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### MiCA: EU Commission adopts RTS

The EU Commission has adopted six Delegated Regulations setting out regulatory technical standards (RTS) under the Markets in Cryptoassets Regulation (MiCA).

The RTS relate to:

- the procedure for the approval of a cryptoasset white paper ([C\(2024\)6914](#));
- the information to be included by certain financial entities in the notification of their intention to provide cryptoasset services ([C\(2024\)6903](#));
- continuity and regularity in the performance of cryptoasset services ([C\(2024\)7523](#));
- the methodology to estimate the number and value of transactions

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associated to uses of asset-referenced tokens and of e-money tokens denominated in a currency that is not an official currency of a Member State as a means of exchange ([C\(2024\)6910](#));

- the conditions for the establishment and functioning of consultative supervisory colleges ([C\(2024\)6911](#)); and
- the information to be included in an application for authorisation as a cryptoasset service provider ([C\(2024\)6904](#)).

## **DORA: ESAs publish guidelines on oversight cooperation and information exchange**

The European Supervisory Authorities (ESAs) have published [joint guidelines](#) on oversight cooperation and information exchange between the ESAs and competent authorities under the Digital Operational Resilience Act (DORA).

The guidelines cover the detailed procedures and conditions for the allocation and execution of tasks between competent authorities and the ESAs and the details on the exchanges of information which are necessary for competent authorities to ensure the follow-up of recommendations addressed to ICT third party service providers to financial entities designated as critical.

Competent authorities must notify the respective ESA whether they comply or intend to comply with the guidelines, or otherwise the reasons for non-compliance, by 6 January 2025.

The guidelines will apply from 17 January 2025.

## **EBA publishes follow up review on supervision of management of non-performing exposures**

The European Banking Authority (EBA) has [published](#) a follow up to its 2022 peer review report on the supervision of the management of non-performing exposures (NPEs) by credit institutions.

The follow up report concludes that competent authorities have made significant efforts to improve their supervisory practices and are now fully or largely applying the specific provisions of the EBA's guidelines on management of non-performing and forborne exposures.

The EBA believes that the findings do not necessitate any further recommendations on the topic, but it encourages competent authorities to remain vigilant of the need to keep NPE ratios under scrutiny.

## **ECB consults on options and discretions policy amendments**

The European Central Bank (ECB) has launched a [consultation](#) on draft revisions to its policies on the options and discretions available to supervisory authorities under EU law when supervising banks.

The options and discretions relate to several prudential topics, including:

- the definition of own funds;
- how to calculate capital requirements for certain risk categories;
- which asset types are included in the trading book; and
- what exclusions are allowed when determining the consolidation scope of a banking group.

The amendments are primarily intended to reflect legislative changes introduced by the new EU banking package, comprising the Capital Requirements Regulation (CRR3) and the Capital Requirements Directive (CRD5), along with other supervisory developments that have occurred since the last revision in 2022.

Comments are due by 10 January 2025.

## **SRB publishes new bail-in template**

The Single Resolution Board (SRB) has published a Minimum Bail-in Data Template (MBDT) [documentation package](#) for use in a bank failure, resolution planning and testing.

The MBDT package, which replaces the previous data set and is now the sole standard for banks to report data for the operationalisation of bail-in, comprises:

- a template providing a standard data point model, including country annexes for Austria, Germany and the Netherlands;
- guidance on using the template;
- facilitating materials including instructions for the delivery of data, mapping between new and existing SRB data fields, and reporting examples; and
- validation rules.

The SRB has also published a feedback statement on its MBDT consultation, and set up a questions and answers process dedicated to queries relating to the MBDT.

In scope banks have a 12 month implementation period to adapt to the new requirements, with an additional six months for specific elements, such as for data on derivatives and on securities financing transactions (SFTs).

## **Financial Services and Markets Act 2023 (Consequential Amendments) Regulations 2024 made and laid before Parliament**

[The Financial Services and Markets Act 2023 \(Consequential Amendments\) Regulations 2024](#) (SI 2024/1115) have been made and laid before Parliament.

The Regulations make consequential amendments in connection with the Financial Services and Markets Act 2023 (Commencement No. 8) Regulations 2024 (SI 2024/1071) which brings into force several paragraphs of Schedule 2 to the FSMA 2023. Schedule 2 of FSMA 2023 makes direct amendments to MiFIR to revoke certain provisions and give the FCA new rule-making powers to implement a new transparency regime tailored to the UK in the FCA rulebook.

SI 2024/1115 makes consequential amendments to reflect the changes made by the commencement regulations to ensure the law remains consistent and comprehensive once the direct amendments to assimilated law come into force. Specifically, they amend:

- Regulation (EU) No 600/2014 (MiFIR) and Delegated Regulation (EU) 2017/567;
- the Bank Recovery and Resolution (No. 2) Order 2014;

- the FSMA 2000 (Markets in Financial Instruments) Regulations 2017; and
- the Data Reporting Services Regulations 2024.

## **FCA publishes policy on transparency in bond and derivatives markets**

The Financial Conduct Authority (FCA) has published its [final policy](#) (PS24/14) on the transparency regime for bonds and derivatives.

The changes to the regime include, among other things:

- specifying transparency requirements only for bonds admitted to trading on a trading venue and certain derivatives subject to the clearing obligation;
- exempting over-the-counter (OTC) trading of non-specified instruments by investment firms from public trade reporting;
- setting out standards and criteria trading venues should consider when calibrating their transparency requirements;
- reducing instances where transactions that do not contribute to price formation are reported to the public; and
- improving the content of post-trade reports and the correct identification of derivatives.

PS24/14 also sets out targeted changes made to the draft policy consulted on in December 2023.

Changes to the transparency regime will come into force on 1 December 2025. Transitional provisions exempting trading venues from applying for pre-trade transparency to voice and request-for-quote trading and SIs in bonds and derivatives from providing public quotes come into effect on 31 March 2025.

PS24/14 also includes a discussion paper on the future of the systematic internalisers (SI) regime. Comments are due by 10 January 2025.

## **FCA consults on investment research payment optionality for fund managers**

The FCA has published a [consultation paper](#) (CP24/21) on proposals to implement recommendations of the Investment Research Review (IRR) and feedback to its consultation paper on payment optionality for investment research (CP24/7).

The FCA is proposing to extend the new payment optionality to pooled funds, aiming to make it more operationally efficient for asset managers of various business models and sizes to adopt the new payment method for investment research. This initiative is intended to streamline processes and provide greater flexibility in how asset managers pay for research, enhancing the overall efficiency of the investment research market. The proposals will apply to:

- UCITS management companies;
- full scope UK alternative investment fund managers (AIFMs); and
- small authorised UK AIFMs and residual collective investment scheme operators.

Comments are due by 16 December 2024. The FCA intends to publish rules or guidance in H1 2025.

## **CSSF publishes circular on application of EBA guidelines on resubmission of historical data under EBA reporting framework**

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), has published its [Circular CSSF 24/864](#) on the application of the EBA guidelines on the resubmission of historical data under the EBA reporting framework (EBA/GL/2024/04).

The circular is addressed to all supervised entities required to submit data using the supervisory reporting framework developed by the EBA and for which the CSSF is the competent authority.

The purpose of the circular is to inform them that the CSSF, in its capacity as competent authority, applies the guidelines published on 9 April 2024. Consequently, the CSSF has integrated the guidelines into its administrative practice and regulatory approach with a view to promoting supervisory convergence in this field at EU level. All entities described in the scope of application section of the circular shall duly comply with the guidelines.

The guidelines set out a common approach to the resubmission by in-scope entities of historical data to the competent supervisory and resolution authorities in case there are errors, inaccuracies or other changes in the data reported in accordance with the supervisory and resolution reporting framework developed by the EBA. The guidelines also set out general circumstances when the resubmission of historical data may not be required.

The common approach to the resubmission of historical data should apply, unless there are specific requirements for the resubmission of data set out in the reporting framework developed by the EBA.

The approach for the resubmission of historical data depends on the frequency and the reference date of the affected reporting and the timing of the affected data in relation to the previous year-end.

The guidelines do not embed any specific proportionality elements apart from those that are already built into the underlying reporting requirements and the filing rules.

The guidelines do not change the primary obligation of financial institutions to report data that is of high quality, consistent and complete. Furthermore, the guidelines do not restrict the CSSF's already existing ability to require additional resubmissions on a case-by-case basis.

The circular applies with immediate effect.

## **Ministry of Finance presents draft amendments to Act on Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution and certain other acts**

The Ministry of Finance has presented [draft amendments](#) to the Act on the Bank Guarantee Fund, the Deposit Guarantee Scheme and Resolution and to certain other acts (BGF Act). The main objective of the draft is to implement the provisions of the 'Daisy Chains' Directive (EU) 2024/1174 into Polish law. In this respect, the draft mainly makes amendments to the BGF Act.

In addition, the proposed amendments are intended to apply the provisions of Regulation (EU) 2024/886, which requires banks to offer instant payments in euro. In this respect, the draft amends:

- the Act on Payment Services;
- the Act on the Finality of Settlement in Payment Systems and Securities Settlement Systems and the Rules Governing the Supervision of These Systems; and
- the Act on the National Bank of Poland.

The draft also contains provisions putting in order the mutual relations between banks and cooperative banks and the Bank Guarantee Fund and regulations detailing the conditions for the participation of the Bank Guarantee Fund in the bank restructuring process.

In addition to the amendments to the Act on the Bank Guarantee Fund, the draft amends:

- the Act on Capital Market Supervision;
- the Bankruptcy Law; and
- the Act on Trading in Financial Instruments.

The draft has been referred for interministerial agreements and public consultation.

## **MAS announces establishment of Global Finance and Technology Network for next phase of fintech development**

The Monetary Authority of Singapore (MAS) has [announced](#) the establishment of the Global Finance and Technology Network (GFTN), which is intended to strengthen Singapore as a global fintech hub and enhance global connectivity for innovation in financial services. GFTN will replace the present Elevandi.

The MAS notes that the first phase of fintech growth in Singapore was driven by experimentation, as well as the promotion of key initiatives to harness technology and innovation in the financial sector. These included developing a regulatory sandbox framework, establishing cross-border payments linkages, piloting digital assets and tokenisation, and promoting artificial intelligence (AI) adoption as part of the MAS' goal of developing Singapore as a smart financial centre.

The GFTN is being established to encourage the growth of the Singapore fintech ecosystem and drive greater synergies and networks with the global fintech community. In particular, the GFTN will work with the MAS to advance industry and policy dialogues in payments, asset tokenisation, and AI/quantum.

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

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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