

INTERNATIONAL REGULATORY UPDATE 2 – 5 JANUARY 2024

- **CSDR Refit published in Official Journal**
- **ECON Committee publishes draft report on proposed regulation on reporting requirements in financial services and investment support**
- **EU Commission consults on simplifying ESMA's supervisory fees for benchmark administrators, trade repositories, credit rating agencies and securitisation repositories**
- **EBA consults on guidelines on internal policies, procedures and controls to ensure sanctions implementation**
- **CSSF issues communiqué on submission of revised long form report**
- **CSSF publishes communiqué on revised inbound email protocol security**
- **CSSF sets countercyclical buffer rate for first quarter of 2024**
- **Banking amendment rules to implement Basel III reforms gazetted**
- **Hong Kong Government consults on proposal to implement regulatory regime for stablecoin issuers**
- **SFC issues circular on investment funds with exposure to virtual assets**
- **SFC updates guidance on streamlined measures for SFC-authorized funds**
- **Amendment regulations and revised notice implementing proposal regarding enhancement of depositor protection by increasing deposit insurance coverage published**
- **MAS directs remittance companies to suspend remittances to China through non-bank and non-card channels**
- **Recent Clifford Chance briefing: The new European Sustainability Reporting Standards entered into force. Follow this link to the briefings section.**

CSDR Refit published in Official Journal

[Regulation \(EU\) 2023/2845](#) amending the Central Securities Depositories Regulation (CSDR Refit) has been published in the Official Journal.

The updates made by the CSDR Refit are intended to reduce the financial and regulatory burden on central securities depositories (CSDs) and improve their

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ability to operate across borders while strengthening financial stability. They focus on five key areas, including:

- the passporting regime;
- cooperation between supervisory authorities;
- banking-type ancillary services;
- settlement discipline; and
- the oversight of third country CSDs.

The Regulation will enter into force on 16 January 2024.

ECON Committee publishes draft report on proposed regulation on reporting requirements in financial services and investment support

The EU Parliament's Committee on Economic and Monetary Affairs (ECON) has published its [draft report](#) on the EU Commission's 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.

The EU Commission published its legislative proposal in October 2023 as part of its 2024 work programme and its commitment to reduce burdens associated with reporting requirements by 25%.

Amongst other things, the draft ECON Committee report suggests changes to:

- expand the scope of the proposed regulation to the entire financial sector;
- introduce the 'report once principle' by default;
- avoid 'gold plating', cross-sector inconsistencies and ensure proportionality;
- establish a single integrated reporting system; and
- remove legal obstacles for data exchange.

EU Commission consults on simplifying ESMA's supervisory fees for benchmark administrators, trade repositories, credit rating agencies and securitisation repositories

The EU Commission has published for consultation five draft delegated regulations regarding the harmonisation of certain aspects linked to fees charged by the European Securities and Markets Authority (ESMA) to certain financial markets entities.

In particular, the draft delegated regulations amend:

- [Delegated Regulation \(EU\) No 272/2012](#) as regards the harmonisation of certain aspects linked to fees charged by ESMA to credit rating agencies;
- [Delegated Regulation \(EU\) 2020/1732](#) as regards the harmonisation of certain aspects linked to fees charged by ESMA to securitisation repositories;

- [Delegated Regulation \(EU\) No 1003/2013](#) as regards fees charged by ESMA to trade repositories under EMIR (Regulation (EU) No 648/2012);
- [Delegated Regulation \(EU\) No 2019/360](#) as regards fees charged by ESMA to trade repositories under the SFTR (Regulation (EU) 2015/2365); and
- [Delegated Regulation \(EU\) 2022/805](#) as regards fees charged by ESMA to certain benchmark administrators under the Benchmarks Regulation (Regulation (EU) 2016/1011).

Certain financial markets entities in the EU subject to ESMA's direct supervision, including credit rating agencies, securitisation repositories, trade repositories, administrators of critical benchmarks and recognised third-country administrators, pay ESMA an annual fee for its supervisory service. The EU Commission aims to align technical aspects of the fee collection process across ESMA's supervisory mandates. The draft delegated regulations are intended to harmonise and simplify technical aspects of ESMA's fee system so that the fees charged and their collection are less complex and more uniform across sectors.

Comments are due by 31 January 2024.

EBA consults on guidelines on internal policies, procedures and controls to ensure sanctions implementation

The European Banking Authority (EBA) has published a [consultation paper](#) setting out two sets of guidelines on internal policies, procedures and controls to ensure the implementation of EU and national restrictive measures.

The first set of draft guidelines is addressed to financial institutions and prudential supervisors and sets common regulatory expectations regarding the role of senior management, internal governance and risk management in the restrictive measures context.

The second set of draft guidelines sets out what payment service providers (PSPs) and cryptoasset service providers (CASPs) need to have in place to ensure compliance with restrictive measures in the context of transfers of funds and transfers of cryptoassets under Article 23 of Regulation (EU) 2023/1113. In particular, these guidelines focus on know your customer (KYC), screening and due diligence.

The EBA will hold a virtual public hearing on the consultation paper on 8 February 2024.

Comments are due by 24 March 2024.

CSSF issues communiqué on submission of revised long form report

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has published a [communiqué](#) on the submission of the revised long form report (LFR) through the S3 solution.

The background to the communiqué is that on 15 November 2023 the CSSF made available its eDesk module for the revised LFR, which was introduced by Circulars CSSF 22/821 and CSSF 07/325.

The communiqué informs the concerned entities under CSSF supervision (i.e., Luxembourg credit institutions and Luxembourg branches of third-country credit institutions as well as to a limited extent Luxembourg branches of EU/EEA credit institutions and investment firms) that, in this context, an IT solution optimising the filling of the self-assessment questionnaire has been made available from 3 January 2024 to in-scope entities. This API solution allows the completion of the questionnaire through a structured file transmitted to the CSSF via a S3 (simple storage service) protocol. This file will prefill the questionnaire available on the CSSF eDesk Portal. Before the submission, entities will still be able manually to modify and update the data prefilled through S3 directly in eDesk. The manual filling of the questionnaire through eDesk remains possible. For further details regarding the modalities on how to use this new feature, the communiqué refers to the dedicated user guide published on the eDesk module.

CSSF publishes communiqué on revised inbound email protocol security

The CSSF has published a [communiqué](#) on revised inbound email protocol security at the CSSF.

The communiqué informs the public that, in order to increase email security at the CSSF, all inbound emails are now checked with an email authentication protocol using Domain-based Message Authentication, Reporting & Conformance policies (DMARC) at the Domain Name System level (DNS), verifying server origin and digital signature of the email using the Sender Policy Framework (SPF) and DomainKeys Identified Mail (DKIM) protocols.

Any failure during these verification steps will result in the email not being delivered to its intended recipient(s).

The CSSF is therefore asking senders to make sure that their DNS records are complete and correctly configured according to SPF/DKIM/DMARC best practices to avoid any rejected emails towards the CSSF.

CSSF sets countercyclical buffer rate for first quarter of 2024

The CSSF has issued [Regulation No. 23-06](#) on the setting of the countercyclical buffer rate for the first quarter of 2024.

The regulation provides that the countercyclical buffer rate applicable to the relevant exposures located in Luxembourg remains set at 0.50% for the first quarter of 2024.

The regulation entered into force on the date of its publication in the Luxembourg official journal on 29 December 2023.

Banking amendment rules to implement Basel III reforms gazetted

The Hong Kong Government has gazetted the following banking amendment rules to implement the latest capital standards and associated disclosure requirements issued by the Basel Committee on Banking Supervision (BCBS) under the Basel III reforms, together with other related updates for the prudential regulation of banks in Hong Kong:

- the [Banking \(Capital\) \(Amendment\) Rules 2023](#) (BCAR);

- the [Banking \(Disclosure\) \(Amendment\) Rules 2023](#) (BDAR);
- the [Banking \(Exposure Limits\) \(Amendment\) Rules 2023](#) (BELAR); and
- the [Banking \(Liquidity\) \(Amendment\) Rules 2023](#) (BLAR).

The BCAR and the BDAR are primarily intended to implement the final phase of the Basel III reforms to enhance the capital framework in terms of robustness, risk sensitivity and consistency in banks' capital computation. The BCAR also include other amendments to enhance or clarify the operations of certain provisions of the capital rules to better address risk exposures of banks, and to introduce the option of a positive neutral countercyclical capital buffer to strengthen the protection of the banking sector against possible system-wide shocks. The BELAR and the BLAR incorporate consequential updates and related changes of the large exposures and liquidity frameworks.

The amendment rules will be tabled at the Legislative Council on 10 January 2024 for negative vetting. Subject to the views of the Legislative Council, the following effective dates will apply:

- for the provisions of the rules that are not associated with the Basel III final package, those in the BCAR (including provisions in relation to the countercyclical capital buffer), and those in the BELAR that are considered significant to ensuring the effective operation of the rules, 1 April 2024; and
- for the other provisions of the BCAR and the BELAR, as well as the BDAR and the BLAR, a date is to be appointed by the Hong Kong Monetary Authority (HKMA) by notice published in the Gazette, and is currently intended to be 1 January 2025.

Hong Kong Government consults on proposal to implement regulatory regime for stablecoin issuers

The Financial Services and the Treasury Bureau (FSTB) and the HKMA have jointly launched a [public consultation](#) on a legislative proposal to regulate issuers of stablecoin.

In view of the roles played by stablecoins in the Web3 and virtual asset (VA) ecosystem, and the rising interconnectedness between the traditional financial system and the VA markets, the Government considers that a regulatory regime should be introduced for fiat-referenced stablecoin (FRS) issuers.

The legislative proposal takes into account the feedback received on the HKMA's January 2022 discussion paper on cryptoassets and stablecoins. Amongst other things, the proposal involves:

- introducing a new piece of legislation to implement a licensing regime requiring all FRS issuers that meet certain conditions to be licensed by the HKMA;
- requiring that FRS can only be offered by specified licensed entities, and only FRS licensed by the HKMA can be offered to retail investors;
- prohibiting the advertising of FRS issuance by unlicensed entities or non-specified licensed entities' offering of FRS;
- providing the necessary powers for the authorities to adjust the parameters of in-scope stablecoins and activities having regard to the rapid VA market development; and

- providing a transitional arrangement to facilitate the implementation of the regulatory regime.

The HKMA also plans to introduce a sandbox arrangement to communicate its supervisory expectations and compliance guidance to entities with a genuine interest in and a reasonable plan for issuing FRS in Hong Kong. Relevant details of the sandbox arrangement will be announced separately.

Comments on the consultation are due by 29 February 2024.

SFC issues circular on investment funds with exposure to virtual assets

The Securities and Futures Commission (SFC) has issued a [circular](#) to set out the requirements subject to which it will consider authorising investment funds with exposure to virtual assets (VA) of more than 10% of their net asset value (NAV) for public offerings in Hong Kong (SFC-authorized VA Funds) under sections 104 and 105 of the Securities and Futures Ordinance.

In particular, the circular sets out the requirements for SFC-authorized funds to:

- invest directly in the same spot VA tokens accessible to the Hong Kong public for trading on SFC-licensed virtual assets trading platforms (i.e., direct exposure); and/or
- acquire indirect investment exposure to such VA (i.e., indirect exposure), for example, through futures traded on conventional regulated futures exchanges and other exchange-traded products.

SFC-authorized VA Funds are expected to meet the applicable requirements in the Overarching Principles Section and the Code on Unit Trusts and Mutual Funds in the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products. Additional requirements set out in the circular, as well as relevant requirements in the SFC's joint circular with the HKMA on intermediaries' virtual asset-related activities issued on 22 December 2023 should also be satisfied.

The circular supersedes the circular on virtual asset futures exchange traded funds issued on 31 October 2022.

SFC updates guidance on streamlined measures for SFC-authorized funds

The SFC has [updated](#) its guidance to set out and clarify its streamlined measures to enhance the operational efficiency and approval processes of SFC-authorized funds in implementing changes and fulfilling the disclosure and reporting requirements for such funds.

The updated guidance covers a variety of measures including those that relate to the appointment of investment delegates, UCITS funds, post-authorisation notifications, derivative instruments and disclosure guidance.

The measures set out in the updated guidance came into effect on 22 December 2023.

Amendment regulations and revised notice implementing proposal regarding enhancement of depositor protection by increasing deposit insurance coverage published

The Singapore Government has gazetted the [Deposit Insurance and Policy Owners' Protection Schemes \(Deposit Insurance\) \(Amendment\) Regulations 2023](#), which amend the Deposit Insurance and Policy Owners' Protection Schemes (Deposit Insurance) Regulations 2011 in order to implement the proposal regarding enhancement of depositor protection by increasing deposit insurance (DI) coverage.

On 22 September 2023, the Monetary Authority of Singapore (MAS) published its response to the feedback it received to its June 2023 public consultation on proposed enhancements to the DI scheme in Singapore. Based on the feedback received, the MAS, amongst other things, confirmed that the maximum DI coverage will be increased from SGD 75,000 to SGD 100,000 per depositor per DI Scheme member with effect from 1 April 2024 in order to ensure that 91% of depositors are fully covered by the scheme.

Following the September 2023 response paper, the MAS has revised its existing Notice DIA-N01 Deposit Insurance Returns (Notice DIA-N01). In particular, the Notice DIA-N01 has been revised to:

- delete the paragraphs related to the transitional arrangements for the period between 31 December 2018 and 31 March 2019, as well as Annex B (which relates to notes for completion of schedules), as those transitional arrangements were implemented for the previous increase in maximum DI coverage and are no longer relevant; and
- set out the arrangements for the submission of returns as at the close of business on 31 December 2023, 31 March 2024, 30 June 2024, 30 September 2024 and 31 December 2024, to implement the increase in the maximum DI coverage.

The Amendment Regulations and revised MAS Notice DIA-N01 became effective from 31 December 2023.

The following notices have also been amended mainly to implement arrangements for the submission of returns in connection with the revised MAS Notice DIA-N01:

- Notice 609 Auditors' Reports and Additional Information to be Submitted with Annual Accounts (MAS Notice 609); and
- Notice 815 Submission of Annual Accounts (MAS Notice 815).

The revised MAS Notice 609 and MAS Notice 815 became effective from 28 December 2023.

MAS directs remittance companies to suspend remittances to China through non-bank and non-card channels

The MAS has issued [Notice PSN11](#) to licensees providing a cross-border money transfer service on temporary restrictions in relation to the provision of cross-border money transfer services to the People's Republic of China.

Notice PSN11 directs licensed PSPs providing cross-border money transfer services (remittance companies) to suspend the use of non-bank and non-

card channels when transmitting money to persons in the People's Republic of China (PRC). This restriction will last for a period of 3 months from 1 January 2024 to 31 March 2024.

Notice PSN11 follows reports of remittances to China made by individuals through remittance companies in Singapore being subsequently frozen in their beneficiaries' bank accounts in China. The Singapore Police Force and the MAS have also issued an advisory in connection with Notice PSN11.

In addition, the MAS has provided for a 14-day period from the date of publication of the Notice until it comes into effect, to enable remittance companies to make necessary changes to their existing practices, and for existing remittances to be completed. The MAS has also cautioned members of the public against rushing to remit monies to China through overseas third-party agents during this 14-day period and has encouraged individuals to use other channels for remittances into China, such as through banks or card networks, to prevent any inadvertent freezing of monies or accounts. The MAS Notice PSN11 is effective from 1 January 2024.

RECENT CLIFFORD CHANCE BRIEFINGS

The new European Sustainability Reporting Standards entered into force!

The Corporate Sustainability Reporting Directive (CSRD) provides for detailed sustainability related disclosure obligations for companies. With the publication of the European Sustainability Reporting Standards (ESRS) on 22 December 2023 the legislative procedure for the first mandatory sustainability reporting standard has been completed.

This briefing paper discusses the ESRS.

<https://www.cliffordchance.com/briefings/2023/12/the-new-european-sustainability-reporting-standards-entered-into.html>

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

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