INTERNATIONAL REGULATORY UPDATE 7 – 11 OCTOBER 2024

- **Capital Markets Union: EU Council adopts Listing Act package**
- **EU Council updates list of non-cooperative jurisdictions for tax purposes**
- **EU Commission consults on securitisation rules**
- **MiCA: EU Commission adopts RTS on information to be exchanged between competent authorities**
- **MiCA: EBA publishes guidelines on redemption plans**
- **ESMA publishes first annual report on EU carbon markets**
- **Payment Services (Amendment) Regulations 2024 made and laid before Parliament**
- **Draft Consumer Composite Investments (Designated Activities) Regulations 2024 laid**
- **Draft Packaged Retail and Insurance-based Investment Products (Retail Disclosure) (Amendment) Regulations2024 laid**
- **Draft Prudential Regulation of Credit Institutions (Meaning of CRR Rules and Recognised Exchange) (Amendment) Regulations 2024 laid**
- **Draft Securitisation (Amendment) (No. 2) Regulations 2024 laid**
- **CRR: HMT publishes policy paper on treatment of overseas investment exchanges**
- **FCA publishes Dear CEO letter on expectations for financial advisers and investment intermediaries**
- **FCA publishes Dear CEO letters to PSPs on APP fraud reimbursement**
- **FCA publishes review on Consumer Duty in payments firms**
- **FCA publishes Market Watch Newsletter No. 80**
- **PRA consults on resolution assessments and public disclosure**
- **National Bank of Belgium updates its circulars on acquisitions, increases, reductions and transfers of qualifying holdings**
- **CSSF publishes communiqué on upcoming end of transition period under EMIR RTS and ITS on reporting**
- **CSSF issues regulation on setting of countercyclical buffer rate for fourth quarter of 2024**

Clifford Chance's International Regulatory Update is a weekly digest of significant regulatory developments, drawing on our daily content from our Alerter: Finance Industry service.

To request a subscription to our Alerter: Finance Industry service, please subscribe to our Client Portal, where you can also request access to the Financial Markets Toolkit and subscribe to publications, insights and events.

If you would like to know more about the subjects covered in this publication or our services, please contact:

International Regulatory Group Contacts

Marc Benzler +49 69 7199 3304
Caroline Dawson +44 207006 4355
Steven Gatti +1 202 912 5095
Rocky Mui +852 2826 3481
Lena Ng +65 6410 2215
Gareth Old +1 212 878 8539
Donna Wacker +852 2826 3478

International Regulatory Update Editor

Joachim Richter +44 (0)20 7006 2503

To email one of the above, please use firstname.lastname @cliffordchance.com

Clifford Chance LLP,
10 Upper Bank Street,
London, E14 5JJ, UK
www.cliffordchance.com

- **HKMA and HKAB support ICAC Banking Industry Integrity Charter**
- **SFC concludes consultation on proposals to enhance REIT regime and market conduct regime for listed CIS**
- **SFC flags asset manager misconduct in managing private funds and discretionary accounts**
- **MAS consults on proposed regulatory approach, regulations, notices and guidelines for digital token service providers issued under FSM Act**
- **Recent Clifford Chance briefings: UK safeguarding regime for payments firms, global anti-money laundering developments, and more. Follow this link to the briefings section.**

Capital Markets Union: EU Council adopts Listing Act package

The EU Council has adopted the Listing Act, a legislative package comprising:

- the Listing Act Regulation amending the Prospectus Regulation, Market Abuse Regulation (MAR) and the Markets in Financial Instruments Regulation (MiFIR);
- the Listing Act Directive amending MiFID2 and repealing the Listing Directive; and
- the Directive on multiple-vote share structures, which will allow company owners to list on SME growth markets using multiple-vote share structures.

The Listing Act package 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.

The EU Parliament adopted the texts in April 2024. They will be published in the Official Journal soon and enter into force 20 days later. Member States will have 18 months to transpose the Listing Act Directive and two years to transpose the Directive on multiple-vote shares.

EU Council updates list of non-cooperative jurisdictions for tax purposes

The EU Council has removed Antigua and Barbuda from its list of non-cooperative jurisdictions for tax purposes, following changes to its applicable rules. The following jurisdictions remain on the list (Annex I): American Samoa, Anguilla, Fiji, Guam, Palau, Panama, Russia, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu.

The Council has also approved the state of play document (Annex II), which identifies cooperative jurisdictions which have made further improvements to their tax policies or related cooperation. Armenia and Malaysia will be removed from the state of play document. Vietnam has been given more time to comply with its commitment on country-by-country reporting and will be reassessed at the next update.

The next revision of the list is scheduled for February 2025.

EU Commission consults on securitisation rules

The EU Commission has launched a targeted consultation on the functioning of the EU securitisation framework.

Feedback is sought on a range of issues, such as:

- the effectiveness of the framework;
- the scope of application of the Securitisation Regulation;
- due diligence requirements;
- transparency requirements and the definition of public securitisation;
- supervision;
- the simple, transparent and standardised (STS) standard;
- a possible securitisation platform;
- the prudential and liquidity treatment of securitisation for banks;
- the prudential treatment of securitisation for insurers; and
- the prudential framework for institutions for occupational retirement provision (IORPs) and other pension funds.

The consultation follows the Commission's 2022 review report, and the Commission intends to feed responses into its next mandated review.

Comments are due by 4 December 2024.

MiCA: EU Commission adopts RTS on information to be exchanged between competent authorities

The EU Commission has adopted a Delegated Regulation under the Markets in Cryptoassets Regulation (MiCA), which sets out regulatory technical standards (RTS) on information to be exchanged between competent authorities.

Article 95 of MiCA requires competent authorities to cooperate with each other when exercising their supervisory duties under MiCA. As part of this, they are required to exchange relevant information. The Delegated Regulation specifies what information should be exchanged to ensure that it is of sufficient scope to allow competent authorities to discharge their supervisory, investigative and enforcement duties and functions effectively.

The Delegated Regulation will enter into force 20 days after its publication in the Official Journal.

MiCA: EBA publishes guidelines on redemption plans

The European Banking Authority (EBA) has published final guidelines on the orderly redemption of asset-referenced tokens (ARTs) or e-money tokens (EMTs) in the event that the issuer fails to fulfil its obligations under MiCA.

The guidelines:

- clarify the main principles governing the redemption plan;
- describe the main steps to implement the plan, including the communication plan, the content of the redemption claims and the distribution plan;

- cover what should happen in instances of 'pooled issuance' (i.e. where the same token is issued by multiple issuers);
- outline the triggers for the activation of the plan by the competent authority; and
- set out the roles of the prudential and resolution authorities once the plan has been activated.

In light of the feedback received during the public consultation on the guidelines held in March 2024, a few targeted amendments have been made to streamline the wording and provide further clarity on some specific aspects. This includes clarifications to allow for flexibility so that the guidance addressed to ART issuers relating to the liquidation of the reserve of assets can also be used, to some extent, by EMT issuers.

The guidelines will apply two months after the date of publication on the EBA's website in all EU official languages.

ESMA publishes first annual report on EU carbon markets

The European Securities and Markets Authority (ESMA) has published its 2024 EU Carbon Markets report. This first edition provides details and insights into the functioning of the EU Emissions Trading System (EU ETS) market. Key findings include that:

- prices in the EU ETS have declined since early 2023 due to lower demand from weak industrial activity, falling natural gas prices, decarbonisation efforts, and increased supply from additional allowances for the REPowerEU plan;
- emission allowance auctions are highly concentrated, with 10 participants buying 90% of auctioned volumes, indicating a preference for sourcing allowances from financial intermediaries; and
- most emission allowance trading in secondary markets occurs through derivatives. Non-financial firms hold long positions for compliance, while banks and investment firms hold short positions.

The report builds on ESMA's 2022 report on emission allowance trading, which was mandated in the context of rising energy prices and a significant increase in emission allowance prices in 2021. The 2024 report aligns with ESMA's mandate under the EU ETS Directive.

Payment Services (Amendment) Regulations 2024 made and laid before Parliament

The Payment Services (Amendment) Regulations 2024 (SI 2024/1013) have been made and laid before Parliament, along with an explanatory memorandum.

The Regulations are intended to support efforts to tackle authorised push payment (APP) fraud and, in particular, amend the Payment Services Regulations 2017 (SI 2017/752) to allow a payer's payment service provider (PSP) with reasonable grounds to suspect fraud or dishonesty to delay executing payment transactions by an additional 72 hours for the purpose of establishing whether the payment order should be executed.

The Regulations also set out how and when a PSP exercising the ability to delay should notify the payer, as well as a PSP's liability to its payment service user for any charges and interest as a consequence of the delay.

The Regulations will come into force on 30 October 2024.

Draft Consumer Composite Investments (Designated Activities) Regulations 2024 laid

The draft Consumer Composite Investments (Designated Activities) Regulations 2024 have been laid in Parliament according to the affirmative procedure. The draft statutory instrument (SI) replaces assimilated law in relation to the PRIIPs Regulation, establishing a new legislative framework for the regulation of Consumer Composite Investments (CCIs), formerly PRIIPs.

The SI specifies activities related to CCIs as designated activities under FSMA 2000. It grants the Financial Conduct Authority (FCA) rule-making, supervision, and enforcement powers to establish regulatory provisions for individuals engaging in designated activities related to CCIs. The SI also includes transitional provisions and amendments to other legislation to ensure the CCI regime remains functional.

Draft Packaged Retail and Insurance-based Investment Products (Retail Disclosure) (Amendment) Regulations2024 laid

The draft Packaged Retail and Insurance-based Investment Products (Retail Disclosure) (Amendment) Regulations have been laid in Parliament according to the affirmative procedure.

The draft statutory instrument (SI) makes transitional amendments to assimilated law, in particular the PRIIPs Regulation and certain provisions of the MiFID Org Regulation relating to cost disclosure requirements for investment trusts.

Investment trusts, along with persons advising on or selling shares of investment trusts, will not be required to produce the Key Information Document under the PRIIPs Regulation. Additionally, investment trusts and firms investing in them will not be required to disclose costs and charges relating to investment trusts to clients, pursuant to the MiFID Org Regulation.

This approach is intended as an interim measure, and investment trusts will be included within the scope of the future UK retail disclosure framework for Consumer Composite Investments (CCIs), which is scheduled to replace the PRIIPs regime in 2025.

Draft Prudential Regulation of Credit Institutions (Meaning of CRR Rules and Recognised Exchange) (Amendment) Regulations 2024 laid

The draft Prudential Regulation of Credit Institutions (Meaning of CRR Rules and Recognised Exchange) (Amendment) Regulation 2024 have been laid in Parliament according to the affirmative procedure.

The draft statutory instrument (SI) is intended to amend:

- the definition of 'CRR rules' to include rules made by the Prudential Regulation Authority (PRA) as part of Basel 3.1 implementation; and

- the definition of 'recognised exchange' to include overseas investment exchanges, as announced by HM Treasury (HMT) in a 7 October 2024 policy statement.

Draft Securitisation (Amendment) (No. 2) Regulations 2024 laid

The draft Securitisation (Amendment) (No. 2) Regulations 2024 have been laid in Parliament according to the affirmative procedure.

The draft statutory instrument (SI) is intended to extend the temporary arrangement granting preferential prudential treatment for EU-origin simple, transparent and standardised (STS) securitisations in the UK from 31 December 2024 to 30 June 2026.

The draft explanatory memorandum notes an intention to undertake a single non-time limited equivalence assessment once EU and EEA-EFTA Member States have implemented the EU Securitisation Regulation in their respective national legislation.

CRR: HMT publishes policy paper on treatment of overseas investment exchanges

HMT has published a policy statement on the treatment of overseas investment exchanges for the purposes of the Capital Requirements Regulation (CRR).

In 2022, HMT consulted on the prudential treatment of overseas exchanges and proposed linking the CRR definition of 'recognised exchanges' to the Recognised Overseas Investment Exchange (ROIE) regime, which allows UK firms to continue to trade on key exchanges absent a jurisdictional equivalence decision. HMT also proposed clarifying that exchanges covered by the CRR definition of recognised exchanges are either those detailed in the PRA's technical standards which accompany the definition, or are ROIEs under the FCA's regime.

HMT received three responses to its consultation, all of which suggested the proposals would be insufficient in restoring competitiveness with other jurisdictions and calling on HMT to recognise all of the exchanges it did before the end of the temporary transition period.

Having considered this feedback, HMT has decided to:

- add the link to the ROIEs regime as initially proposed; but
- rather than refer to the PRA's technical standards, the CRR definition will refer to a set of conditions to be devised by the PRA and set out in its rulebook, which will identify recognised exchanges or assets traded on such exchanges.

The PRA intends to consult on the new conditions as soon as is practicable. Until those rules have been finalised, exchanges that fall within the definition will include those that are domestic UK investment exchanges and those on the ROIEs regime.

FCA publishes Dear CEO letter on expectations for financial advisers and investment intermediaries

The FCA has written a letter to the chief executives of firms where the primary business is financial advice or investment intermediation.

The letter sets out the FCA's priorities over the next two years and details the FCA's expectations in relation to:

- retirement income advice;
- ongoing advice services;
- polluter pays; and
- industry consolidation.

FCA publishes Dear CEO letters to PSPs on APP fraud reimbursement

The FCA has published two Dear CEO letters to PSPs setting out its expectations relating to APP fraud reimbursement.

The letters, addressed to banks and building societies and payment and e-money institutions, follow the publication of the draft Payment Services (Amendment) Regulations 2024 which amend the maximum reimbursement limit for victims of APP fraud. The FCA has set out its expectations of PSPs in relation to the new measures including:

- anti-fraud systems and controls, including the need for PSPs to have effective governance arrangements and maintain appropriate customer due diligence;
- capital and liquidity and managing potential liability;
- the Consumer Duty and the duty to avoid causing foreseeable harm;
- providing information about the availability of dispute resolution procedures for payment service users; and
- 'on us' APP fraud reimbursement, also referred to as intra-firm payments or internal book transfers.

FCA publishes review on Consumer Duty in payments firms

The FCA has published its review of payments firms' implementation of the Consumer Duty.

The review outlines key findings on how payments firms have implemented the Consumer Duty, including their consideration of its requirements, identification of gaps, and actions taken to address them. The FCA also assessed how firms have responded to the specific payments sector risks highlighted in the Dear CEO letter issued on 21 February 2023, and their efforts to ensure good consumer outcomes.

The Duty, which came into force for open products and services on 31 July 2023 and will apply to closed products and services from 31 July 2024, is a cornerstone of the FCA's three-year strategy. According to the FCA, it represents a fundamental shift in setting higher standards for firms.

FCA publishes Market Watch Newsletter No. 80

The FCA has published the 80th edition of Market Watch, its newsletter on market conduct and transaction reporting issues.

In particular, the newsletter outlines the FCA's recent observations on what firms can do to ensure compliance with SYSC 6.1.1R when dealing for

overseas clients who operate aggregated accounts that provide no visibility of the ultimate beneficial owners (UBOs).

PRA consults on resolution assessments and public disclosure

The PRA has published a consultation paper (CP12/24) on its proposals to amend its rules and expectations in respect of firms' reporting and disclosure obligations pertaining to resolution assessments.

Under the Resolution Assessment Part of the PRA Rulebook, firms are required to carry out an assessment of their preparations for resolution and submit a report to the PRA every two years, by the first Friday in October. They must also publish a summary of their report by the second Friday in June of the following year. The Bank of England (BoE) carries out a separate assessment of firms' preparations for resolution and makes a public statement on each firm's resolvability when the firm publishes its disclosures.

Under the proposals:

- the prescribed report submission dates in Resolution Assessment 3.1 and prescribed disclosure dates in Resolution Assessment 4.1 would be removed so that the timing of future submissions and disclosures would no longer be fixed to two-year cycles;
- firms would continue to be subject to reporting and disclosure obligations on their resolvability but on a periodic basis; and
- the PRA would communicate its expectations on firms as to the reporting and disclosure dates in advance of each cycle, taking account of the need to provide time for firms to plan and prepare their reports.

Comments are due by 8 November 2024.

National Bank of Belgium updates its circulars on acquisitions, increases, reductions and transfers of qualifying holdings

The National Bank of Belgium (NBB) has updated its circulars addressed to:

- persons owning or intending to acquire, increase, reduce or dispose of a qualifying holding in regulated entities; and
- to the regulated entities themselves. The updated circulars (NBB_2024_09 and NBB_2024_10) confirm that the Joint Guidelines of the European Supervisory Authorities (ESAs) of 5 May 2017 continue to apply, together with the guide published by the European Central Bank (ECB) in May 2023 on qualifying holding procedures.

The circulars further specify that the NBB will pay more attention to the criterion relating to the absence of any suspicion of money laundering or terrorist financing.

The notification and disclosure forms have been revised and simplified. Their scope has also been extended to payment and electronic money institutions. The division of tasks between the NBB and the ECB has also been clarified.

Updated digitised forms were made available from 1 October 2024.

CSSF publishes communiqué on upcoming end of transition period under EMIR RTS and ITS on reporting

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has published a communiqué on the upcoming end of the transition period under the EMIR RTS and ITS on reporting on 26 October 2024.

The communiqué states that following the CSSF's press release 22/33 on EMIR Refit reporting that was published on 21 December 2022 and in accordance with Article 10 of Commission Implementing Regulation (EU) 2022/1860 of 10 June 2022 laying down implementing technical standards for the application of EMIR, counterparties to a derivative contract or entities responsible for reporting must update all their outstanding derivatives to conform with the revised reporting requirements by 26 October 2024.

In this context, for all derivatives that remain outstanding after that date, counterparties shall submit a report with event type 'Update', unless they have submitted a report with the action type 'Modify' or 'Correct' for such derivatives before this date.

The CSSF refers to Section 4.1 of the ESMA's final report on guidelines for reporting under EMIR for further information on the actions to be taken before the end of the transition period.

CSSF issues regulation on setting of countercyclical buffer rate for fourth quarter of 2024

The CSSF has issued Regulation No. 24-06 on the setting of the countercyclical buffer rate for the fourth 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 fourth quarter of the year of 2024.

The regulation entered into force on the date of its publication in the Luxembourg official journal on 7 October 2024.

HKMA and HKAB support ICAC Banking Industry Integrity Charter

The Hong Kong Monetary Authority (HKMA) and the Hong Kong Association of Banks (HKAB) have announced their full support to the Banking Industry Integrity Charter launched by the Independent Commission Against Corruption (ICAC).

The ICAC has launched the Integrity Charter to create a platform for communication through public-private partnership. Under the Integrity Charter, the ICAC will provide anti-corruption recommendations tailored for the banking industry, share anti-corruption cases with the industry, and arrange regular thematic training for banks to further support the industry's efforts in integrity building and promoting honest and responsible business practices.

Banks participating in the Integrity Charter will commit to further strengthening their internal anti-corruption capabilities and promoting an integrity culture among their business partners.

SFC concludes consultation on proposals to enhance REIT regime and market conduct regime for listed CIS

The Securities and Futures Commission (SFC) has published the conclusions of its March 2024 public consultation on proposals to introduce a statutory scheme of arrangement and compulsory acquisition mechanism for real estate investment trusts (REITs) (REIT Scheme Proposal) and to enhance the market conduct regime for listed collective investment schemes (CIS) under the Securities and Futures Ordinance (SFO) (Listed CIS Proposal). The key changes are the following:

- REIT Scheme Proposal: the SFC will introduce a new Part in the SFO to establish a statutory mechanism for the scheme of arrangement and compulsory acquisitions in respect of REITs. The provisions will be fundamentally based on Part 13 of the Companies Ordinance, with appropriate modifications to cater for the nature and features of REITs and to provide for the roles and responsibilities of the management company and the trustee of a REIT in implementing the scheme or compulsory acquisition. The revised legislation will provide REIT unitholders, especially minority unitholders, with various safeguards and protection embodied in the statutory regimes in addition to those currently available under the Codes on Takeovers and Mergers and Share Buy-backs; and
- Listed CIS Proposal: the SFC will explicitly extend various SFO market conduct regimes (namely the market misconduct regime under Parts XIII and XIV, the disclosure of inside information regime under Part XIVA and the disclosure of interests regime under Part XV) to listed CIS, with certain refinements limiting the scope of the extension to listed CIS, which is the only type of non-corporate entities currently listed on the Hong Kong Stock Exchange, instead of seeking to cover all other potential forms of non-corporate listed entities. For the avoidance of doubt, all REITS in Hong Kong are listed CIS so the extended regime will also cover REITs; streamlining the proposed legislative amendments, including by (i) focusing the various obligations under the market conduct regimes largely on the management company of the listed CIS (and the CIS directors in the case of a corporate CIS) and (ii) not covering certain divisions in Part XV of the SFO in the exercise where similar regulatory requirements are already in place; and the extended market misconduct regime will apply to trustees and custodians of listed CIS.

SFC flags asset manager misconduct in managing private funds and discretionary accounts

The SFC has issued a circular flagging various deficiencies and substandard conduct identified during its supervision of licensed corporations engaged in managing private funds and discretionary accounts (asset managers).

The circular highlights cases involving breaches of regulatory requirements in areas of conflicts of interest, risk management and investment within mandate, information for investors, and valuation methodologies. The circular outlines and reminds asset managers of their existing obligations when managing unauthorised collective investment schemes (private funds) and discretionary accounts.

The SFC emphasises that the board of directors and senior management of asset managers, including the managers-in-charge of core functions and

responsible officers, bear primary responsibility for ensuring appropriate standards of conduct. To this end, they are required to strengthen their supervisory and compliance functions, where necessary, to ensure compliance with all applicable regulatory requirements.

The SFC requires asset managers to review the areas of concern set out in the circular and take measures to rectify any deficiencies identified accordingly. The SFC notes that it will commence a thematic inspection on asset managers managing private funds to review their compliance with applicable regulatory requirements.

MAS consults on proposed regulatory approach, regulations, notices and guidelines for digital token service providers issued under FSM Act

The Monetary Authority of Singapore (MAS) has launched a consultation seeking comments on its proposed regulatory approach, regulations, notices and guidelines for digital token service providers (DTSPs) issued under the Financial Services and Markets Act 2022 (FSM Act).

The FSM Act was passed in Parliament on 5 April 2022. Part 9 of the FSM Act provides the legislative framework for the regulation of: (a) individuals and partnerships who, from a place of business in Singapore, carry on a business of providing a digital token (DT) service outside Singapore; and (b) Singapore corporations that carry on a business, whether from Singapore or elsewhere, of providing a digital token service outside Singapore (collectively, DTSPs).

The MAS envisages that there will be extremely limited circumstances under which it will grant an applicant a DTSP licence under the FSM Act. The MAS also intends to review applications for a DTSP licence on a case-by-case basis. In considering whether to grant a DTSP licence to an applicant, the MAS will take into account whether the applicant meets the criteria set out in paragraphs 2.4 and 2.9 of the consultation paper. The MAS has indicated that it intends to set out the criteria in paragraph 2.4 of the Guidelines on Licensing for DTSPs.

Following the grant of a DTSP licence under the FSM Act, the MAS intends to require the holder of a DTSP licence to notify it if there are any changes to the circumstances set out in the application, and/or a person's operations and business model that would result in the licensee not meeting the licensing criteria set out in the relevant paragraphs of the consultation paper. The MAS may revoke the DTSP licence in any of the circumstances set out in section 141(2) of the FSM Act.

Additionally, the MAS intends to issue the following instruments:

- Financial Services and Markets Regulations (FSM Regulations);
- Notice to DTSPs on Prevention of Money Laundering and Countering the Financing of Terrorism (FSM-N27);
- Notice on Reporting of Suspicious Activities and Incidents of Fraud (FSM-N28);
- Notice on Submission of Regulatory Returns (FSM-N29);
- Notice on Technology Risk Management (FSM-N30);
- Notice on Cyber Hygiene (FSM-N31);

- Notice on Conduct (FSM-N32);
- Notice on Disclosures and Communications (FSM-N33); and
- amended Guidelines on Fit and Proper Criteria (FSG-G01).

The MAS has indicated that in addition to the FSM Regulations, a separate set of regulations containing provisions on the opportunity to be heard will be issued. These provisions, which are also set out in other subsidiary legislation to support the MAS' administration of the primary legislation, will apply to licensees.

There is no intention to provide a transitional arrangement for DTSPs. To give the industry sufficient notice, the MAS intends to publish the commencement notification for the FSM Act as well as all finalised versions of the subsidiary legislation and guidelines (FSM Regulations, Notices, the amended Guidelines on Fit and Proper Criteria, and other guidelines) at least four weeks before the date of commencement of Part 9 of the FSM Act, the First and Second Schedules to the FSM Act, and other relevant miscellaneous or consequential amendments in the FSM Act (collectively, the DTSP Provisions).

Once the regulatory regime for DTSPs comes into force, existing individuals, partnerships, or Singapore corporations that are operating from a place of business in Singapore or formed or incorporated in Singapore (as the case may be) that are conducting DT activities outside Singapore would be required to suspend or cease operations, unless they obtain a licence from the MAS or are otherwise exempted from licensing.

All the Notices and amended Guidelines will come into force on the commencement of the DTSP Provisions.

Comments on the consultation are due by 4 November 2024.

RECENT CLIFFORD CHANCE BRIEFINGS

Anti-money laundering – global developments and their impact on business

Global efforts to enhance anti-money laundering (AML) measures to combat financial crime are increasing.

This briefing paper extracts from a recent Clifford Chance webinar, looking at the latest AML trends in the EU, US, UK and Singapore, what they mean for business and compliance processes and providing some practical suggestions for adapting to them.

https://www.cliffordchance.com/briefings/2024/10/anti-money-laundering--global-developments-and-their-impact-on-b.html

FCA proposals for revisions to the safeguarding regime for payments firms

The FCA is consulting in CP24/20 on a package of near- and long-term changes to the safeguarding regime for UK payments institutions, e-money institutions and credit unions that issue e-money. The consultation closes on 17 December 2024. The FCA's planned changes aim to ensure greater protection of customer funds and their quicker return if firms fail. The FCA will

introduce significantly stronger compliance obligations for payments firms, culminating in a new safeguarding regime based on the CASS model.

This briefing paper outlines the proposals and giving our thoughts on some of the potential impacts.

https://www.cliffordchance.com/briefings/2024/10/fca-proposals-for-revisions-to-the-safeguarding-regime-for-payme.html

D'Aloia v persons unknown – crypto trusts, unjust enrichment and the challenges of tracing on the blockchain

The High Court last month handed down its judgment in D'Aloia v Persons Unknown – the latest in a steady stream of cases we have seen across common law jurisdictions arising from crypto frauds and insolvencies that engage with the issue of whether cryptocurrencies are property and, if so, the legal remedies available to owners.

This briefing discusses the judgment, in which a fraud victim sought redress from a crypto exchange used by fraudsters as an 'off-ramp' for stolen Tether cryptocurrency. The judgment is a rich source of practical guidance for those involved in the crypto sector and more broadly for any party tracing assets or the proceeds of fraud which have been converted into crypto. There are also lessons for litigators to draw from the judgment; principally the requirements for blockchain tracing expert evidence.

https://www.cliffordchance.com/briefings/2024/10/d-aloia-v-persons-unknown--crypto-trusts--unjust-enrichment-and-challenges-of-tracing-on-blockchain.html

Survey of cybersecurity disclosures in annual reports on Form 20-F filed by selected well-known seasoned issuers

We have developed this survey to provide information to our clients and other interested parties about cybersecurity related disclosures included in annual reports on Form 20-F. Our survey focuses on foreign private issuers registered with the US Securities and Exchange Commission that have disclosed that they qualify as well-known seasoned issuers and that we understand have a market-cap of more than USD 25 billion.

The charts included in the survey reflect selected statistics that we believe provide useful information about cybersecurity disclosure characteristics and related governance practices. A list of the companies whose annual reports we reviewed is provided in Annex A.

On 26 July 2023, the US Securities and Exchange Commission adopted final rules that require annual disclosure by public companies of their cybersecurity risk, management, strategy, and governance practices (Cyber Rules). These requirements apply to annual reports for fiscal years ending on or after 15 December 2023. For more information regarding the Cyber Rules, see our briefing: SEC Adopts New Cybersecurity Disclosure Requirements for Public Companies.

For an analogous survey focused on cybersecurity related disclosures included in annual reports on Form 10-K filed by selected well-known seasoned issuers, see: Survey of Cybersecurity Disclosures in Annual Reports on Form 10-K Filed by Selected Well-Known Seasoned Issuers.

The cybersecurity related disclosures in the annual reports on Form 20-F covered by this survey varied more widely than equivalent disclosures in the annual reports on Form 10-K that we had previously surveyed, which could reflect regional market practices as well as different home country governance approaches.

https://www.cliffordchance.com/briefings/2024/10/survey-of-cybersecurity-disclosures-in-annual-reports-on-form-20.html

CLIFFORD
CHANCE