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Capital Markets Union: EU Council and Parliament reach provisional agreement on Listing Act and directive on multiple-vote share structures

The EU Council and the EU Parliament have reached provisional agreements on the Listing Act and on the proposed directive on multiple-vote share structures, which will allow company owners to list on SME growth markets using multiple-vote share structures, as part of the Capital Markets Union (CMU).

In particular, the agreement on the Listing Act covers:

- a proposed Listing Act Regulation amending the Prospectus Regulation, Market Abuse Regulation (MAR) and the Markets in Financial Instruments Regulation (MiFIR); and
- a proposed Listing Act Directive amending MiFID and repealing the Listing Directive.

The Listing Act is intended to make capital markets in the EU more attractive by alleviating the administration burden for companies of all sizes, in particular SMEs, so that they can better access public funding by listing on stock exchanges.

Among other things, the provisional agreement includes:

- alleviating disclosure requirements;
- alleviating investment research rules in order to increase the level of research on SMEs in the EU;
- investment firms ensuring that issuer-sponsored research is produced in compliance with the EU code of conduct; and
- allowing the re-bundling of payments for research and execution of orders.

The proposed directive on multiple-vote share structures is intended to encourage owners of small- and medium-sized companies to list their shares on SME growth markets using multiple-vote share structures, in order to help them to retain sufficient control of their company after listing. Currently, some Member States allow multiple-vote share structures while in others such structures are forbidden. The proposed directive is intended to reduce inequalities for companies seeking to raise funds on SME growth markets and to protect the rights of shareholders who hold shares with a lower number of

votes per share, by introducing safeguards on issues such as key decisions taken in general meetings.

The provisional agreement on the proposed directive:

- extends the scope of the directive to include, besides SME growth markets, any other multilateral trading facility that allows the admission to trading of SME shares;
- defines safeguards for investors entering a multiple-vote share structure, including either a maximum voting ratio or a restriction for (most) qualified majority decisions by the general meeting; and
- establishes transparency rules, such as the disclosure of annual financial statements at the time of admission to trading.

The texts still need to be finalised and formally approved by both the Parliament and Council before they can be published in the Official Journal.

CRR: RTS on calculation of stress scenario risk measure published in Official Journal

Commission Delegated Regulation (EU) 2024/397 setting out regulatory technical standards (RTS) under the Capital Requirements Regulation (CRR) on the calculation of the stress scenario risk measure has been published in the Official Journal.

Among other things, the RTS set out:

- how institutions are to develop extreme scenarios of future shock applicable to non-modellable risk factors, using the direct method and the stepwise method;
- that the regulatory extreme scenario of future shock is the one that leads to the maximum possible loss due to a movement in the non-modellable risk factor;
- that institutions may calculate a single stress scenario risk measure for more than one non-modellable risk factor, when those risk factors belong to the same standardised bucket and institutions used that standardised bucket when assessing the modellability of those risk factors under Article 325be of the CRR; and
- the requirement for institutions to aggregate the stress scenario risk measures in accordance with the aggregation formula provided in the international standards.

The Delegated Regulation will enter into force on 18 February 2024.

ECON Committee adopts 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 adopted its 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 ECON Committee's report:

- emphasises the need for consistent and standardised data collection across jurisdictions due to increasing demand;
- expands the scope of the proposed regulation to include not only the European Supervisory Authorities (ESAs), but also the Single Resolution Board (SRB) and the European Anti-Money Laundering Authority (AMLA);
- introduces the 'report once principle' by default; and
- establishes a single integrated reporting system.

CRR3: EBA consults on draft RTS on residual risk add-on hedges under Fundamental Review of the Trading Book

The European Banking Authority (EBA) has launched a consultation on draft RTS on residual risk add-on hedges under the Fundamental Review of the Trading Book.

The CRR3 introduced a provision in the residual risk add-on framework allowing an exemption from the residual risk add-on charge for instruments bearing residual risks that are taken to hedge instruments bearing residual risks too. The draft RTS set out the conditions for determining whether an instrument attracting residual risk qualifies as a hedge for the purpose of the exemption.

Comments are due by 3 May 2024.

MiCA: ESMA consults on reverse solicitation and classification of cryptoassets as financial instruments

The European Securities and Markets Authority (ESMA) has published two consultation papers on guidelines under the Markets in Cryptoassets Regulation (MiCA).

The first consultation paper seeks input on proposed guidance relating to the conditions of application of the reverse solicitation exemption and the supervision practices that national competent authorities (NCAs) may take to prevent its circumvention. The proposed guidance confirms ESMA's previous message that the provision of cryptoasset services by a third-country firm under MiCA is limited to cases where the client is the exclusive initiator of the service. ESMA has emphasised that this exemption should be understood as very narrowly framed and must be regarded as the exception and that firms cannot use it to bypass MiCA.

The second consultation paper seeks input on establishing clear conditions and criteria for the qualification of cryptoassets as financial instruments. The proposed guidelines are intended to provide NCAs and market participants with structured but flexible conditions and criteria to determine whether a cryptoasset can be classified as a financial instrument.

Comments are due by 29 April 2024. ESMA expects to publish a final report in Q4 2024.

Securitisation Regulations 2024 published

The Securitisation Regulations 2024 (SI 2024/102) have been made and published.

The SI creates a new regulatory framework that will replace retained EU law (REUL) and enables the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) to make new rules in relation to securitisation.

Among other things, SI 2024/102:

- specifies certain securitisation activities as designated activities for the purposes of the Financial Services and Markets Act 2000 (FSMA 2000);
- confers powers on the regulators to make rules in relation to these activities; and
- restates into domestic legislation certain provisions of REUL that are to be revoked under the Financial Services and Markets Act 2023 (FSMA 2023).

The SI will come fully into force alongside the new regulators' rules and the commencement of the revocation of REUL in relation to securitisation, including:

- Regulation (EU) 2017/2402 of the European Parliament and of the Council (EU Securitisation Regulation);
- the Securitisation Regulations 2018; and
- the Securitisation (Amendment) (EU Exit) Regulations 2019, which adapted the EU Securitisation Regulation so that it could work as retained EU law in the UK once the UK had left the EU.

Data Reporting Services Regulations 2024 published

The Data Reporting Services Regulations 2024 (SI 2024/107) have been made and published.

The SI creates a new regulatory framework that will replace retained REUL in relation to data reporting services providers (DRSPs). Among other things, SI 2924/107:

- defines the scope of the DRSP regime;
- restates the FCA's authority over DRSPs, requiring authorisation or verification for data reporting services;
- affirms the FCA's existing supervisory and regulatory powers, including registration, investigation, and enforcement; and
- introduces measures for a consolidated tape, allowing the FCA to select DRSPs through a tender process.

The SI comes into force on the day on which the revocation of the Data Reporting Services Regulations 2017 by section 1(1) of, and Schedule 1 to, the FSMA 2023 comes into force.

Public Offers and Admissions to Trading Regulations 2024 published

The Public Offers and Admissions to Trading Regulations 2024 (SI 2024/105) have been made and published.

The SI creates a new framework for the offering of securities to the public in the UK that will replace retained REUL relating to prospectuses, namely the UK Prospectus Regulation, which is to be revoked by the FSMA 2023. Among other things, it:

- creates a general prohibition on public offers of securities, followed by a series of exceptions from this prohibition;
- establishes a new regime for securities 'admitted to trading' on a regulated market or multilateral trading facility (MTF); and
- creates a new regulated activity of operating an electronic system for public offers of certain securities.

The SI will come fully into force alongside the commencement of the revocation of REUL relating to prospectuses.

Financial Services Act 2021 (Overseas Funds Regime and Recognition of Parts of Schemes) (Amendment and Modification) Regulations 2024 published

The Financial Services Act 2021 (Overseas Funds Regime and Recognition of Parts of Schemes) (Amendment and Modification) Regulations 2024 (SI 2024/114) have been made and published.

The SI is intended to facilitate the implementation of the Overseas Funds Regime (OFR), a new equivalence regime for recognising overseas funds under section 271A of the FSMA 2000, which was legislated for in the Financial Services Act (FSA) 2021.

The SI introduces amendments throughout the statute book to include references to section 271A FSMA 2000. It also modifies some of these new amendments and existing references to recognised funds where relevant to ensure that these references take into account recognised sub-funds, where funds have an overarching umbrella fund, beneath which different sub-funds exist, each with their own investment strategies.

The SI will come into force on 26 February 2024.

Overseas Funds Regime: Economic Secretary to the Treasury delivers statement on UK's equivalence assessment of EEA states

The Economic Secretary to the Treasury, Bim Afolami, has made a Ministerial Statement to the House of Commons and House of Lords regarding the equivalence assessment for states in the European Economic Area (EEA), including EU Member States, under the UK's Overseas Funds Regime (OFR).

Afolami confirmed that the Government has found the EEA states, including the EU Member States, equivalent under the OFR. This decision applies to Undertakings for the Collective Investment in Transferable Securities (UCITS), excluding Money Market Funds (MMFs), and will require secondary legislation to enact.

The UK intends to monitor this equivalence decision in light of regulatory developments. The Government also intends to consult on broadening the scope of sustainable disclosure requirements to include funds recognised under the OFR. Additionally, the Government plans to extend the current temporary arrangement allowing EEA funds which were marketing in the UK

prior to EU exit to continue to do so until the end of 2026 in order to allow a smooth transition to the OFR.

BoE and PRA publish final policy on approach to enforcement and supervisory decisions

The Bank of England (BoE) and PRA have issued a policy statement (PS1/24) and two statements of policy (SoPs) on their approaches to enforcement and supervisory decisions.

In PS1/24, the BoE sets out feedback and final policy following its consultation (CP9/23), jointly issued with the PRA, on proposed changes to their approach to enforcement. The proposals included:

- combining the BoE's existing enforcement policies and procedures into one consolidated document;
- moving any sections of the PRA Enforcement Approach which relate to the use of statutory tools into a new PRA Supervisory Decision-Making Policy;
- amending the PRA Enforcement Approach to incentivise cooperation by subjects under investigation and to revise the approach to calculating the starting point for financial penalties;
- clarifying the approach the BoE would take in enforcement investigations into financial market infrastructures (FMIs);
- revising policies added to the new PRA Supervisory Decision-Making Policy to improve operational efficiency;
- updating the remit of the Enforcement Decision Making Committee (EDMC) to include various enforcement powers available to the BoE and/or PRA under the FSMA 2000; and
- clarifying the EDMC Procedures to reflect how they typically operate in practice.

Respondents to the consultation were generally supportive of the proposals, although the BoE has made a number of changes to the draft policy to improve clarity. These changes primarily relate to the Early Account Scheme, the Enhanced Settlement Discount and the imposition of financial penalties for individuals and PRA-regulated firms.

The final policy is set out in a new SoP titled 'The Bank's approach to enforcement; statutory SoP and procedure'. The SoP covers areas such as decision-making procedures, supervisory policies, and enforcement actions.

A revised SoP titled 'The Prudential Regulation Authority's allocation of decision making and approach to supervisory decisions' has also been published. This SoP has been updated to reflect the policy changes in PS1/24, including to separate out the PRA's approach to enforcement and its allocation of decision-making and approach to supervisory decisions.

The SoPs took effect on 30 January 2024.

PRA consults on approach to rule permissions and waivers

The PRA has published a consultation paper (CP3/24) on a proposal for a new SoP that will set out the PRA's approach to rule permissions made under section 138BA of the FSMA 2023.

Section 138BA allows the PRA, on application or with the consent of a person who is subject to the PRA rules, to give the person a permission that enables them not to apply the rules, or to apply the rules with a modification specified in the permission. The PRA's power to grant such rule permissions is expected to be used to transfer some assimilated law (previously known as retained EU law) permissions and approvals into the PRA Rulebook. The proposed SoP would explain how the PRA will generally exercise the power.

Comments are due by 30 April 2024 and the PRA proposes to publish a final SoP in June 2024.

BaFin issues FAQs on recast ELTIF Regulation

The German Federal Financial Supervisory Authority (BaFin) has issued a set of frequently asked questions (FAQs) on Regulation (EU) 2023/606 amending Regulation (EU) 2015/760 as regards the requirements pertaining to the investment policies and operating conditions of European long-term investment funds and the scope of eligible investment assets, the portfolio composition and diversification requirements and the borrowing of cash and other fund rules, which applies as of 10 January 2024.

The recast ELTIF Regulation brings about changes for European long-term investment funds (ELTIFs), which were introduced in 2015 to promote long term investments in the real economy. Under the recast ELTIF Regulation, ELTIFs may now also be marketed to retail investors (such as long-term investments in infrastructure projects or in real assets, e.g. wind farms).

BaFin's FAQs not only answer questions with respect to the recast ELTIF Regulation but also address matters under the German Investment Code (Kapitalanlagegesetzbuch – KAGB) relating to ELTIFs. The FAQs on the recast ELTIF Regulation will be updated on an ongoing basis.

EMIR: Consob complies with ESMA guidelines on reporting

The Commissione Nazionale per le Società e la Borsa (Consob) has notified the ESMA of its intention to comply with its guidelines on reporting under the European Market Infrastructure Regulation (EMIR).

Counterparties to derivative contracts will therefore be required to comply with ESMA's interpretative guidelines as of 29 April 2024.

In particular, based on what is indicated in the guidelines, Consob has reminded counterparties to use regulatory data for internal risk management and compliance processes to ensure compliance with the obligation to submit correct reports, to report data consistently, and to reduce reporting burdens.

Consob has also reminded counterparties of their obligation to notify the supervisory authority of significant omissions and/or errors in reporting, pursuant to Article 9 of Commission Implementing Regulation (EU) 2022/1860.

NPL Directive: Italian Treasury consults on draft implementing decree

The Italian Ministry of Economy and Finance, Department of the Treasury, has launched a public consultation on a draft proposal intended to implement the Non-performing Loans (NPL) Directive (EU) 2021/2167 on credit servicers and credit purchasers. Amongst other things, the proposed legislation would

amend Legislative Decree No. 385 of 1 September 1993 (the Italian Banking Act).

Comments are due by 29 February 2024.

Financial regulators to send questionnaire to financial institutions to evaluate Financial Institutions Remuneration Policy Act

The Dutch Central Bank (DNB) has announced that, at the request of the Ministry of Finance, it will distribute a questionnaire to banks and insurers in the first quarter of 2024, which will serve the further evaluation of the Financial Institutions Remuneration Policy Act (Wet beloningsbeleid financiële ondernemingen, or Wbfo). DNB is asking banks and insurers to complete the questionnaire on a voluntary basis. The Authority for the Financial Markets (AFM) will do the same in respect of investment firms and financial services providers.

The Ministry of Finance will be evaluating the Wbfo for the second time. The first evaluation took place in 2018. The current evaluation by the Ministry of Finance focuses on two main questions:

- what are the effects of the Wbfo on the development of remuneration in the financial sector; and
- what effect does the Wbfo have on the competitive position of financial institutions to which it applies and on the business climate, as well as labour mobility?

The questionnaires to be distributed by DNB and AFM focus on questions about the allocation and amount of variable remuneration and the use of grounds for exceptions to the maximum permitted variable remuneration. The list also contains an open question in which participants can give their views on the effect of the Wbfo on the business climate, labour mobility and on the development of rewards.

Minister of Finance consults on bill regarding cash payments

The Minister of Finance has launched a consultation on a legislative proposal regarding cash payments. The proposal was announced in 2023 and is a follow-up to external research into the future organisation of the cash infrastructure.

The Minister acknowledges that cash plays an important role in society, but also notes that the declining use of cash has put pressure on the cash infrastructure. The bill aims to keep cash available, accessible and affordable and obliges major banks to offer a nationwide network of ATMs. In addition, the proposal obliges all banks to enable their Dutch account holders to withdraw and deposit cash and provides legal rules for large security transport companies to ensure the continuity of security transport. The Dutch Central Bank (DNB) would monitor compliance with the new law.

Comments are due by 8 March 2024.

Bank of Spain issues circular to banks, credit cooperatives and other supervised entities regarding capital structure information

The Bank of Spain has issued Circular 1/2024, of 26 January, to banks, credit cooperatives and other supervised entities regarding capital structure information, amending Circular 1/2009, of 18 December, to credit institutions and other supervised entities, regarding capital structure information and equity shares of credit institutions, and their branches.

The main purpose of Circular 1/2024 is to establish the information to be submitted by credit institutions, credit cooperatives, credit financial establishments, payment entities and electronic money institutions to the Bank of Spain regarding:

- acquisitions of, increases in, and reductions of shareholdings in the reporting institutions; and
- the shareholding structure of the reporting institutions.

Circular 1/2024 includes the forms to be used when reporting this information.

Circular 1/2024 will enter into force on the 20th day following its publication in the Spanish Official Gazette (i.e. 20 February 2024), apart from the use of the new form for filing information on the reporting institutions' shareholding structure, the implementation of which has been delayed until 31 March 2024 for quarterly information and to 30 June 2024 for half-yearly information. Until then, institutions will continue to submit the information in the form set out in Circular 1/2009.

FINMA consults on circular on nature-related finance risks

The Swiss Financial Market Supervisory Authority (FINMA) has launched a consultation on a draft circular on the management of nature-related financial risks.

The draft circular is based on the recommendations of the Basel Committee on Banking Supervision (BCBS) and the International Association of Insurance Supervisors (IAIS), as well as some of the recommendations of the Network for Greening the Financial System (NGFS).

In the draft circular, FINMA specifies:

- the extent to which nature-related financial risks must be taken into account in corporate governance and institution-wide risk management by banks and insurance companies;
- criteria for assessing the materiality of risks and how scenario analyses are to be incorporated; and
- how the main nature-related financial risks are to be embedded as risk drivers in the existing management of credit, market, liquidity and operational risks as well as in insurance activities.

The circular is addressed to banks and insurance companies and is due to enter into force on 1 January 2025 with transitional provisions.

Comments are due by 31 March 2024.

APRA outlines supervision and policy priorities for 2024

The Australian Prudential Regulation Authority (APRA) has written a letter to its regulated entities providing an interim update on its supervision and policy priorities for the first six months of 2024, to bridge to the 2024-25 Corporate Plan, which is due by the end of August 2024.

The APRA reprioritised its supervision and policy agendas in 2023 to respond to the risks that emerged during the year and progressed a range of policy reforms. For the period ahead, the APRA plans to continue this programme with a focus on:

- operational and cyber resilience for all regulated entities, reflecting the growing reliance on digital technologies by entities and the community;
- embedding lessons from global banking turmoil in early 2023 through targeted changes to the prudential framework for authorised deposit-taking institutions;
- lifting superannuation trustees' practices on retirement incomes, implementing recommendations from the Financial Regulator Assessment Authority review, enhancing transparency and aligning its heatmaps with the performance test; and
- across insurance, continuing to balance financial sustainability with the need to enhance affordability and availability.

A detailed table outlining the planned supervision and policy activities is included as an attachment to the letter. The APRA has advised entities to read these industry-level priorities in conjunction with their entity specific supervisory programmes, which are calibrated to their tier and stage.

China consults on policies to further support overseas institutional investors trading bond repos in PRC interbank bond market

The People's Bank of China (PBoC) has published the 'Bulletin on Further Supporting Overseas Investors to Trade Bond Repos in the Interbank Bond Market (Consultation Draft)', setting out its policy support for bond repurchase transactions (repos) for overseas institutional investors (OIIs) in the PRC interbank bond market (CIBM).

The key points of the draft are as follows:

- application scope – the proposed policies apply to OIIs that are already carrying out bond trading in the CIBM;
- Bond Repo Master Agreement – the draft states that an OII will need to sign a bond repo master agreement with its counterparty, without explicitly specifying the type of master agreement. The relevant self-disciplinary organisation, which is expected to be the National Association of Financial Market Institutional Investors (NAFMII), will file the relevant template master agreements with the PBoC; and
- encouraging title transfer – the PBoC's notes on the draft indicate the PBoC's recognition of title transfer arrangements for repo transactions under this new scheme, and mention that both pledge-type and outright-transfer-type repos will be permitted.

The PBoC and the State Administration of Foreign Exchange (SAFE) are seeking public comments until 23 February 2024. Once finalised, detailed implementation rules are expected to be released by NAFMII and other market infrastructure to launch the scheme.

FSA publishes report by Working Group on Tender Offer Rule, Large Shareholding Reporting Rule and Beneficiary Shareholder Transparency Rule of Financial System Council

The Financial Services Agency (FSA) has published a report by the Working Group on the Tender Offer Rule, Large Shareholding Reporting Rule and Beneficiary Shareholder Transparency Rule of the Financial System Council, which summarises the deliberations that the Working Group has been conducting since June 2023.

In light of recent changes in the capital markets, the Working Group has identified a number of issues regarding the tender offer rule, the large shareholding reporting rule, and the transparency of beneficial shareholders. To address these issues, the Working Group is recommending the following for the tender offer rule:

- to ensure transparency and fairness of securities transactions, transactions through market trade (on-floor transaction) that have a material impact on corporate control should be made subject to the application of the one-third rule;
- the threshold to determine whether transactions have a material impact on corporate control should be lowered from one third of the voting rights to 30% of the voting rights, in light of the actual ratios of voting rights exercised and the levels in other jurisdictions;
- for a partial tender offer (tender offer with an upper limit), offerors should fulfil their accountability for measures to address the conflict-of-interest structure with minority shareholders after the tender offer. In addition, whether the offer is with or without an upper limit, the offeror should be allowed voluntarily to set an additional tender offer period after the tender offer is completed successfully; and
- to avoid an excessively rigid operation of the system that does not take into account the actual situation, a system that permits exceptional treatment on a case-by-case basis should be established, and an operational structure in which the authorities are responsible for a substantial judgement function should be developed;

To address these issues, the Working Group is also recommending the following for the large shareholding reporting rule:

- in order for passive investors to have in-depth dialogues with companies, the rules should be clarified to allow investors to use the special reporting rule, if all of the following conditions are satisfied the purpose of the engagement is not directly related to corporate control, and the manner of the engagement leaves the adoption or refusal up to the company's management;
- in order to promote collective/collaborative engagement, even in cases where institutional investors agree on voting rights, if the investors' aim of agreement is not to jointly engage in the act of material proposal, and the

agreement is not for the continuous exercise of voting rights, they should not be required to aggregate their ownership ratio as 'joint holders'; and

- cash-settled equity derivatives that entail a potential impact on management or have an effect of circumventing the large shareholding reporting rule should be subject to the rule; and

For the transparency of beneficial shareholders and to promote dialogue between companies and shareholders/investors, as well as to efficiently identify the beneficial shareholders, the relevant authorities should consider taking the following measures, the Working Group is also recommending:

- calling on institutional investors to respond when issuer companies ask them about the status of their holdings by clearly stating principles of conduct for institutional investors; and
- making these responses mandatory in law.

Ministry of Law extends application period for Simplified Insolvency Programme

The Ministry of Law has announced that it will extend the application period for the Simplified Insolvency Programme (SIP) by 24 months, from 29 January 2024 to 28 January 2026.

The SIP was introduced on 29 January 2021 for the benefit of eligible micro and small companies (MSCs) facing financial difficulties by helping them restructure their debts or wind up via a simpler, faster and lower cost insolvency process. The initial application period for the SIP was for six months from 29 January 2021 to 28 July 2021. This was subsequently extended by 12 months from 29 July 2021 to 28 July 2022, and further extended by 18 months from 29 July 2022 to 28 January 2024.

The Ministry of Law plans to make the simplified insolvency processes a permanent feature of the insolvency framework. To provide continued support for financially distressed MSCs in the interim, the Ministry of Law has gazetted the Insolvency, Restructuring and Dissolution (Further Extension of Prescribed Periods for Parts 5A and 10A) Order 2024 to further extend the prescribed period for the purposes of Part 5A and Part 10A of the Insolvency, Restructuring and Dissolution Act 2018 by 24 months starting on the effective date of the Order.

The Insolvency, Restructuring and Dissolution (Further Extension of Prescribed Periods for Parts 5A and 10A) Order 2024 is effective from 29 January 2024.

RECENT CLIFFORD CHANCE BRIEFINGS

Clifford Chance Buy-Side Regulatory Horizon Scanner January 2024

This buy-side regulatory horizon scanner provides a high-level overview of key ongoing and expected EU and UK regulatory developments relevant to investment managers.

The tracker identifies and summarises key legislative and non-legislative developments that are likely to have an impact on investment managers providing services in the EU and UK. Developments are grouped firstly

according to whether they are EU or UK developments and, within those categories, into the following three topics:

- asset management developments;
- ESG developments; and
- cross-sectoral developments.

The horizon scanner also sets out projected timelines for the finalisation and implementation of the relevant developments, covering approximately the next two years.

The horizon scanner has been prepared as of January 2024. It does not constitute legal advice and is not intended to provide an exhaustive list of all provisions or requirements applicable to firms during this period.

https://www.cliffordchance.com/briefings/2024/01/buy-side-regulatory-horizon-scanner.html

Fintech in 2024 – five trends to watch

While 2023 saw ongoing uncertainty and high-profile financial sector failures, it also brought regulatory progress around the world, including for landmark regulations on digital assets and AI. In 2024, we will see the next stage of pioneering regulation as blueprints and best practices begin to emerge, alongside compliance challenges.

This briefing paper discusses the five key legal trends to watch in global fintech in 2024, from the next phases of market development for AI, payments, cryptoassets, tokenisation and digital bonds to operational resilience challenges.

https://www.cliffordchance.com/insights/thought_leadership/trends/2024/2024-fintech-trends.html

UK to join the Hague Convention on the recognition and enforcement of foreign judgments in civil or commercial matters

On 12 January 2024, the UK signed the Hague Convention of 2 July 2019 on the recognition and enforcement of foreign judgments in civil or commercial matters.

The UK will now take the internal steps necessary to ratify the Convention, which will come into force 12 months after ratification. The Convention provides for the mutual enforcement of judgments between the UK and the other contracting states, including EU member states, in proceedings started after the Convention comes into force for the UK.

This briefing paper discusses the Convention and the consequences of the UK joining.

https://www.cliffordchance.com/briefings/2024/01/uk-to-join-the-hague-convention-on-the-recognition-and-enforceme.html

CAA guidance note on the notion of insurance intermediary in the context of collective insurance contracts

On 24 January 2024, the Luxembourg insurance sector supervisory authority, the Commissariat aux assurances (CAA), published its Information Note 24/1 on the notion of 'insurance intermediary' in the context of collective insurance contracts. In its Information Note, the CAA provides guidance on how the recent decision of the Court of Justice of the European Union 'TC Medical Air Ambulance Agency' (decision C-633/20 of 29 September 2022) should apply in a Luxembourg context and confirms that a subscriber of a collective insurance contract (sponsor) may qualify as 'insurance intermediary' additionally to being the policyholder under such contract.

This briefing paper discusses the new Information Note of the CAA and action points for insurance undertakings and sponsors concerned.

https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2024/01/caa-guidance-note-on-the-notion-of-insurance-intermediary-in-contexts-of-collective-insurance-contract.pdf

Debt Collection Services Quality Act expected to enter into force in March 2024

On 19 May 2022, the new Debt Collection Services Quality Act (Wet kwaliteit incassodienstverlening) was published in the Dutch State Gazette (Staatsblad). The Act is expected to enter into force in March 2024 and will affect debt collection service providers where the debt is due by natural persons in the Netherlands. This includes debt collection service providers which collect debts from natural persons who run a business, e.g. where the debtors are sole traders (eenmanszaken) or partnerships. The Act may therefore be relevant for factoring companies, service providers in the financial or e-commerce sector, including e-commerce platforms and Buy-Now-Pay-Later (BNPL) providers, credit or insurance brokers, and parties in securitisation transactions.

This briefing paper sets out what the Act is about and which debt collection service providers may be caught in scope.

https://www.cliffordchance.com/briefings/2024/01/debt-collection-services-quality-act-expected-to-enter-into-forc.html

US Federal Trade Commission announces annual adjustments to the HSR thresholds and interlocking directorate thresholds

On 22 January 2024, the US Federal Trade Commission announced its annual revisions to the jurisdictional thresholds of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. Barring an exemption, parties to a transaction meeting these thresholds must make preclosing notifications (HSR filings) to the US antitrust authorities and abide by a mandatory waiting period. The FTC also announced its annual revision to the HSR filing fees and filing fee thresholds.

This briefing paper discusses the announcement.

https://www.cliffordchance.com/briefings/2024/01/u-s--federal-trade-commission-announces-annual-adjustments-to-th.html