidelines on sound remuneration policies under CRD 4 published on 2 July 2021 (EBA/GL/2021/04), which replace the current EBA guidelines of 21 December 2015 (EBA/GL/2015/22).

The circular is addressed to CRR credit institutions, CRR investment firms, and, to a limited extent, other investment firms.

The purpose of the circular is to inform them that the CSSF applies the guidelines and has integrated them into its administrative practice and regulatory approach in order to promote supervisory convergence in this field at EU level. All CRR credit institutions and all CRR investment firms should duly comply with them. The circular provides an overview of changes introduced by the revised guidelines, which are attached to the circular.

The previous Circular CSSF 17/658 regarding the adoption of the EBA guidelines on sound remuneration policies (EBA/GL/2015/22) and Circular CSSF 11/505 regarding details relating to the application of the principle of proportionality are repealed by the new circular. Non-CRR investment firms that are concerned by the repeal shall apply the new requirements of articles

38-20 ff. of the Luxembourg financial sector law of 5 April 1993 (as amended) stemming from the Investment Firm Directive (EU) 2019/2034 and/or the requirements set out in Circular CSSF 10/437.

The circular applies with effect as of 31 January 2022 and, as of that date, repeals and replaces Circular CSSF 17/658 and Circular CSSF 11/505.

CSSF issues circular on application of ESMA guidelines on methodology, oversight function and record keeping under Benchmarks Regulation

The CSSF has issued [Circular 22/796](#) on the application of the ESMA guidelines on methodology, oversight function and record keeping under the Benchmarks Regulation.

The purpose of the circular is to inform benchmark administrators (as defined in Article 3(1)(6) of the Benchmarks Regulation) that the CSSF applies the guidelines and has integrated them into its administrative practice and regulatory approach in order to promote supervisory convergence in this field at EU level.

The guidelines apply in relation to the application of:

- any methodology to be used to determine a critical or significant benchmark in exceptional circumstances;
- material changes to the methodology used to determine a critical or significant benchmark;
- the oversight function for critical and significant benchmarks; and
- the record-keeping requirements for any deviation from the standard methodology.

The new guidelines further amend the guidelines on non-significant benchmarks (ESMA70-145-1209) of 20 December 2018.

The guidelines are attached to the circular and available on ESMA's website.

The guidelines and the circular will apply from 31 May 2022.

CSSF issues press release on monitoring quality of transaction reports received under Article 26 of MiFIR

The CSSF has issued a [press release](#) relating to the obligation for credit institutions and investment firms to report transactions in financial instruments as set out in Article 26 of MiFIR.

The CSSF press release reports that, in the last year, the CSSF not only carried out the standardised quality tests developed together with the other competent authorities and the European Securities and Markets Authority (ESMA), but also conducted a series of data completeness and quality enhancement campaigns with a focus on different topics (i.e. INTC (March 2021), TVTIC Assessment (July 2021), Designation to identify natural persons (July 2021) and Price / Quantity (October 2021)).

The CSSF has also announced the topics that will be the subject of dedicated campaigns in 2022. These are:

- analytical summary – amongst other things, the CSSF plans to provide relevant entities with an overview of erroneous transaction reports on a quarterly basis;
- error messages – amongst other things, the CSSF will more closely monitor the error messages that are generated by its reporting system upon processing the received transaction reports; and
- data quality – the CSSF has emphasised that a low level of data quality (e.g. incomplete or missing transaction reports) will not be considered a negligible offense, but may constitute a serious infringement of professional obligations under MiFIR, in particular if such omissions lead to the concealment of potential cases of market abuse.

The press release also draws the attention of the relevant entities to the amended transaction reporting validation rules which will become applicable as of Q2 2022. However, ESMA is still to communicate their exact implementation date. In this regard, relevant entities are asked to prepare the adjustment of their reporting systems as soon as possible and to have their systems ready once the amended validation rules will become applicable.

CSSF issues circular on application of ESMA guidelines on marketing communications

The CSSF has issued a new [circular](#) (22/795), which applies as of 2 February 2022, confirming that it has integrated the ESMA guidelines on marketing communications into its administrative practice and regulatory approach.

The circular applies to the following Luxembourg based entities:

- authorised AIFMs;
- internally managed authorised AIFs;
- UCITS management companies;
- self-managed UCITS;
- managers of EuVECA; and
- managers of EuSEF.

The circular does not apply to management companies referred to in Articles 125-1 of Chapter 16, Chapter 17 or Chapter 18 of the 2010 Law. It also does not apply to registered AIFMs when they are not included in one of the above in scope categories and to non-EU AIFMs.

The above in scope IFMs must assess whether certain messages or communications addressed to investors or potential investors qualify as 'marketing communications' on the basis of the examples mentioned in the ESMA guidelines.

The CSSF requires information from the above in scope IFMs about their marketing communications and will conduct testing to verify their compliance with the Regulation on the cross-border distribution of funds (CBDF) and ESMA guidelines. However, the CSSF has yet to communicate the means through which it will collect this information and will complete the circular with annexes and a separate FAQ for this purpose.

Luxembourg bill amending Law of 13 January 2019 establishing beneficial owner register published

A bill amending the Law of 13 January 2019 establishing the beneficial owner register (RBE) (RBE Law) ([Bill No. 7961](#)) has been lodged with the Luxembourg Parliament.

The amendments relate to (i) access to the RBE and (ii) keeping the RBE up to date through incentive and coercive measures and penalties if the registered entity fails to comply with its obligation *vis-à-vis* the RBE.

The initial intention of the legislator was to create an independent database of beneficial owners, preventing any connection with the Register of Commerce and Companies (RCS). However, practice has shown that it is necessary for these databases to be interconnected. Therefore, the Bill proposes to simplify the administrative procedure for making declarations to the RBE.

As the RBE is a key tool in the fight against money laundering and terrorist financing, the Bill also proposes to facilitate RBE access to the national authorities listed in the RBE Law so that they can effectively exploit the information available.

The Bill also amends the RBE Law by introducing a new channel to exchange information between the RBE manager and its users, which will allow mass electronic communications without human intervention. This technology is already used for accessing the RCS.

Finally, the Bill proposes, as for the RCS, to offer to the manager of the RBE the same panel of incentive or coercive measures to induce registered entities to make their declarations and to keep the information up to date.

The lodging of the bill with the Luxembourg Parliament constitutes the start of the legislative procedure.

CNMV publishes technical guide on management and control of liquidity of collective investment schemes

The Spanish Securities Market Commission (Comisión Nacional del Mercado de Valores) (CNMV) has published [Technical Guide 1/2022](#) on the management and control of liquidity of collective investment schemes (Instituciones de Inversión Colectiva).

In particular, the technical guide:

- defines the elements that management companies should include in their procedures to improve liquidity management and avoid investor detriment and conflicts of interest; and
- brings together in one document all the relevant past supervisory criteria and the results of recent national and EU actions.

Bank of Spain issues circular to credit financial institutions on liquidity, prudential regulation and reporting obligations

The Bank of Spain has approved [Circular 1/2022](#), of 24 January, addressed to credit financial institutions (establecimientos financieros de crédito) (CFIs) on liquidity, prudential regulation and reporting obligations, which also amends Circular 1/2009 and Circular 3/2019 of the Bank of Spain.

The circular is intended to complete the solvency regulations for CFIs (especially regarding liquidity requirements) and to adapt their reporting obligations to the type of activity, business model, size and relative importance.

The circular also establishes the type of guarantees that will be acceptable to the Bank of Spain for the purposes of authorising Spanish CFIs that will be under the control of persons resident or authorised in non-EU Member States.

The circular will enter into force three months after its publication in the Spanish Official Gazette.

SFC publishes updated anti-money laundering and counter-financing of terrorism self-assessment checklist

The Securities and Futures Commission (SFC) has published an updated anti-money laundering and counter-financing of terrorism (AML/CFT) [self-assessment checklist](#), which reflects the latest guideline on AML/CFT for licensed corporations. The AML/CFT self-assessment checklist is intended to provide a structured framework for licensed corporations (LCs) and associated entities (AEs) to assess compliance with the key AML/CFT requirements.

The SFC advises LCs and AEs to use the self-assessment checklist as part of their regular review to monitor their AML/CFT compliance. Moreover, the frequency and extent of such reviews should be commensurate with the risks of ML/TF and the size of the firm's business. The SFC also requires senior management of LCs and AEs to ensure that any compliance deficiencies identified during the regular reviews are rectified in a timely manner.

SFC and ASIC issue joint circular on thematic review of global financial groups' foreign exchange activities

The SFC and the Australian Securities and Investments Commission (ASIC) have issued a [joint circular](#) to highlight the observations from their collaborative reviews of foreign exchange (FX) activities conducted by global financial groups in their respective jurisdictions.

In view of the growing importance of the Asia-Pacific region's FX market and the increasing complexity of regulating a market that involves diverse products and trading channels across different jurisdictions, the ASIC and the SFC launched a collaborative thematic review. The review included onsite inspections of and a prudential visit to selected firms of global financial groups licensed by ASIC in Australia and the SFC in Hong Kong. The main aim was to assess their compliance with local regulatory requirements in their respective jurisdiction and their adoption of other industry guidelines (e.g. the FX Global Code). The circular and its annexes only apply to participants in Australia and licensed corporations in Hong Kong that engage in FX activities.

The SFC has indicated that licensed corporations carrying out FX activities should review and consider how the observations and good industry practices set out in the SFC's circular and its annex can be implemented to enhance their supervision, risk management and internal controls, and ensure compliance with the rules, regulations and industry guidelines.

ASIC consults on proposals to remake relief for business introduction services

ASIC has launched a [consultation](#) seeking feedback on proposed changes to the relief for business introduction services provided under the ASIC Corporations (Repeal and Transitional) Instrument 2017/186, which is due to expire on 1 April 2022. The proposed changes are intended to:

- extend the relief for interests in managed investment schemes to 1 April 2025;
- amend the relief to update and clarify that the design and distribution obligations apply to business introduction services;
- allow the relief for securities under Chapter 6D of the Corporations Act 2001 to expire because of the overlap with the crowd-sourced funding regime, which came into effect in September 2017 for eligible public companies and October 2018 for eligible proprietary companies; and
- require persons who rely or cease to rely on the relief from 1 April 2022 to provide notice to ASIC.

Comments on the consultation are due by 15 February 2022.

APRA publishes year in review for 2021

The Australian Prudential Regulation Authority (APRA) has published its [year in review for 2021](#), providing an overview of how it continued responding to the pandemic in its second year whilst working on reforms aimed at reinforcing the stability of the Australian financial system.

The review provides APRA's view on the broader financial environment and outlines how APRA delivered on the priorities and objectives set out in its Corporate Plan across the banking, insurance and superannuation industries. It also contains metrics for APRA-regulated industries, including analysis of industry composition, profitability and financial strength. The year in review supplements APRA's annual report and financial statements, which are submitted to the Australian Government after the end of each financial year.

APRA releases policy and supervision priorities for 2022

APRA has released its [policy and supervision priorities](#) for the next 12 to 18 months. Consistent with APRA's 2021-2025 Corporate Plan, the key priorities are forward-looking and centred around APRA's two strategic themes: 'protected today' and 'prepared for tomorrow'.

While continuing to focus on ensuring financial stability in the face of COVID-19, APRA's latest priorities feature a heightened emphasis on new and emerging financial risks, practices and business models that are testing traditional regulatory boundaries and supervisory practices. In response to these changes, which include the rapid digital evolution of the financial system, APRA intends to commence in 2022 a major multi-year initiative to modernise its prudential architecture. Other key policy priorities for 2022 include:

- improving crisis preparedness, including finalising two new prudential standards on contingency and resolution planning;

- implementing the bank capital reforms that were largely finalised in 2021, to embed 'unquestionably strong' capital ratios and the Basel III reforms;
- strengthening core requirements for strategic planning and member outcomes in superannuation, to align with and reinforce the Government's Your Future, Your Super reforms; and
- completing comprehensive reforms to the insurance capital standards, primarily to ensure they align with the new accounting standard AASB17.

APRA has indicated that it will also continue to work closely with the Australian Treasury and the Australian Securities and Investments Commission to implement the proposed financial accountability regime, which expands banking executive accountability regime to insurance and superannuation.

In the area of supervision, APRA's top priorities include:

- rectifying sub-standard industry practices in superannuation and eradicating unacceptable product performance;
- cyber risk preparedness and responsiveness across all industries that APRA regulates;
- a continuing focus on risk culture, including rolling out a risk culture survey to benchmark perceived risk behaviours and the effectiveness of risk structures within entities;
- upgrading contingency and continuity frameworks, particularly in the banking sector; and
- ensuring sound insurance principles are applied in the insurance industries, with a focus on availability, affordability and sustainability of insurance.

RECENT CLIFFORD CHANCE BRIEFINGS

ESG – trends to watch in 2022

Environmental, social and governance considerations are now mainstream and have an impact on all businesses, globally.

This briefing paper explores the ESG trends that will help shape the year ahead.

<https://www.cliffordchance.com/briefings/2022/02/esg-trends-to-watch-in-2022.html>

Energy transition trends 2022

There remains a narrow window of opportunity for timely action to address the climate crisis and still meet the Paris Agreement targets.

The necessary transition from fossil fuels to low-carbon energy sources will require massive and sustained levels of investment in renewable energy, increased electrification, the development of electrofuels such as clean hydrogen, and carbon capture and storage to capture emissions that cannot be prevented. At the same time, the vulnerability of energy systems has been recently highlighted with price spikes, the more frequent occurrence of

significant climate events and the impacts of heightened geopolitical tensions on energy security.

This briefing paper discusses the energy transition trends for 2022.

<https://www.cliffordchance.com/briefings/2022/02/energy-transition-trends-2022.html>

The development of Islamic finance in Morocco and the wider African continent

Whilst there is a strong appetite across the African continent for Islamic Finance, the pace of development varies across African economies, with only certain jurisdictions having developed the necessary legal and regulatory reforms to move the industry forward.

For example, the West African Monetary Union (WAMU) announced in January 2021 that it is preparing a new regulatory framework destined to facilitate Islamic Finance. In this regard, given the high degree of similarity between the current laws in the WAMU and the previous securitisation law in Morocco, Morocco's reformed securitisation law could serve as a useful benchmark for such jurisdictions to take inspiration from.

This briefing paper focuses on how the Moroccan securitisation law reform and the Kingdom's first sovereign sukuk can serve as a legal benchmark for other North and West African jurisdictions. It also looks at some of the continued opportunities for the development of the Islamic Finance industry in Africa.

<https://www.cliffordchance.com/briefings/2022/01/the-development-of-islamic-finance-in-morocco-and-the-wider-afri.html>

Ransomware Playbook January 2022

Ransomware attacks have dramatically increased in volume and become more sophisticated in the wake of the COVID-19 pandemic with no sign of slowing down. In 2021, governments and private entities both have reported surges in attacks. As one example, in just the first half of 2021, the United States Financial Crimes Enforcement Network received USD 590 million in ransomware-related suspicious activity reports, over a 40% increase compared to such reports received in all of 2020. And while companies have become more resilient to such attacks, attackers continue to succeed in wreaking havoc on valuable IT systems and critical data. In a survey conducted in early 2021 of 5,400 IT decision makers employed by a range of organizations across 30 countries, over one-third reported being the target of a ransomware attack – and over half reported that the attackers were successfully able to infect their systems.

Clifford Chance has prepared a playbook to help companies understand and address the risks of a ransomware attack.

<https://www.cliffordchance.com/briefings/2022/01/ransomware-playbook-january-2022-24002837284-2-.html>

EU financial services legislation – how long is the legislative process?

The European Commission's 'Level 1' financial services legislative pipeline is filling up, with more proposals expected this year. Understanding the likely

length of the Level 1 legislative process is important for firms' engagement with the process and planning for eventual implementation.

The timing of the legislative process for the Level 1 regulations and directives adopted so far in the Commission's 2019-24 term may not be a good guide to the likely length of the legislative process for the pending proposals. A better guide may be found in the timing of the legislative process of the legislation adopted during the full term of the 2014-19 Commission.

This briefing paper summarises the EU legislative pipeline for financial services and reviews the length of the legislative process for legislation adopted during the current and previous terms of the European Commission.

<https://www.cliffordchance.com/briefings/2022/01/eu-financial-services-legislation---how-long-is-the-legislative-.html>

Conditional fee agreements in Singapore – the 'what', 'why' and 'how'

Lawyers and their clients will now be permitted to enter into conditional fee agreements (CFAs) in certain types of proceedings, including international and domestic arbitration proceedings, certain proceedings in the Singapore International Commercial Court (SICC), and related court and mediation proceedings. These changes were introduced as part of the Legal Profession (Amendment) Bill, introduced in Parliament for the first time on 1 November 2021 and passed on 12 January 2022.

This briefing paper discusses conditional fee arrangements in Singapore.

<https://www.cliffordchance.com/briefings/2022/01/conditional-fee-agreements-in-singapore-the-what-why-and-how.html>

NY approves constitutional right to healthy environment

New York voters have approved the 'Green' or 'Environmental Rights' Amendment to the state's constitution, which provides that '[e]ach person shall have a right to clean air and water, and a healthful environment.'

In a victory for ESG activists, New York voters approved the 'Green Amendment,' also known as the 'Environmental Rights Amendment,' to the state's constitution. New York thus joins the ranks of Pennsylvania, Montana, Illinois, Massachusetts, Hawaii, and Rhode Island, which provide some form of constitutional right to, or protection for, a healthy environment.

This briefing paper discusses the amendment.

<https://www.cliffordchance.com/briefings/2022/01/ny-approves-constitutional-right-to-healthy-environment.html>

US Government issues advisory on heightened risks associated with doing business in Burma

The Biden Administration has put US and international companies and financial institutions on notice regarding the wide-ranging legal risks of doing business with and in Burma, including under the Foreign Corrupt Practices Act, Treasury Department Office of Foreign Assets Control sanctions, Commerce Department Bureau of Industry and Security export controls, US anti-money laundering laws and regulations, and US human rights laws. Given the strong focus by the US Department of Justice and other

enforcement agencies on adequate risk assessments and compliance frameworks, all companies are well advised to consider their exposure to the delineated risks in their business, and ensure that their compliance framework adequately mitigates those risks within the company's risk tolerance set by senior management or the Board.

This briefing paper discusses the Burma advisory.

<https://www.cliffordchance.com/briefings/2022/02/us-government-issues-advisory-on-heightened-risks-associated-wit.html>

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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