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- **CSSF issues communiqué on evaluation of diversity policies through data collection analysis**
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EU Commission publishes 2024 work programme and legislative proposals to rationalise reporting requirements

The EU Commission has published its [2024 work programme](#) and related legislative proposals, which focus on the Commission's commitment to reduce burdens associated with reporting requirements by 25%.

The [annexes](#) to the work programmes list the proposals and initiatives relating to rationalising reporting requirements, the most significant REFIT evaluations and fitness checks to be undertaken by the Commission and the pending proposals that require agreement by the EU Parliament and Council.

Among the legislative proposals are:

- a [proposed Regulation](#) amending the Benchmarks Regulation as regards the scope of the rules for benchmarks, the use in the EU of benchmarks provided by an administrator located in a third country, and certain reporting requirements;
- a [proposed Regulation](#) amending Regulations (EU) No 1092/2010, (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2021/523 as regards certain reporting requirements in the fields of financial services and investment support; and
- a [proposed Decision](#) of the EU Parliament and of the Council amending the Accounting Directive as regards the time limits for the adoption of sustainability reporting standards for certain sectors and for certain third-country undertakings.

The Commission has also adopted a [Commission Delegated Directive](#) amending the Accounting Directive as regards the adjustments of the size criteria for micro, small, medium-sized and large undertakings or groups.

Platform on Sustainable Finance and EU Commission launch EU Taxonomy Stakeholder Request Mechanism

The Platform on Sustainable Finance and the EU Commission have launched the [EU Taxonomy Stakeholder Request Mechanism](#). The stakeholder request mechanism allows stakeholders to submit suggestions based on scientific and/or technical evidence on new economic activities that could be added to the EU taxonomy or on potential revisions of technical screening criteria of existing activities.

The stakeholder request mechanism will be continuously running, allowing respondents to submit their input at any given time. All requests will be processed by the Platform's technical working group on 15 December 2023. After this date, the tool will continue to run, and a second cut-off date will be communicated in due course. The Platform on Sustainable Finance will assist the Commission in the analysis of submitted requests and provide recommendations to the Commission.

EU Council publishes final compromise texts on MiFIR2 and MiFID3

The EU Council's Committee of Permanent Representatives (Coreper) has published the final compromise texts for the EU Commission's proposals for a [Regulation](#) and [Directive](#) amending the Markets in Financial Instruments Regulation and Directive (MiFIR2/MiFID3).

The changes to the EU's trading rules are broadly intended to increase the global competitiveness of the EU's capital markets and give investors greater access to market data.

The final texts have been sent with a [letter](#) to the EU Parliament's Committee on Economic and Monetary Affairs (ECON) confirming that, should the EU Parliament adopt those texts at first reading, the Council would approve the Parliament's position.

The Council and the Parliament reached provisional agreement on the proposals on 29 June 2023.

Securitisation Regulation: RTS on risk retention requirements for originators, sponsors, original lenders and servicers published in OJ

[Commission Delegated Regulation \(EU\) 2023/2175](#) laying down regulatory technical standards (RTS) specifying the requirements for originators, sponsors, original lenders and servicers related to risk retention under Article 6(7) of the Securitisation Regulation has been published in the Official Journal.

The RTS specify in greater detail the risk retention requirements, including:

- requirements on the modalities of retaining risk;
- the measurement of the level of retention;
- the prohibition of hedging or selling the retained interest;
- the conditions for retention on a consolidated basis;
- the modalities of retaining risk in case of traditional securitisations of non-performing exposures (NPE); and

- the impact of fees paid to the retainer on the effective material net economic interest.

The Delegated Regulation enters into force on 7 November 2023.

EMIR: Equivalence decision on Australian financial markets published in OJ

[Commission Implementing Decision \(EU\) 2023/2207](#) on the equivalence of financial markets in Australia in accordance with the European Market Infrastructure Regulation (EMIR) has been published in the Official Journal.

The amending Implementing Decision amends the Annex to Implementing Decision (EU) 2016/2272 to reflect an additional financial market established in Australia that has obtained authorisation from the Australian Securities and Investments Commission (ASIC) to trade in derivatives.

The Implementing Decision will enter into force on 6 November 2023.

EMIR: ESMA publishes opinion on CCP back testing requirements

The European Securities and Markets Authority (ESMA) has published an [opinion](#) on central counterparty (CCP) back testing requirements under Article 49 of the EMIR and Article 49 of the RTS on requirements for CCPs.

Under EMIR, CCPs are required to perform back tests to assess the reliability of the methodology adopted for calculating their margin requirements, default fund contributions, collateral requirements and other risk control mechanisms. The RTS on requirements for CCPs specify the type of tests to be undertaken, including margin adequacy back testing. Article 47 of the RTS requires CCPs to conduct a validation of its models and methodologies, known as core model back testing.

ESMA's opinion is intended to clarify the implementation and use of back tests across CCPs. It aims to harmonise back testing practices across authorised CCPs but does not prescribe a specific margin model. It aims to clarify:

- the purpose and structure of each type of back test (including core model and margin adequacy back tests);
- whether unit back tests and portfolio back tests are relevant for core model back testing; and
- whether and how margin add-ons should be included in the back testing framework.

MiCA: ESMA issues letter and statement on expectations for transition period

ESMA has issued a [letter](#) and [statement](#) on the transition to new rules under the Markets in Cryptoassets Regulation (MiCA).

The letter is addressed to the President of the Economic and Financial Affairs Council (ECOFIN), Nadia Calviño. It sets out the actions ESMA wishes Member States to prioritise in order to facilitate the smooth transition to the new regime under MiCA. These include:

- designating the national competent authorities (NCAs) responsible for carrying out the relevant functions and duties set out in MiCA; and

- considering limiting the optional grand-fathering period (which would allow entities already providing cryptoasset services to continue providing them up to as late as 1 July 2026) to twelve months if they intend to offer it in their jurisdictions.

The statement issued at the same time is addressed to cryptoasset service providers (CASPs) and the NCAs that supervise them. It sets out ESMA's expectations for the MiCA transition period. Among other things, ESMA calls on NCAs to dedicate resources and align their supervisory practices with one another to ensure effective supervision as soon as MiCA enters into force. CASPs are encouraged to begin planning for the transition and to ensure their clients are aware of the regulatory status of any 'grand-fathered' cryptoasset offerings.

MiCA: EBA and ESMA consult on white paper approval processes, governance arrangements and management body suitability assessments

The European Banking Authority (EBA) has published three consultations on various aspects of the MiCA. In particular, the EBA is seeking feedback on:

- [draft RTS on the procedure for approving white papers of asset-reference tokens \(ARTs\) issued by credit institutions](#);
- [draft RTS on the main governance processes for the adoption, implementation and maintenance of ART and e-money token \(EMT\) issuers' remuneration policies, as well as the main elements that should be included in these policies](#); and
- [draft guidelines on internal governance arrangements for ART issuers, including the tasks and responsibilities of their management bodies and their processes for identifying and minimising sources of operational risk](#).

The EBA has also published a [consultation](#) in collaboration with ESMA, which contains two sets of joint draft guidelines on suitability assessments under MiCA. The first set of guidelines provides guidance on assessing the suitability of members of the management body of ART issuers and CASPs. The second set of guidelines covers suitability assessments for shareholders or members, whether direct or indirect, with qualifying holdings in ART issuers or CASPs.

Comments on all four consultations are due by 22 January 2024. They form the second batch of proposed MiCA policy products, with the EBA intending to publish its third batch in November 2023.

EBA sets EU-wide examination programme priorities for prudential supervisors for 2024

The EBA has published the [European Supervisory Examination Programme \(ESEP\)](#) for 2024.

The ESEP identifies key topics for heightened supervisory attention across the EU, including:

- liquidity and funding risk;
- interest rate risk and hedging; and
- recovery operationalisation.

The EBA will follow up on how these key topics are embedded in competent authorities' priorities for 2024 and how they form part of their supervisory activities throughout the year. The observations collected will feed into the overall conclusions on the degree of convergence of supervisory practices.

ECB reports on counterparty credit risk governance and management

The European Central Bank (ECB) has published its [final report](#) on sound practices in counterparty credit risk (CCR) governance and management.

This follows a consultation launched in June 2023. The ECB has published a feedback statement providing an overview of the comments received and its assessment of them.

The report presents the findings of the targeted review performed in the second half of 2022 on how banks govern and manage CCR. It provides a collection of good practices in CCR governance and management that were observed and an assessment of the convergence towards those practices, accounting for the proportionality principle (particularly for institutions with a less complex CCR business). The report also highlights areas for improvement.

The ECB expects institutions to consider the good practices highlighted in the report when designing their approach to CCR management.

BCBS consults on disclosure of banks' cryptoasset exposures

The Basel Committee on Banking Supervision (BCBS) has launched a [consultation](#) on proposals relating to banks' disclosure of their cryptoasset exposures. In particular, BCBS is seeking comments on a proposed disclosure table and set of templates intended to standardise the way in which banks disclose information on cryptoasset exposures.

Under the proposals, banks would be required to disclose qualitative information on their activities related to cryptoassets, as well as quantitative information on their exposures to cryptoassets and the related capital and liquidity requirements. Banks would also be required to provide details of the accounting classifications of their exposures to cryptoassets and cryptoliabilities.

Comments on the consultation are due by 31 January 2024, and the BCBS intends to introduce the finalised requirements on 1 January 2025.

Cross-border payments: CPMI reports on ISO 20022 harmonisation requirements

The Committee on Payments and Market Infrastructures (CPMI) has published a [final report](#) on harmonised ISO 20022 data requirements for enhancing cross-border payments.

ISO 20022 is an international standard for exchanging electronic messages between financial institutions (FIs). In order to allow more consistent and structured data in payment processing, the proposed harmonisation requirements provide payment system operators and participants, both public and private sector, with guidance on how to implement ISO 20022 in a consistent way to help facilitate faster, cheaper, more accessible, and more transparent cross-border payments. They set out specific data requirements

for ISO 20022 messages to increase the efficiency of cross-border payments. The data requirements, a key element of the G20 cross-border payments programme, were developed with the private sector Payments Market Practice Group (PMPG).

The report follows discussions with payment practitioners over the past two years and consultation with industry, including feedback from more than 50 stakeholders who responded to the CPMI's public consultation in early 2023. As such, the CPMI believes the data requirements reflect a broad market consensus.

The CPMI is encouraging market participants to begin preparations to align with the harmonised ISO 20022 data requirements in earnest and by end-2027 at the latest.

Cross-border payments: CPMI reports on governance and oversight considerations for linking fast payment systems

The CPMI has published a [consultative report](#) on governance and oversight considerations for linking fast payment systems (FPS) across borders.

The consultative report has been issued as part of the G20 cross-border payments programme. The G20 has identified the governance and oversight of cross-border payment system interlinking arrangements, in particular of FPS, as a priority in helping to achieve its 2027 targets for the cost, speed, access and transparency of cross-border payments.

The CPMI describes ten initial considerations, resulting from a series of workshops with global stakeholders. They can be grouped into three categories:

- initial structural conditions that appear to create favourable conditions for effective governance, including strategic alignment of the involved jurisdictions and agreement on the objectives and vision of the arrangement;
- insights related to specific governance design considerations and priorities that stakeholders have viewed as important for the coherence, scalability, business viability and inclusiveness of an FPS interlinking arrangement; and
- special characteristics of FPS interlinking arrangements and their implications for the design and conduct of oversight in a multi-jurisdictional context.

The consultative report concludes with a set of questions, for which further stakeholder input is sought. Comments are due by 13 December 2023.

Draft Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023 laid before Parliament

A [draft](#) of the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations have been laid before Parliament, together with a draft explanatory memorandum.

The draft Regulations relate to the introduction of a new special resolution regime for CCPs in Schedule 11 of the Financial Services and Markets Act

2023 (FSMA 2023). They amend corporate law and make consequential amendments to ensure that the CCP resolution regime functions as intended. Among other things, the Regulations:

- apply certain provisions in the Companies Act 2006 with modifications to ensure parity with the bank resolution regime;
- amend the Finance Act 1986 to ensure that stamp duty is not payable for certain transfers;
- amend section 87(2) and section 166 of the Companies Act 1989 to allow information which is subject to disclosure restrictions to be disclosed for the purpose of civil proceedings relating to an assessment of compensation; and
- amend the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (SI 2001/2188) to enable the disclosure of confidential information by regulators in the course of discharging functions under the new regime.

The Regulations are due to come into force on 31 December 2023.

HM Treasury has also published the [minutes](#) of its CCP Resolution Liaison Panel held on 28 June 2023 which detail three additional statutory instruments aimed at operationalising the CCP resolution regime.

FCA publishes addendum to consultation on securitisation rules

The Financial Conduct Authority (FCA) has published an [addendum](#) to its consultation (CP23/17) on its proposed rules for the UK securitisation markets.

The addendum makes changes to the draft Handbook text published in appendix 1 of CP23/17, in relation to the application of due diligence requirements and institutional investor delegation.

Paragraph 4.17 of CP23/17 set out an exception to the proposed rules on delegation. The exception would apply where an institutional investor that is subject to the FCA's rules delegated the investment decision to an occupational pension scheme (OPS). However, the draft Handbook text implied that the scope of the persons subject to this exception was wider than just OPS.

Whilst the policy intention has not changed, the FCA has extended the consultation period for chapter 4 (due diligence requirements for institutional investors) to 20 November 2023. Otherwise, comments on CP23/17 are still due by 30 October 2023.

ACPR publishes summary of responses to its public consultation on regulatory framework for DeFi

The Autorité de contrôle prudentiel et de résolution (ACPR) has published a [summary of the responses](#) to its April 2023 discussion paper on the appropriate regulatory response to decentralised finance (DeFi).

The paper set out an initial analysis of the risks associated with DeFi and the possible regulatory framework, with a view to discussing them with stakeholders in a public consultation. The consultation was open for two months from April to May 2023 and received a worldwide response.

Traditional FIs, consulting and auditing firms, as well as representatives of the crypto and DeFi ecosystems responded to it.

Governmental draft act on transposition of NPL Directive and implementation of Daisy Chain Regulation published

The German Federal Ministry of Finance (BMF) has issued a [press release](#) on the German Federal Government's resolution on the governmental draft act on the promotion of secondary markets (Kreditweitmarktförderungsgesetz). The objective of the governmental draft act is the transposition of Directive (EU) 2021/2167 (NPL Directive) as well as the implementation of certain parts of Regulation (EU) 2022/2036 (Daisy Chain Regulation) which require national enactment. The BMF published the governmental draft act on its website on 16 October 2023.

The NPL Directive harmonises the rules for the purchase of non-performing loans and provides for borrower protection, a protection largely already in place in Germany through the regulation of debt collection services. Further, the governmental draft act establishes regulatory obligations for credit servicers acting on behalf of purchaser of non-performing loans, which are placed under the supervision of the German Federal Financial Supervisory Authority (BaFin).

Additionally, the governmental draft act aims to implement instruments under the Daisy Chain Regulation which serve as loss buffers within bank groups in a bank resolution scenario.

Both the NPL Directive and the Daisy Chain Regulation are part of the harmonised approach within the EU for the reduction of risks in the banking sector and the establishment of an effectual banks and capital markets union.

Parliamentary proceedings are to commence in due course.

CSSF-CODERES issue circular letter on information request by SRB to collect data for calculation of 2024 ex-ante contribution to Single Resolution Fund

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued Circular letter [CODERES 23/17](#) on the information request by the Single Resolution Board (SRB) for the calculation of the 2024 ex-ante contribution to the Single Resolution Fund (SRF), according to Articles 4 and 14 of Commission Delegated Regulation (EU) 2015/63.

The circular is addressed to all credit institutions established in Luxembourg and subject to Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 (SRMR), except for Luxembourg branches of credit institutions which have their head office outside of the EU, as they will be covered by the Luxembourg Resolution Fund. Branches established in Luxembourg by a credit institution with its head office in another Member State, whether participating in the Banking Union or not, are covered by their head office.

The purpose of the circular is to collect data for the calculation of the 2024 ex-ante contribution to the SRF. The initial period for the constitution of the SRF is expected to end on 31 December 2023. The SRMR requires the raising of contributions to the SRF after the end of the initial period, where the amount of available financial means in the SRF diminishes below 1% of the amount of

covered deposits of all credit institutions authorised in all Member States participating in the Banking Union. The SRB will verify in early 2024 whether the available financial means in the SRF are equal to at least 1% of covered deposits held in the Banking Union. Based on the outcome of that verification exercise, the SRB will decide whether ex-ante contributions to the SRF will be calculated and collected in the 2024 contribution period. The SRB therefore needs a certain amount of information.

The circular therefore launches this data collection exercise in Luxembourg, which is being done in XBRL format as in the previous year. In order to properly complete the required XBRL file, the SRB has provided the data reporting form along with guidance, which can be found in an annex to the circular. The duly completed XBRL file must be sent by the credit institutions concerned to the CSSF by 12 January 2024 at 24:00 CET at the latest.

In case not all required information is transmitted correctly by that date, the SRB will use estimates or its own assumptions for the calculation of the 2024 contribution of the concerned credit institution to the SRF. In specific cases, the SRB may assign the credit institutions concerned to the highest risk adjusting multiplier, for the calculation of the institution's contribution to the SRF.

In addition, each credit institution that directly or as part of a group falls under direct ECB supervision, unless it is subject to the lump-sum payment, must make available to the resolution department of the CSSF additional assurance documents by mailing a signed hard copy at the latest by 23 February 2024.

In case restatements for the previous years must be taken into account, credit institutions concerned shall proactively inform the CSSF of the intention to send these files and of the collection years concerned by 30 November 2023.

CSSF issues communiqué on evaluation of diversity policies through data collection analysis

The CSSF has published a [communiqué](#) on the evaluation of diversity policies through data collection analysis.

Following an April 2023 survey on diversity within the management bodies of less significant credit institutions (LSIs), the CSSF noted certain weaknesses in their diversity practices. The CSSF takes the view that the financial marketplace must accelerate its transition towards diversity in compliance with the current regulations. The CSSF is the competent authority responsible for verifying compliance with these requirements.

The CSSF has indicated that it will monitor progress in the implementation of diversity particularly closely, through regular investigations and controls. Where the CSSF identifies a breach of the legal and regulatory provisions on diversity policies by the LSIs concerned, it will take strict measures, including imposing administrative sanctions.

In accordance with article 38-2(8) of the law of 5 April 1993 on the financial sector (as amended) (LFS), credit institutions must call on a wide range of qualities and skills when recruiting members of the management body and are required to put in place a policy to promote diversity within the management body. These provisions are intended to ensure that decisions taken by the management body of a credit institution can benefit from a variety of views and experiences and to facilitate independent opinions, in accordance with paragraph 102 of the joint ESMA and EBA guidelines on the assessment of

the suitability of members of the management body and key function holders (EBA/GL/2021/06).

The CSSF notes that the effective implementation of diversity policies should result in a significant improvement in the diversity of LSI management bodies, both in terms of gender and other diversity criteria, but also in the implementation of measures enshrining equal opportunities and treatment and career planning elements. The aim of these measures is to create a pool of diversified profiles for the succession planning of members in management bodies.

CSSF issues circular on application of ESMA guidelines on certain aspects of MiFID2 remuneration requirements

The CSSF has issued [Circular](#) 23/841 on the application of the [ESMA guidelines](#) on certain aspects of the MiFID2 remuneration requirements, published on 3 April 2023 (ESMA35-43-3565).

The circular applies to:

- investment firms, as defined in Article 1(9) of the law of 5 April 1993 on the financial sector, as amended (FSL);
- credit institutions, as defined in Article 1(12) of the FSL, where they provide investment services and activities within the meaning of Article 1(30) of the FSL;
- investment firms and credit institutions, where they sell or advise clients in relation to structured deposits within the meaning of Article 1(7c) of the FSL;
- UCITS management companies, as defined in Article 1(31) of the FSL, where they provide investment or ancillary services as listed in Article 101(3) of the law of 17 December 2010 on undertakings for collective investment, as amended; and
- alternative investment fund managers (AIFMs) as defined in Article 1(46) of the law of 12 July 2013 relating to alternative investment fund managers (AIFM Law), where they provide portfolio management or ancillary services as listed in Article 5(4) of the AIFM Law.

The aim of the circular is to notify the addressees that the CSSF has incorporated these ESMA guidelines into its administrative practice and regulatory approach with a view to promoting supervisory convergence in this area at EU level.

The guidelines are intended to ensure the uniform application of certain remuneration, conflict of interest and conduct of business rules and requirements under MiFID2 (notably under its Articles 16(3), 23, 24(1) and (10) and 27, as well as Article 34 of the MiFID2 Delegated Regulation) and to clarify governance requirements concerning remuneration based on Article 9(3) of MiFID2 across the EU.

The circular replaces and repeals circular CSSF 14/585 on the transposition of the ESMA guidelines on remuneration policies and practices (MiFID) and also deletes Annex V (containing the same ESMA guidelines) to circular CSSF 07/307 (as amended).

The circular applies as of 13 October 2023. The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier

(CSSF), has issued Circular 23/841 on the application of the [ESMA guidelines](#) on certain aspects of the MiFID2 remuneration requirements, published on 3 April 2023 (ESMA35-43-3565).

The circular applies to:

- investment firms, as defined in Article 1(9) of the law of 5 April 1993 on the financial sector, as amended (FSL);
- credit institutions, as defined in Article 1(12) of the FSL, where they provide investment services and activities within the meaning of Article 1(30) of the FSL;
- investment firms and credit institutions, where they sell or advise clients in relation to structured deposits within the meaning of Article 1(7c) of the FSL;
- UCITS management companies, as defined in Article 1(31) of the FSL, where they provide investment or ancillary services as listed in Article 101(3) of the law of 17 December 2010 on undertakings for collective investment, as amended; and
- alternative investment fund managers (AIFMs) as defined in Article 1(46) of the law of 12 July 2013 relating to alternative investment fund managers (AIFM Law), where they provide portfolio management or ancillary services as listed in Article 5(4) of the AIFM Law.

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The circular replaces and repeals circular CSSF 14/585 on the transposition of the ESMA guidelines on remuneration policies and practices (MiFID) and also deletes Annex V (containing the same ESMA guidelines) to circular CSSF 07/307 (as amended).

The circular applies as of 13 October 2023.

CSSF issues circular on EBA guidelines on money laundering and terrorist financing risk factors when providing access to financial services

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has issued a [circular letter](#) (23/843) on the adoption of the revised [EBA guidelines](#) on policies and controls for the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services into its administrative practice and regulatory approach.

The circular is addressed to all credit and FIs, as defined in Article 1(3) and (3a) of the Luxembourg law of 12 November 2004 on the fight against ML/TF, as amended (AML Law).

The purpose of the circular is to inform its addressees that the CSSF, in its capacity as competent authority, applies the guidelines and has integrated them into its administrative practice and regulatory approach with a view to promoting supervisory convergence in this field at EU level.

The guidelines were issued by the EBA following its assessment of the main drivers of de-risking and the negative impact unwarranted de-risking can have on customers and access to financial services and the fight against financial crime.

The objective of the guidelines is to set out steps credit and FIs should take to facilitate access to financial services by those categories of customers that the EBA's analysis had highlighted as particularly vulnerable to unwarranted de-risking.

Therefore, the guidelines clarify the interaction between the provision of access to financial services and the credit or FIs' anti-money laundering and countering terrorism financing (AML/CTF) obligations. Amongst other things, they set out the steps the professionals should take when considering whether to refuse or terminate a business relationship with a customer based on ML/TF risk or AML/CFT compliance grounds. For example, the guidelines specify that the professionals should document any decision to refuse or terminate a business relationship. Finally, the guidelines also address aspects relating to the complaint mechanism that the professionals should have put in place to ensure that customers can complain if they feel they have been treated unfairly.

The circular will apply from 3 November 2023.

CSSF issues circular on revised EBA guidelines on money laundering and terrorist financing risk factors

The CSSF has issued a [circular letter](#) (23/842) on the adoption of the [revised EBA guidelines](#) on customer due diligence and the factors credit and FIs should consider when assessing the ML/TF risk associated with individual business relationships and occasional transactions under Articles 17 and 18(4) of Directive (EU) 2015/849 (AMLD 4) into its administrative practice and regulatory approach.

The circular is addressed to all credit and FIs, as defined in Article 1(3) and (3a) of the Luxembourg law of 12 November 2004 on the fight against ML/TF, as amended (AML Law).

The purpose of the circular is to inform its addressees that the CSSF, in its capacity as competent authority, applies the guidelines and has integrated them into its administrative practice and regulatory approach with a view to promoting supervisory convergence in this field at EU level.

The guidelines were issued by the EBA following its assessment of the scale of de-risking in the EU and in order for credit and FIs to take steps to facilitate access to financial services by not-for-profit organisations (NPOs). The objective of the guidelines is to support credit and FIs in their understanding of the specificities of existing and prospective customers which are NPOs with regard to understanding NPOs' set up, operations and ML/TF risk factors.

The circular will apply from 3 November 2023.

Australian Government consults on proposals to regulate digital asset platforms

The Australian Government has launched a [consultation](#) seeking feedback on its proposed regulatory framework for entities providing access to digital assets and holding them for Australians and Australian businesses.

With the proposed regulatory framework, the Australian Government aims to address consumer harms in the crypto ecosystem while also supporting innovation in the use of digital assets and emerging technologies. The proposed regulatory framework seeks to leverage the Australian Financial Services Licence (AFSL) framework to regulate digital asset service providers to ensure consistent oversight and safeguards for consumers.

The main objectives of the proposed regulatory framework are to:

- protect consumers;
- promote innovation through technology neutrality and regulatory clarity;
- align Australia's digital asset regulatory framework with international jurisdictions, where appropriate; and
- utilise regulatory tools that provide agility, flexibility, and adaptability.

Following feedback, exposure draft legislation is expected to be released in 2024, and a 12-month transitional period is proposed to commence upon Royal Assent to allow an appropriate amount of time for industry participants to plan and make changes to ensure compliance and obtain a licence where required.

Comments on the consultation are due by 1 December 2023.

MAS publishes information paper on strengthening liquidity risk management practices for fund management companies

The Monetary Authority of Singapore (MAS) has published an [information paper](#) on strengthening liquidity risk management (LRM) practices for fund management companies (FMCs).

The information paper sets out the MAS' supervisory expectations of effective LRM frameworks and practices and includes key findings from its thematic liquidity inspections and review of prospectuses, which focused on collective investment schemes (CIS) offered to retail investors. Areas covered in the information paper include governance, initial design of products, ongoing liquidity risk management, and stress testing.

The MAS observed that FMCs have generally put in place adequate LRM frameworks and practices that are commensurate with the size, scale and complexity of their businesses and the risk profiles of the CIS that they managed. However, the MAS did identify areas of improvement such as enhancing senior management's oversight of liquidity risk, and FMC's monitoring and management of liquidity risk throughout the CIS's entire product life cycle (especially during periods of heightened market volatility/stress), including the ongoing review of the assumptions used and assessing the reliability of the LRM models, tools, and metrics. In addition, it found that FMCs could improve the execution of liquidity stress tests and

ensure that clear and proper guidance is set out in the LRM policies and procedures.

The MAS expects FMCs, amongst other things, to review their LRM frameworks and practices, and identify and implement specific remediation/enhancement measures in a timely manner where they observe gaps. The MAS also expects FMCs to continuously enhance their LRM frameworks and practices in a risk-based and proportionate manner.

MAS consults on proposed guidelines on transition planning for net zero economy

The MAS has published a set of consultation papers proposing guidelines on [transition planning by banks](#), [insurers](#), and [asset managers](#) to enable the global transition to a net zero economy.

The proposed Guidelines on Transition Planning set out the MAS's supervisory expectations for FIs to have a sound transition planning process to enable effective climate change mitigation and adaptation measures by their customers and investee companies in the global transition to a net zero economy and the expected physical effects of climate.

Amongst other things, the MAS expects FIs to:

- engage, rather than divest, in order to steward their customers and investee companies to transition in an orderly manner. For effective engagement, FIs are to collect climate-related risk data from their customers and investee companies, and have differentiated strategies that cater to customers exposed to different levels of climate-related risks;
- take a multi-year approach, beyond the typical financing or investment time horizons, to facilitate a more comprehensive assessment of climate-related risks;
- holistically treat risks to enable better risk discovery;
- consider environmental risks beyond climate-related risks in their transition planning; and
- disclose meaningful and relevant information to help stakeholders understand how they are responding in the short-, medium-, and long-term to material climate-related risks, and the governance and processes for addressing such risks.

The guidelines build on the MAS' existing supervisory guidance to FIs (including the Guidelines on Environmental Risk Management, which have been effective since 2022), and focus on FIs' internal strategic planning and risk management process to prepare for both risks and potential changes in business models associated with the transition.

While the underlying risk principles are similar, the three sets of guidelines were developed recognising the different business models and needs of FIs in banking, insurance, and asset management. In this regard, MAS has proposed for:

- the guidelines for banks to apply to banks' extension of credit to corporate customers and underwriting for capital market transactions. Banks with material investment activities should refer to the guidelines for asset managers;

- the guidelines for insurers to apply to the underwriting and investment activities of all insurers (including those under a foreign insurer scheme); and
- the guidelines for asset managers to apply to fund management companies and real estate investment trust managers who have discretionary authority over the portfolios they are managing.

The MAS has proposed to provide a transition period of 12 months after the guidelines are issued for banks, insurers, and asset managers to implement, as appropriate.

Comments on the consultations are due by 18 December 2023.

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