INTERNATIONAL REGULATORY UPDATE 16 – 20 SEPTEMBER 2024

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President von der Leyen announces composition of new EU Commission

EU Commission President Ursula von der Leyen has announced the proposed composition of the new College of Commissioners.

Maria Luís Albuquerque is the Commissioner-designate for Financial Services and the Savings and Investments Union (previously known as the Capital Markets Union) and is being tasked with unlocking the financing needed for the green, digital and social transition envisaged in the new Commission's political guidelines.

Amongst other things, her role will involve:

- developing a European Savings and Investments Union, including banking and capital markets, to leverage private savings in support of the Commission's objectives;
- tackling the fragmentation of capital markets by helping to design simple and low-cost saving and investment products at EU level, including assessing the feasibility of tax incentives for these products;
- reviewing the regulatory framework to ensure that EU based companies can access finance in the EU to support innovation and growth;
- exploring how to scale up sustainable finance, in particular transition finance and climate resilience;
- exploring further measures to increase the availability of venture and other risk capital;

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- working to improve the supervisory system at EU-level;
- further developing the Banking Union, including finding a way forward on the European Deposit Insurance Scheme;
- reviving the use of securitisation to unlock bank financing;
- improving digital finance and payments;
- assessing the use of artificial intelligence (AI) in the financial sector; and
- ensuring the implementation and enforcement of the anti-money laundering and countering the financing of terrorism package and preparing the launch of the new Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA).

The Commissioners-designate will appear in public hearings at the EU Parliament, following which the Commission as a whole needs to be approved in a single vote of consent by the Parliament. The European Council, acting by qualified majority, will then formally appoint the Commission's new leadership.

UK Government and FCA announce plans to reform retail disclosure requirements in financial services

The UK Government and the Financial Conduct Authority (FCA) have announced plans to reform UK retail disclosure rules and will temporarily exempt investment trusts from assimilated EU law requirements.

In November 2023, HM Treasury issued draft legislation on the repeal and replacement of the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation with a new framework for Consumer Composite Investments (CCIs). The Treasury intends to lay legislation in H2 2024 to provide the FCA with the additional powers to deliver this reform.

The UK's new retail disclosure regime is expected to be in place by H1 2025, subject to Parliamentary approval and an FCA consultation process. The FCA intends to consult on proposed rules for the CCI regime this autumn.

In response to feedback, the Government has decided to exempt listed investment trusts from the current PRIIPs Regulation and parts of Articles 50 and 51 of the MiFID Org Regulation as an interim measure. The FCA will apply new forbearance measures immediately, ensuring that investment trusts are not subject to current PRIIPs requirements until the new regime takes effect.

The Government and the FCA have emphasised that this approach is intended as an interim measure, and that investment trusts will be included within the scope of the future UK retail disclosure framework.

PSR consults on draft statement of policy on cost benefit analysis framework

The Payment Systems Regulator (PSR) has published a consultation paper (CP24/12) on a draft statement of policy on its cost benefit analysis framework.

The Financial Services and Markets Act 2023 (FSMA 2023) introduced additional cost benefit analysis (CBA) accountability requirements (building on pre-existing ones in the Financial Services (Banking Reform) Act 2013) on the

PSR. Among these is the publication of a statement of policy on the PSR's use of CBAs. The draft statement of policy builds on and replaces the draft CBA framework published in February 2024.

Comments are due by 3 November 2024.

CSSF publishes 2023 annual report

The Luxembourg financial sector supervisory authority, the Commission de surveillance du secteur financier (CSSF), has published its annual report for 2023.

Amongst other things, the report contains an overview of the CSSF's organisation and priority action areas, including money laundering and terrorist financing prevention, given the size and international nature of Luxembourg's finance centre. The CSSF highlights that, although the Financial Action Taskforce (FATF) concluded Luxembourg's mutual evaluation with the best possible outcome, several areas of improvement have been identified, including the prevention of terrorist financing, on which the CSSF and other stakeholders are already working.

The report provides an insight into the CSSF's work and activities in relation to the main legal and regulatory developments of 2023 and the CSSF's activities at national and international level, as well as an analysis of the evolution of the different sectors that are under the supervision of the CSSF.

Attention is drawn to the current main challenges faced by supervised entities and the CSSF. These include challenges in the areas of:

inflation - the report notes that central bank intervention to counter inflation led to record high interest rates in the Eurozone and that 2023 also saw the collapse of three regional banks in the US and a globally systemically important bank;

the Capital Markets Union (CMU) - noting that large amounts of capital, both public and private, are needed to finance the digital and green transitions, the CSSF is of the view that the CMU can only be achieved through accelerated regulatory convergence, as well as strong institutions;

cyber risk - the CSSF notes that it is important that supervised entities step up their defences against cybersecurity threats, highlighting that the Digital Operational Resilience Act (DORA), which entered into force in January 2023 and will apply from January 2025, provides consistent rules addressing digital resilience needs and establishes an EU-wide oversight framework for critical ICT third-party providers;

green finance - the report states that the green finance regulatory agenda continued to be implemented throughout 2023 and that the implementation of the EU Green Deal needs significant investments, estimated at EUR 500 billion annually. The CSSF considers that investor confidence will lead to effective capital allocation, and that transparency in the EU sustainability framework is key, as investors need clear information on the environmental and social impacts of their investments;

AI - the CSSF notes that the EU's AI Act has introduced a risk-based approach, imposing stricter rules on AI systems that pose greater harm to society. Separately, the report announces a comprehensive survey, to be carried out for the first time in 2024, jointly with the Luxembourg Central Bank, covering not only banks but also fund management companies, investment firms and all other supervised entities;

consumers - the CSSF states that in the current environment, consumers are facing several challenges including inflation, high interest rates, over-indebtedness, offerings of financial products and cryptoassets through digital channels, including social media; and

financial literacy - the CSSF notes that a 2023 survey by the OECD showed young adults (18-29 years) and digital literacy to be weak spots. It welcomes the fact that the Luxembourg Government has expressly recognised this twice in the 2023-2028 coalition.

MAS revises compliance toolkit for approvals, notifications and other regulatory submissions for wholesale banks and full banks

The Monetary Authority of Singapore (MAS) has revised its compliance toolkit which is intended to guide and facilitate wholesale banks' and full banks' understanding and compliance with the various MAS approval, notification, and reporting requirements and timelines.

The compliance toolkit for approvals, notifications and other regulatory submissions to the MAS for wholesale banks and full banks has been revised mainly to:

- update the references of requirements pertaining to technology risk management, recovery and resolution planning, anti-money laundering and countering the financing of terrorism, in connection with the consolidation of the MAS' powers relating to these areas under the Financial Services and Markets Act 2022; and
- set out the requirements in connection with the Basel III reforms contained in the revised MAS Notice 637 on Risk Based Capital Adequacy Requirements for Banks Incorporated in Singapore dated 20 September 2023, which took effect from 1 July 2024.

RECENT CLIFFORD CHANCE BRIEFINGS

Basel 3.1 – ten key takeaways on UK implementation proposals

On 12 September 2024, the Prudential Regulation Authority (PRA) published its Policy Statement PS9/24 Implementation of the Basel 3.1 Standards, accompanied by a set of near-final rules and new and revised supervisory statements, and confirmed January 2026 as the UK implementation date. Taken together, these publications amount to a sizeable package of around 1000 pages and form the second of two instalments of the PRA's Basel 3.1 implementation package.

This briefing paper sets out Clifford Chance's initial reactions on the top ten themes that we find most interesting, with a focus on some of the particular features of the PRA's implementation – how the PRA's approach has changed from its opening consultation position, and how it varies from the EU's CRR3 regime.

https://www.cliffordchance.com/briefings/2024/09/basel-3-1-ten-key-takeaways-on-uk-implementation-proposals.html