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EMIR 3.0 published in Official Journal

The revised European Market Infrastructure Regulation (EU) 2024/2987 (EMIR 3.0) and Directive (EU) 2024/2994 on the treatment of concentration risk towards central counterparties (CCPs) and the counterparty risk on centrally cleared derivative transactions have been published in the Official Journal.

EMIR 3.0 amends EMIR, the Capital Requirements Regulation (CRR) and the Money Market Funds Regulation (MMFR) as regards measures to mitigate excessive exposures to third-country CCPs and improve the efficiency of EU clearing markets.

Regulation (EU) 2024/2987 will enter into force on 24 December 2024 and apply from the same date with certain exceptions.

Directive (EU) 2024/2994 will enter into force on 24 December 2024 and Member States have until 25 June 2026 to transpose it.

EU Council agrees negotiating mandate on financial data access

The EU Council has adopted its negotiating mandate on the EU Commission's proposal for a regulation on a framework for financial data access (FIDA).

The proposed FIDA framework, which forms part of the EU Commission's June 2023 financial data access and payments package, is intended to improve customer data sharing between financial institutions.

The Council's position broadly supports the Commission's original proposal and its incremental implementation, while seeking to clarify the framework's scope by defining specific data sets, products and sectors, and the timeframe for when data sharing obligations will apply. The position also seeks to reinforce the rules governing third country financial information service providers (FISPs).

The EU Parliament agreed its negotiating position in April 2024. The co-legislators will now enter trilogue negotiations in order to agree on a final version of the text.

CRR3: EBA publishes final draft ITS on supervisory reporting and disclosures for investment firms

The European Banking Authority (EBA) has published final draft amendments to the implementing technical standards (ITS) on the supervisory reporting and disclosures for investment firms.

The reporting framework for investment firms is being amended to comply with the Capital Requirements Regulation (CRR3) and to align with the changes included in the ITS on supervisory reporting for credit institutions. The amendments cover supervisory reporting requirements on counterparty credit risk, market risk (K-NPR) and credit valuation adjustment (CVA) risk.

The amendments are expected to be applicable from 1 January 2025.

The EBA also intends to publish a technical package in December 2024, which will include the data point modelling (DPM), validation rules and taxonomy for investment firms submitting this supervisory reporting information.

MiCA: ITS on cryptoasset white papers published in Official Journal

Commission Implementing Regulation (EU) 2024/2984, which sets out ITS on cryptoasset white papers under the Markets in Cryptoassets Regulation (MiCA), has been published in the Official Journal.

The ITS set out standard forms, formats and templates for cryptoasset white papers. Key requirements include that:

- legal entity identifiers (LEIs) should be provided within the white paper where available;
- if a LEI or a digital token identifier (DTI) is provided, the white paper does not need to also include the information that can be typically retrieved using that LEI (e.g. registered address or parent company) or DTI (e.g. cryptoasset name or issuer name);

- white papers should be marked up using the machine-readable format, XBRL;
- the taxonomy required for the use of XBRL should be based on the fields included in the ITS's standardised templates; and
- the European Securities and Markets Authority (ESMA) should publish the XBLR taxonomy files on its website in a machine-readable and freely downloadable format.

The Regulation will enter into force on 23 December 2024 and apply from 23 December 2025.

MiCA: EU Commission adopts RTS on content and format of order book records

The EU Commission has adopted regulatory technical standards (RTS) specifying the content and format of order book records for cryptoasset service providers (CASPs) operating a cryptoasset trading platform under the MiCA.

The RTS relate to the obligation on CASPs to keep records of all orders in cryptoassets advertised through their systems and to make those records available or provide access to the order book to competent authorities.

DORA: ITS on register templates published in Official Journal

Commission Implementing Regulation (EU) 2024/2956 laying down ITS with regard to standard templates for the register of information regarding the use of ICT third-party providers under the Digital Operational Resilience Act (DORA) has been published in the Official Journal.

Implementing Regulation (EU) 2024/2956 will enter into force on 22 December 2024.

ESAs publish statement on DORA application

The European Supervisory Authorities (ESAs), comprising the EBA, the European Insurance and Occupational Pensions Authority (EIOPA) and ESMA, have published a statement on the application of the DORA.

The statement calls on financial entities and third-party providers to ensure they are prepared for DORA applying from 17 January 2025. Among other things, the statement:

- highlights new reporting obligations for financial entities, such as registers of ICT third-party providers' contractual arrangements, and major ICT-related incidents; and
- suggests ICT third-party providers that may meet the criticality criteria assess their operational setup against DORA requirements ahead of the first designation of critical third-party providers (CTPPs), which is expected to take place in H2 2025.

EBA consults on draft RTS on central contact point appointments by CASPs

The EBA has launched a consultation on its draft RTS regarding the appointment of central contact points by CASPs.

The RTS specify the criteria according to which CASPs should appoint a central contact point to ensure compliance with anti-money laundering and countering the financing of terrorism (AML/CFT) obligations of the host Member State. This includes the circumstances in which appointing a central contact point is appropriate and the functions of those central contact points.

As the same considerations apply to electronic money issuers (EMI) and payment service providers (PSPs) as they do to CASPs, the EBA is proposing to retain the structure and approach set out in the RTS on appointing central contact points for EMIs and PSPs (Regulation (EU) 2018/1108) and extend existing provisions to CASPs, as well as introducing new provisions for CASPs where necessary.

Comments are due by 4 February 2025. A public hearing is scheduled for 16 January 2025.

SRB consults on resolvability self-assessment

The Single Resolution Board (SRB) has launched a consultation on its operational guidance for banks on resolvability self-assessment.

Following the end of the phase-in period for the SRB's Expectations for Banks, published in March 2020, the SRB is revising its resolvability assessment methodology. The methodology outlines the capabilities that banks are expected to maintain over time in order to be deemed resolvable.

Under its five year strategy (Single Resolution Mechanism Vision 2028), the SRB is increasing focus on banks conducting self-assessments and regularly testing their ability to be resolved. The capabilities will be integrated into banks' annual resolvability self-assessments as part of a multi-annual testing programme that will start from 2026 onwards.

The SRB is proposing to add a fourth level of progress to the methodology in order to identify banks that have developed advanced capabilities during the implementation phase of the Expectations for Banks. The consultation seeks views on the SRB's implementation of the revised methodology.

Comments are due by 7 February 2025.

FSB publishes 2024 resolution report

The Financial Stability Board (FSB) has published its 2024 resolution report, 'From Lessons to Action: Enhancing Resolution Preparedness', which takes stock of the FSB's resolution-related work of the past year as well as of the progress made by FSB members in implementing resolution reforms and enhancing resolvability across the banking, financial market infrastructure, and insurance sectors. The report also sets out the FSB's 2025 priorities in the resolution area.

In 2024, the FSB focused on advancing work to explore and address the lessons from the 2023 bank failures. This included work on public sector backstop funding mechanisms, operationalisation of bail-in, and assessing the impact of technological innovation on resolution processes. In the coming year, the FSB intends to continue to address these areas further and also explore practices of authorities using transfer tools in resolution (e.g. sales of asset portfolios), and promote cross-border cooperation and information sharing with authorities outside of Crisis Management Groups.

Financial Services and Markets Act 2000 (Ombudsman Scheme) (Fees) Regulations 2024 made

The Financial Services and Markets Act 2000 (Ombudsman Scheme) (Fees) Regulations 2024 (SI 2024/1264) have been made.

The Regulations empower the Financial Ombudsman Service (FOS) to charge case fees to claims management companies (CMCs) and legal professionals (professional representatives) who bring cases to the FOS on behalf of consumer complainants.

SI 2024/1264 is intended to address the economic benefit professional representatives gain from bringing cases to the FOS, which previously could not charge them fees despite their impact on the service. The FOS has reported that fees charged by professional representatives can significantly reduce consumer redress. The Government has emphasised that the FOS must remain a cost-free service for consumers, ensuring accessibility without the need for professional representative support.

SI 2024/1264 came into force on 3 December 2024.

UK Markets in Financial Instruments (Equivalence) (Singapore) Regulations 2024 made

The Markets in Financial Instruments (Equivalence) (Singapore) Regulations 2024 (SI 2024/1267) have been made and laid before Parliament according to the negative procedure.

SI 2024/1267 sets out HM Treasury's determination under UK MiFIR that Singapore's derivatives trading regime is equivalent to the UK's, and allows UK counterparties to fulfil their derivatives trading obligation (DTO) when trading derivatives instruments on trading venues in Singapore.

It replaces assimilated EU decision 2019/541, and updates the list of trading venues to include all current MAS-authorised trading venues.

SI 2024/1267 comes into force on 31 December 2024. The assimilated EU decision will be revoked at the same time by commencement regulations to be made under the Financial Services and Markets Act 2023 (FSMA 2023).

For more information and resources on MiFID2/MiFIR, see the Topic Guide on the Clifford Chance Financial Markets Toolkit.

HM Treasury sets out terms of reference for Financial Inclusion Committee

HM Treasury has published the terms of reference for the Financial Inclusion Committee, which has held its first meeting and is being tasked with tackling barriers to individual and households' ability to access affordable and appropriate financial products and services.

The Committee's objectives are to develop, coordinate and implement interventions to support financial inclusion in the UK, and advise the UK Government on the development of its financial inclusion strategy.

The Committee will focus on the following areas:

- digital inclusion and access to banking services;
- savings;

- insurance;
- affordable credit and problem debt; and
- financial education and capability.

Bank resolution: BoE consults on revocation of technical standard on simplified obligations

The Bank of England (BoE) has launched a consultation on the revocation of the on-shored UK technical standard 2019/348 on simplified obligations (SO UKTS).

The BoE proposes to revoke the SO UKTS, which sets out the process for determining whether SO can be imposed in respect of recovery and resolution plans, on the basis that the BoE can achieve the same outcomes when following the separate, existing process for setting a preferred resolution strategy of modified insolvency.

If taken forward, the proposals would come into force on 30 April 2025.

Comments are due by 2 February 2025.

PRA publishes policy on interim capital regime firms

The Prudential Regulation Authority (PRA) has published a policy statement (PS19/24) on interim capital regime (ICR) firms under the Strong and Simple Framework.

PS19/24 contains the final statement of policy on operating the ICR and rules relating to the definition of an ICR firm and an ICR consolidation entity. It also explains how eligible firms can join the ICR, enabling them to preserve their current capital requirements from 1 January 2026 (the implementation date of the Basel 3.1 standards) until the small domestic deposit taker (SDDT) capital regime is implemented. The SDDT regime is currently expected to be implemented from 1 January 2027.

The appendices contain the PRA Rulebook: CRR Firms: SDDT (Interim Capital Regime) Instrument 2024 and the statement of policy on operating the ICR, both of which came into force on 29 November 2024. The instrument does not contain the text of the proposed interim capital regime part of the SDDT regime as the PRA expects to publish this in Q1 2025 alongside the final policy statement on the implementation of Basel 3.1.

FCA publishes Quarterly Consultation No. 46

The Financial Conduct Authority (FCA) has published its latest quarterly consultation paper (CP24/26) on proposed amendments to the FCA Handbook.

It is seeking feedback on its proposals to:

- make minor amendments to the anti-greenwashing rule and the Sustainability Disclosure Requirements (SDR);
- amend SUP 16.11, SUP 16 Annex 20G and SUP 16 Annex 21R, in order to clarify or improve the wording for better understanding in relation to consumer credit product sales data reporting;
- increase the GBP 100 medical condition premium trigger point for firms to signpost customers with pre-existing medical conditions (PEMCs) to a

directory of specialist providers and futureproof the threshold in line with inflation;

- remove the requirement for UK insurance special purpose vehicles (UK ISPVs) to comply with SYSC 3.2.8R and to allocate the SMF16 Compliance Oversight Function;
- update references to the new edition of the UK Corporate Governance Code in the Handbook; and
- amend SUP 3.1.2R(5B) to address a gap in the FCA's rules that currently allows debt management firms to avoid submitting a Client Assets Sourcebook (CASS) audit.

Comments are due by 13 January 2025 for chapters 2, 3, 5, 6 and 7 and by 27 January 2025 for chapter 4.

FCA publishes tender process for bond consolidated tape provider

The FCA has published a concession notice outlining the tender process for appointing a bond consolidated tape provider (CTP).

The FCA intends to establish a bond consolidated tape (CT) to ensure data accessibility in a cost-effective manner. The bond CTP will collect market data, including prices and volumes, from relevant trading venues and approved publication arrangements (APAs), and then disseminate the CT in a standardised electronic data feed to market participants.

Draft tender documents will be available on the FCA's procurement portal by 31 January 2025, with an invitation for bidders to submit questions before final documents are issued.

The CTP is expected to go live after bond transparency regime changes take effect on 1 December 2025.

FCA publishes policy statement on updates to Financial Crime Guide

The FCA has published a policy paper (PS24/17), in which it summarises feedback and sets out final policy following its consultation (CP24/9) on updates to the Financial Crime Guide.

In CP24/9, the FCA sought feedback on proposals to:

- update sanctions guidance in light of lessons learned following Russia's invasion of Ukraine and the FCA's subsequent assessment of firms' sanctions systems and controls;
- ensure proliferation financing is explicitly referred to where appropriate, including highlighting an amendment to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs), which introduces a requirement that firms conduct proliferation financing risk assessments;
- introduce guidance on how to implement and monitor transaction monitoring systems;
- highlight that cryptoasset businesses registered under the MLRs should refer to the guide;

- clearly state that firms should consider whether their systems and controls are consistent with their obligations under the FCA's Consumer Duty; and
- make various consequential changes, such as replacing expire links, updating references to EU rules and refreshing case studies.

The FCA received 42 responses to its consultation, which were largely supportive of the proposals. The FCA has made some amendments to its final rules to improve clarity but has otherwise published them as consulted upon.

FCA replaces transitional direction on modifying DTO

The FCA has published a new direction modifying the UK's DTO.

The new direction will replace the transitional direction which expires on 31 December 2024. It will only apply to transactions in classes of derivatives subject to the DTO in both the UK and EU, to reflect changes to the scope of the UK and EU DTO following the LIBOR transition. The new direction will continue to allow firms subject to the UK DTO, trading with, or on behalf of, EU clients subject to the EU DTO, to transact or execute those trades on EU venues, providing they meet certain conditions.

The new direction will apply from 11.01pm on 31 December 2024.

BaFin publishes new AML/CTF circular on high-risk third countries

The German Federal Financial Supervisory Authority (BaFin) has published a new Circular 10/2024 (GW) regarding countries with strategic deficiencies in combating money laundering and terrorism financing (AML/CTF) which pose serious risks to the global financial system (high-risk third countries).

The circular is relevant for all addressees of the German Money Laundering Act (Geldwäschegesetz - GWG) supervised by BaFin. It replaces the previous circular on this topic.

Circular 10/2024 (GW) reflects:

- Delegated Regulation (EU) 2016/1675 of 14 July 2016 (as amended from time to time) which identifies high-risk third countries with strategic deficiencies;
- the Financial Action Task Force (FATF) statement of 25 October 2024 on 'High-Risk Jurisdictions subject to a Call for Action' which focuses on the application of countermeasures in case of North Korea and Iran as well as the application of enhanced due diligence measures in case of Myanmar; and
- the FATF report of 25 October 2024 on 'Jurisdictions under Increased Monitoring', which adds Algeria, Angola, Côte d'Ivoire and Lebanon to the list of jurisdictions under increased monitoring and deletes Senegal.

The circular outlines the measures to be taken and the due diligence requirements to be met under the GWG in relation to high risk countries with certain specifications, amongst others, concerning North Korea and Iran.

BaFin repeals MREL circular

BaFin has repealed its circular on the determination of the minimum requirement for own funds and eligible liabilities (Circular 08/2021 (A) – MREL

Circular). The background to this is Directive (EU) 2024/1174 of 11 April 2024, which amended the BRRD (Directive 2014/59/EU) and the SRM Regulation (Regulation (EU) No 806/2014).

The MREL Circular set out BaFin's administrative practice for determining MREL for institutions and group entities whose resolution plan provides for a winding up under normal insolvency proceedings.

In the future, MREL no longer needs to be determined for such institutions so that the MREL Circular has become obsolete.

BaFin updates its interpretation and application guidance on Money Laundering Act

BaFin has revised its Interpretation and Application Guidance on the Money Laundering Act (Geldwäschegesetz – GwG).

BaFin has made various clarifications and adjustments, e.g. regarding the required time periods for updates within the continuous monitoring of customer relationships pursuant to section 10 para 1 no 5 GwG. The revised version replaces the previous Interpretation and Application Guidance on the GwG.

With this update, BaFin has fulfilled its legal mandate pursuant to section 51 para 8 sentence 1 GwG. The guidance applies to all obliged entities under the GwG supervised by BaFin.

AML: Bank of Italy publishes new guidelines

Following a public consultation process that ended on 14 September 2024, the Bank of Italy has issued final amendments to its regulations on internal controls and procedures to prevent money laundering and terrorism financing, which were originally published on 26 March 2019.

The amendments follow the adoption of the EBA guidelines (EBA/2021/16) on a risk-based supervisory approach and are intended to regulate periodic reporting requirements applicable to financial institutions in relation to their exposure to AML/CTF risks.

The amendments introduce a new section on periodic anti-money laundering reporting obligations, which shall be submitted by 31 March of each year.

The new regulation will be published in the Official Gazette and come into force 15 days after its publication.

Bank of Italy complies with EBA guidelines on overall recovery capacity

The Bank of Italy has informed the EBA of its intention to comply with the EBA guidelines on overall recovery capacity (EBA/GL/2023/06).

Under the Bank Recovery and Resolution Directive (BRRD) and Delegated Regulation (EU) 2016/1075, entities required to draft recovery plans must include an assessment of their overall recovery capacity (ORC). This involves estimating the expected benefits from recovery actions aimed at improving capital and liquidity indicators under severe stress scenarios.

The EBA guidelines standardise the methodology for calculating the ORC, which applies to less significant banks and investment firms with ordinary recovery plan obligations.

The Bank of Italy has clarified that the guidelines do not override previous recommendations issued to specific intermediaries, including risks tied to capital instruments and liquidity.

CRR3: Bank of Italy authorises voluntary adoption by non-bank intermediaries

The Bank of Italy has authorised non-bank financial intermediaries regulated under Article 106 of Legislative Decree no. 385/1993, as amended (the Italian Banking Act), to voluntarily adopt the new CRR3 rules from 1 January 2025.

Following a number of requests received by the Bank of Italy, this measure is intended to address inefficiencies caused by the coexistence of different regulatory frameworks (i.e. existing specific rules for individual intermediaries and CRR3 rules applicable to banking groups). Intermediaries choosing this option must notify the Bank of Italy by 31 December 2024.

A revised prudential framework, including updates to Bank of Italy Circular No. 288/2015 on supervisory rules applicable to non-bank intermediaries, will be finalised in 2025 and take effect from 2026.

During the transitional period, intermediaries that voluntarily adopt CRR3 rules must fully comply with them.

Travel rule: Bank of Italy implements EBA guidelines

The Bank of Italy has announced its intention to comply with the EBA guidelines (EBA/GL/2024/11) on the so-called 'travel rule' under Regulation (EU) 2023/1113, which sets out the information that must accompany transfers of funds and certain cryptoassets for AML/CTF purposes.

The guidelines replace the previous guidelines adopted by the European Supervisory Authorities (ESAs) in 2017. They require payment service providers (PSPs), intermediary payment service providers (IPSPs), CASPs, and intermediary cryptoasset service providers (ICASPs) to establish policies and procedures to identify transfers of funds and cryptoassets lacking the required information, take measures to address such cases, and report recurring failures by counterparties to the competent authority. The guidelines also define minimum measures for identifying transactions involving self-hosted addresses and obligations regarding direct debits.

The guidelines will apply from 30 December 2024.

STS criteria: Consob complies with EBA guidelines

The Commissione Nazionale per le Società e la Borsa (CONSOB) has informed the EBA of its intention to comply with the EBA's guidelines on the criteria related to simplicity, standardisation and transparency and additional specific criteria for on-balance-sheet securitisations (STS criteria).

This decision updates the previous guidelines EBA/GL/2018/08 and EBA/GL/2018/09 regarding STS criteria for asset-backed commercial paper (ABCP) and non-ABCP securitisations.

The updated guidelines provide detailed instructions on meeting simplicity, standardisation, and transparency requirements, as well as requirements related to credit protection agreements, third-party agents, and synthetic positive margins, applicable to balance sheet securitisations classified as simple, transparent, and standardised (STS).

The new guidelines are applicable from 9 December 2024.

CSSF regulation concerning systemically important institutions authorised in Luxembourg published

The Luxembourg financial sector supervisory authority, the Commission de Surveillance du Secteur Financier (CSSF), issued a regulation (24-08) concerning systemically important institutions (SIIs) authorised in Luxembourg on 29 November 2024, which has now been published in the Luxembourg official journal (Mémorial A).

The regulation identifies the following SIIs authorised in Luxembourg: Banque et Caisse d'Epargne de l'Etat Luxembourg, Banque Internationale à Luxembourg, BGL BNP Paribas, Clearstream Banking S.A., and Société Générale Luxembourg, all qualifying as other systemically important institutions (O-SIIs). There is no global systemically important institution (G-SII) authorised in Luxembourg.

All of these institutions qualify as O-SIIs based on the score obtained by application of the EBA standard methodology (i.e., exceeding the threshold laid down in accordance with the relevant EBA guidelines (EBA/GL/2014/10)).

The capital buffer rates remain unchanged for all O-SIIs.

The regulation will enter into force on 1 January 2025 and as of this date replace the currently applicable CSSF regulation 23-05 concerning SIIs authorised in Luxembourg.

ASIC consults on proposed updates to digital asset guidance

The Australian Securities and Investments Commission (ASIC) has released a consultation paper entitled 'Updates to INFO 225: Digital Assets: Financial Products and Services' (CP 381) outlining proposals to update Information Sheet 225: Crypto Assets (INFO 225).

In particular, the CP 381 seeks feedback on:

- a range of updates to INFO 225, including adding thirteen practical examples of how the current financial product definitions apply to digital assets and related products;
- the application of the existing Australian Financial Services (AFS) licence processes, ASIC guidance and standard conditions to digital asset businesses;
- practical licensing issues for wrapped tokens and stablecoins, issues arising from the potential transition to the Government's proposed digital asset platform and payment stablecoins regimes, and consideration of potential regulatory relief; and
- a potential class no action position for digital asset businesses that are in the process of applying for or varying an AFS licence, Australian Markets Licence or Clearing and Settlement Facility licence.

Comments on the consultation are due by 28 February 2025.

ASIC has indicated that it intends to publish a final version of the updated INFO 225 in mid-2025, after considering feedback received through the consultation process.

ASX consults on amendments to Clear Operating Rules to introduce framework for auctioning of cleared cash market and derivatives market products

The Australian Securities Exchange (ASX) has released a consultation outlining proposed amendments to its Clear Operating Rules and Procedures that relate to the default management of cash market and derivatives market products.

The ASX highlighted that, in the event of a default by a clearing participant, ASX Clear (ASXCL) has a number of options to manage its exposure to the positions of that defaulted clearing participant. The most common method used by the ASX for ASXCL products is to close out positions by entering into equal and opposite transactions by using a default broker. However, there are situations where it may be more appropriate for ASXCL to conduct an auction process to re-establish a matched book.

The proposed amendments are intended to enhance ASXCL's default management framework to facilitate the holding of default management auctions and provide clarity to the market on the process and procedures underpinning the auction framework.

The ASX has indicated that it does not currently intend that participation in ASXCL auctions will be mandatory. However, it has emphasised that, as in any default management process, the active involvement of participants in the auction is important to ensure a successful and timely restoration of the matched book.

Subject to consultation feedback and regulatory clearance, the ASX intends to implement the amendments to the ASX Clear Operating Rules in the second quarter of 2025.

Comments on the consultation are due by 14 February 2025.

HKMA revises SPM module on overview of capital adequacy regime for locally incorporated authorised institutions

The Hong Kong Monetary Authority (HKMA) has published a revised version of its supervisory policy manual (SPM) module on the overview of the capital adequacy regime for locally incorporated authorised institutions as a statutory guideline under section 7(3) of the Banking Ordinance.

The HKMA has revised the SPM module to align it with the latest capital standards, primarily those under the Basel III final reform package as set out in the Banking (Capital) (Amendment) Rules 2023, and to improve the clarity or better reflect the policy intent of certain guidance in it.

The revised SPM module is effective from 1 January 2025.

HKMA publishes new SPM module on supervisory approach to cyber risk management

The HKMA has published a new supervisory policy manual (SPM) module on its supervisory approach to cyber risk management as a statutory guideline under section 7(3) of the Banking Ordinance, in light of the escalating cyber risks and the potential systemic impact of a severe cyber incident on financial stability.

The SPM module is not intended to introduce any new requirements but sets out holistically the HKMA's guidance and supervisory processes on cyber risk management as well as its expectation for deeper collaboration between the banking sector and other stakeholders in the ecosystem.

HKMA consults on proposed enhancements to Banking Ordinance

The HKMA has launched a public consultation on proposed enhancements to the Banking Ordinance (BO).

The consultation follows the HKMA's recent review of the BO, which was intended to: reflect developments in banking industry practices, and regulatory and supervisory approaches, both globally and domestically; address specific issues identified from Hong Kong's supervisory experience in the past; and further align the system of regulation in Hong Kong with that of other major financial centres. The BO review focused specifically on priority areas where amendments and enhancements to the BO are considered necessary.

The consultation sets out the HKMA's enhancement proposals to the BO in the following areas:

- establishing a statutory regime for the HKMA to exercise direct regulatory and supervisory powers over designated locally incorporated holding companies of locally incorporated authorised institutions (AIs);
- allowing the HKMA the flexibility to engage skilled persons on a case-by-case basis, where appropriate, to assist in performing its functions under the BO; and
- introducing a number of technical amendments, amongst other things, to address operational issues, streamline the regulatory and supervisory processes, and reduce compliance burdens faced by AIs.

The consultation paper also includes proposed amendments to the Financial Institutions (Resolution) Ordinance and the Hong Kong Association of Banks Ordinance.

Comments are due by 28 January 2025.

Stablecoins Bill to establish regulatory regime for issuers of fiat-referenced stablecoins gazette

The Hong Kong Government has gazetted the Stablecoins Bill, which establishes a regulatory regime for issuers of fiat-referenced stablecoins (FRS) in Hong Kong.

The Bill is intended to enhance the regulatory framework for virtual asset (VA) activities, by addressing the potential financial stability risks posed by FRS, ensuring adequate user protection, and harnessing the potential benefits of VAs and their underlying technologies. Under the proposed licensing regime, any person carrying out any of the following activities has to be licensed by the HKMA:

- issuing FRS in Hong Kong in the course of business;
- issuing FRS that purport to maintain a stable value with reference to Hong Kong dollars in the course of business; or

- actively marketing the person's issue of FRS to the public of Hong Kong.

The Bill is also intended to provide the HKMA with the necessary supervision, investigation and enforcement powers for effective implementation of the regime.

The Bill will be introduced into the Legislative Council for its first reading on 18 December 2024.

MAS amends Notice FHC-N125 on investment activities

The Monetary Authority of Singapore (MAS) has amended its Notice FHC-N125 on Investment Activities, following the issuance of the revised MAS Notice 125 on Investments of Insurers on 30 September 2022.

Notice FHC-N125 has been amended to apply the MAS Notice 125 revisions at the designated financial holding company (licensed insurer) and the financial holding companies (FHC) group level. The changes encompass areas such as establishing asset allocation limits by asset type and credit rating, and developing a counterparty risk appetite statement where necessary.

The revised Notice FHC-N125 is effective from 1 January 2025.

MAS rationalises leverage requirements and introduces additional disclosures for REITs

The MAS has published its responses to the feedback it received on its July 2024 consultation on proposed amendments to leverage requirements for real estate investment trusts (REITs).

Amongst other things, the MAS has clarified the following in its response:

- a minimum interest coverage ratio (ICR) of 1.5 times and a single aggregate leverage limit of 50% will be applied to all REITs with immediate effect (i.e. from 28 November 2024), unlike the previous ICR threshold of 2.5 times that applied only to REITs which intended to increase their leverage from 45% to 50%. The MAS will not expand the circumstances under which the minimum ICR threshold would not be considered breached to include volatility in foreign exchange and interest rates and tenant defaults. It expects REIT managers to take these factors into account when managing REITs' aggregate leverage and ICR levels;
- regarding the computation of the ICR for the purpose of the minimum threshold of 1.5 times, the MAS has considered the two existing definitions of ICR – i.e. 'ICR' and 'Adjusted-ICR' – under the Code on Collective Investment Schemes (CIS Code). Given that the industry has adapted well to the definition of 'Adjusted-ICR' over the years, the MAS will streamline the current two definitions of ICR in the CIS Code to only one;
- to enhance accountability in REITs' financial management, REITs will be required to provide additional disclosures concerning the outlook and management of their leverage and ICR levels in their financial result announcements and annual reports. The following stepped-up disclosures will apply from financial periods ending on or after 31 March 2025 onwards: a REIT manager will be required to additionally disclose how it intends to manage REITs' leverage and ICR levels. In particular, where the ICR of a REIT has fallen below 1.8 times, the REIT manager should take steps and/or have plans in place to improve the REIT's ICR, and disclose this

additional information; and REITs will be required to perform and disclose sensitivity analyses on the impact of changes in EBITDA and interest rates on REITs' ICRs. The sensitivity analyses should as a minimum include two separate mandatory scenarios, one based on a 10% decrease in EBITDA and another based on a 100-basis point increase in interest rates;

- regarding the suggestion on the inclusion of other possible scenarios that REIT managers can use for the ICR sensitivity analyses, the MAS will not be mandating further scenarios in addition to the two prescribed separate mandatory scenarios. However, REIT managers may include additional scenarios for disclosure, over and above the prescribed base-case scenarios; and
- loans with fixed interest rates or hedged against fixed rates should not be excluded from the sensitivity analyses as such exclusions would underestimate the impact of movements in interest rates, particularly if the fixed-rate loans or their hedges are nearing maturity. Regarding the interest rate to be used for the sensitivity analyses, the MAS has clarified that the sensitivity analyses should be based on the weighted average interest cost of each REIT.

Following the consultation feedback, the MAS has also issued revisions to the CIS Code to implement the final policy positions set out in the response paper. The amendments to the CIS Code are effective from 28 November 2024.

MAS revises Notice 637 on Risk Based Capital Adequacy Requirements for Banks Incorporated in Singapore

The MAS has revised its Notice 637 on Risk Based Capital Adequacy Requirements for Banks Incorporated in Singapore (MAS Notice 637).

The MAS Notice 637 has been revised to:

- clarify the recognition of industrial properties as collateral under the standardised approach to credit risk and foundation internal ratings-based approach, for instances where the bank holds a junior charge and where all the senior charges ranking above the junior charge in question are held by the bank or Jurong Town Corporation;
- provide clarification on interpretation issues consistent with the frequently asked questions published by the Basel Committee on Banking Supervision in July 2024; and
- implement various other technical revisions.

The amendments to the MAS Notice 637 are effective from 1 January 2025, except for amendments in: (a) paragraph 4.1.18(b) relating to the calculation of the countercyclical buffer, (b) paragraph 9.1.3(v) relating to the calculation of the components of a reporting bank's business indicator, (c) Table 11-18A and Table 11-19 of Part XI relating to the public disclosure requirements and (d) Part XII relating to the reporting schedules, which are effective from 31 December 2024.

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RECENT CLIFFORD CHANCE BRIEFINGS

Modernising the UK's redress system

Recent developments in motor finance commission cases have highlighted the need to modernise the UK's redress system, with potential costs to financial institutions exceeding GBP 16 billion.

In response, the FCA and the FOS have issued a 'Call for Input' to seek feedback on improving the redress framework. The potential scale of redress related to motor finance can be appreciated from other previous mass redress events referred to in the Call for Input, for example, redress for mis-sold payment protection insurance resulted in 34.4 million consumers receiving GBP 38.3 billion. These eye-watering amounts demonstrate the scale and effect of such schemes.

This briefing discusses the Call for Input.

https://www.cliffordchance.com/briefings/2024/12/modernising-the-uks-redress-system.html