



# Payments, E-Money and Crypto-Assets Quarterly Legal and Regulatory Update

Period covered: 1 January 2023 – 31 March 2023

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## 1. PAYMENTS

### 1.1 EBA updates Single Rulebook Q&A on PSD2

During the period 1 January 2023 to 31 March 2023, the European Banking Authority (**EBA**) updated its Single Rulebook Questions and Answers (**Q&As**) publication on Directive (EU) 2015/2366 (the **Revised Payment Services Directive** or **PSD2**) (the **Single Rulebook Q&A**). The Q&As in respect of the following articles have been updated:

- Article 4 – Definitions;
- Article 9 – Calculation of own funds;
- Article 10 – Safeguarding requirements;
- Article 11 – Granting of authorisation;
- Article 19 – Use of agents, branches or entities to which activities are outsourced;
- Article 21a – Approval of financial holding companies and mixed financial holding companies;
- Article 28 – Application to exercise the right of establishment and freedom to provide services;
- Article 54 – Changes in conditions of the framework contract;
- Article 64 – Consent and withdrawal of consent;
- Article 70 – Obligations of the payment service provider in relation to payment instruments;
- Article 74 – Payer's liability for unauthorised payment transactions;
- Article 95 – Management of operational and security risks;
- Article 97 – Authentication;
- Article 98 – Regulatory technical standards on authentication and communication

A copy of the Single Rulebook Q&A can be accessed [here](#).

### 1.2 EBA publishes peer review on authorisation under PSD2

On 11 January 2023, the EBA published a report on the peer review on the authorisation of payment institutions (**PIs**) and electronic money institutions (**EMIs**) under PSD2 (**Report**). The Report sets out the findings of the EBA's peer review into the authorisation process for PIs and EMIs, taking into account the EBA Guidelines on the information to be provided for the authorisation of payment institutions and e-money institutions and for the registration of account information service providers (**Guidelines**) issued in 2017.

The Report finds that overall competent authorities have been largely successful in implementing the guidelines, but the EBA does note a number who need further implementation (for example, "local substance" jurisdiction requirements). The EBA notes "significant divergences" in procedures across competent authorities, including resources available and the length of authorisation process which ultimately results in a different supervisory standard. The EBA has laid out a series of measures to address such divergencies, to harmonise the supervisory approaches of competent authorities and to prevent "forum shopping" within the EU.

In the Report, the EBA has included a summary of its assessment as regards the implementation of the Guidelines in the areas analysed. The Central Bank of Ireland (**Central Bank**), as the competent authority in Ireland with responsibility for authorising PIs and EMIs in accordance with PSD2, has implemented all aspects of the Guidelines analysed save for GL 1.3 of the Guidelines. GL 1.3 requests that a competent authority provide a "confirmation on completeness" which confirms that the application is complete both from a formal and substantive point of view. The EBA has asked that the Central Bank, as well as other competent authorities not compliant with GL 1.3, to take follow-up measures to implement this guideline.

The Report concludes with several good supervisory practices observed during the EBA's analysis. The EBA will conduct a follow up review in 2 years.

A copy of the Report can be accessed [here](#).

A copy of the Guidelines can be accessed [here](#).

### 1.3 Decision of the European Banking Authority of 23 March 2023 amending Decision EBA/DC/453 of 24 June 2022 concerning the reporting of payment fraud data under PSD2

On 23 March 2023, the EBA published Decision EBA/DC/482 amending their Decision EBA/DC/453 of 24 June 2022 regarding the reporting of payment fraud data under PSD2 (**EBA Amending Decision**).

In accordance with Article 96(6) of PSD2, payment service providers must provide at minimum on an annual basis, statistical data on fraud relating to different means of payment to their competent authorities, who then provide this data to the EBA in aggregated format. Further details on this aggregated data can be found in the EBA Guidelines (EBA/GL/2018/05) on fraud reporting under PSD2, as amended.

The EBA Amending Decision amends the earlier Decision EBA/DC/453 of 24 June 2022 and now imposes upon competent authorities an obligation to “submit to the EBA the data referred to in Article 2 on a semi-annual basis for the reporting periods ending on 30 June and on 31 December, respectively by 10 February and by 10 August of the subsequent year.”

The EBA’s Amending Decision of 23 March 2023 can be accessed [here](#).

A new consolidated version of Decision EBA/DC/453 of 24 June 2022 can be found [here](#).

The Guidelines on fraud reporting under PSD2 can be accessed [here](#).

## 2. DIGITAL FINANCE & CRYPTO-ASSETS

### 2.1 ESMA updates Q&As on DLT Pilot Regime Regulation

During the quarter, ESMA published updated versions of its Q&As relating to the implementation of Regulation (EU) 2022/858 (**DLT Pilot Regime Regulation**) (**DLT Q&As**). The DLT Q&As were updated on 3 February and again on 27 March 2023.

The Q&As have updated as follows:

- **Transaction Reporting.** A new Q&A 6 relating to reporting on behalf of natural persons was added on 3 February.
- **Financial Instruments Reference Data.** A new Q&A 3 on how to populate DLT financial instruments that are the digital representation of a previously issued financial instrument, and a new Q&A 4 on how to populate DLT financial instruments that are exclusively created on the DLT were added on 3 February.
- **Transparency.** A new Q&A 1 on the identification code for post-trade transparency obligations was added on 3 February.
- **DLT Financial Instruments.** A new Q&A 1 on how e tentative market capitalisation of DLT shares should be calculated was added on 27 March.

A copy of the updated DLT Q&As can be accessed [here](#).

### 2.2 European Payments Council yearly update of the “Guidelines on cryptographic algorithms usage and key management”

On 13 March 2023, the European Payments Council published its annual update of the guidelines on cryptographic algorithms usage and key management (v12.0). The European Payments Council has committed to review and update the guidelines annually in light of the constantly changing landscape of cryptology.

The guidelines' purpose is to provide guidance to the European payment industry regarding cryptographic algorithms and related topics. The document specifies a number of recommendations and best practices on cryptographic algorithms, security protocols, confidentiality and integrity protection and key management. Key updates in this revised v12.0 of the guidelines includes updates related to quantum computing and DLT.

The updated guidelines can be found [here](#).

### 3. CENTRAL BANK OF IRELAND

#### 3.1 Dear CEO letter - Re: Supervisory Findings and Expectations for Payment and Electronic Money (E-Money) Firms

On 20 January 2023, the Central Bank published a letter addressed to Payments and E-Money firms reporting on its findings within the sector over the last year. The letter sets out the Central Bank's risk-based supervisory approach for the sector, and its supervisory findings identifying five key areas for the sector: Safeguarding; Governance, Risk management, Conduct and Culture; Business Model, Strategy and Financial Resilience; Operational Resilience and Outsourcing; and Anti-Money Laundering / Countering the Financing of Terrorism.

The Central Bank's key supervisory findings can be summarised as follows:

- **Safeguarding.** The Central Bank recognises the protection of users' funds as one of its most important objectives and expects firms to have robust, Board approved, safeguarding risk management frameworks in place. After requesting all firms to comprehensively review their safeguarding regulation compliance in their December 2021 Dear CEO letter, the Central Bank found that nearly a quarter of those firms self-identified deficiencies in their safeguarding risk management frameworks, and deficiencies were later identified in other firms. In light of this, the Central Bank has requested all firms within the sector who are subject to the safeguarding requirements to commission an audit of their compliance with those requirements from an audit firm. The Central Bank has called for the auditor to issue an audit opinion as to whether the firm has maintained adequate organisational arrangements to meet the safeguarding requirements, along with a response from the Board on the outcome. The audit opinion must be submitted to the Central Bank by 31 July 2023.
- **Governance, Risk Management, Conduct and Culture.** The Central Bank expects firms to foster a consumer-focused culture. During its review, the Central Bank observed a number of recurring issues including that some firms' governance, risk management and internal control frameworks are not consistently aligned to business strategies and business objectives including in circumstances where the firm's business growth is prioritised ahead of its internal systems and control framework. The Central Bank also found certain firms had inadequate succession planning, resourcing for internal control functions and reporting to the Board, in particular, with respect to customer complaints, fraud levels etc. The Central Bank also noted that some firms seemed to display a culture of "achieving minimum compliance", that sees regulation as a cost rather than as a business tool to ensure better outcomes for consumers and firms alike, and that product/service disclosures were unclear or not transparent. The Central Bank expects firms to consider their governance, risk management and internal control frameworks, as well as the composition of the Board and management team to ensure they are sufficient to run the business of the firm adequately and in line with expectations.
- **Business Model, Strategy and Financial Resilience.** The Central Bank conducted a thematic review of business model and strategic risk of firms in the sector during 2022 that identified some failures in firms' strategic and capital planning frameworks. The Central Bank has focused on firms' compliance with their regulatory obligations to ensure they meet their minimum capitalisation requirements and the submission of complete and accurate regulatory returns in light of the fact that approximately one in every five firms submitted inaccurate regulatory returns to the Central Bank during the last 12 months. Issues identified include incorrect methodologies used for calculating own funds requirements; incorrect classification of regulatory capital held; and inaccurate payment values provided. The Central Bank expects firms to understand and meet

their capital requirements at all times and to have robust internal controls to ensure the accuracy and integrity of data used by firms for regulatory reporting purposes, and for strategic and financial planning.

- **Operational Resilience and Outsourcing.** The letter states that the Central Bank is increasingly focused on the need for firms to demonstrate their readiness for, and resilience to, operational disruptions and references its Cross Industry Guidance on Operational Resilience and Cross Industry Guidance on Outsourcing, issued in December 2021 as guidance to underpin this. The Central Bank has called for an improvement at Board and senior management level regarding the IT risks faced by firms, and a review and adoption of measures aimed to improve operational resilience in terms of outsourcing frameworks stating that the ultimate responsibility for a firm's IT risk, strategy and governance rests with executive management of the firm. The Central Bank expects Boards and senior management of payment and e-money firms to review and adopt appropriate measures to strengthen and improve their operational resilience frameworks in line with the Guidance.
- **Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT).** The Central Bank called for firms to improve their AML/CFT procedures as well as requesting that firms be cognisant of the risk factors set out in the EBA's ML/TF Risk Factors Guidelines (EBA/GL/2023/03) such as high transaction limits, the use of cash to fund transactions and the cross-border nature of transactions.

The Central Bank set out its observations and expectations in respect to firms' AML/CFT framework including (i) Risk-Based Approach: seeking improved transaction monitoring controls and a better understanding of how products/services could be used for money laundering or financing terrorism; (ii) Distribution Channels: enhancing the oversight of the relationships between the firm and its distributors or agents, have firms ensure that customer due diligence procedures are completed in line with the firms' own ML/TF risk assessment and AML/CFT policies and procedures, and assessing their distributors and agents regularly (with resulting management information being sent to the Board); and (iii) Electronic Money Derogation and Simplified Due Diligence: having identified some areas of misapplication of both the derogation and the simplified due diligence requirements in general, the Central Bank expects that the use of the simplified customer due diligence derogation for e-money is used only where all relevant criteria are met (i.e. it cannot be used where the customer is a PEP or resident in a high-risk third country) and that simplified due diligence is only carried out where appropriate to do so following a risk assessment of the individual relationship.

The Central Bank states that the contents of the letter are non-exhaustive and urges firms seek to identify other potential risks that could lead to consumer detriment, or which could impact their financial and operational soundness.

The Central Bank expects all firms in the sector to discuss the letter with their Board, and to reflect on the Central Bank's supervisory findings and, as mentioned above, has requested that firms submit their audit opinions on the safeguarding requirements by 31 July 2023.

The Dear CEO letter can be accessed [here](#).

### 3.2 Dear CEO Letter - Central Bank's key regulation and supervision priorities for 2023

On 16 February 2023, the Central Bank published a Dear CEO letter which was sent to all regulated firms on key regulatory and supervisory priorities for the coming year, against what they deem to be a persisting challenging financial backdrop. The Central Bank has reiterated its outcomes focused approach to regulation and supervision, which remains fundamentally a risk-based approach.

Key regulatory and supervisory priorities for the Central Bank include:

- The provision of a clear, open and transparent authorisation process.
- The assessment and management risks to the financial and operational resilience of firms.

- Consulting and engaging on regulatory developments under the Consumer Protection Framework and Individual Accountability Framework.
- Consultation on the Central Bank's approach to innovation that will include an exploration of new ways of engagement with innovators and their products.
- Ongoing focus on integrity within the financial system including the prevention of market abuse, and supervision of compliance with AML/CFT obligations and enforcing financial sanctions.
- Ensuring implementation of the EU's Anti-Money Laundering Action Plan including the establishment of a single supervisory authority (the Anti-Money Laundering Authority).
- Implementation of new EU regulations, including digital operational resilience (**DORA**) and markets in crypto assets (**MiCA**).

The Dear CEO letter can be accessed [here](#).

A related Central Bank press release can be accessed [here](#).

### 3.3 Central Bank (Individual Accountability Framework) Act 2023 and Central Bank Consultation Paper on the Individual Accountability Framework (CP 153)

On 9 March 2023, the Central Bank (Individual Accountability Framework) Act 2023 (**Act**) was signed into law.

The Act was introduced to promote accountability within the financial services sector and is intended to make individuals in key positions individually responsible for their actions within the scope of their roles. This includes senior management, directors and other decision makers with an impact on the firm's overall performance, with the ultimate goal being an improvement in integrity and stability.

The Act comprises four pillars:

- Introduction of New Business and Individual Conduct Standards: The Act introduces new conduct standards for both firms and individuals working for such firms. All firms regulated by the Central Bank will be required to comply with business conduct rules, including obligations such as acting honestly and with due skill, care and diligence. All individuals performing controlled functions (**CFs**) in a regulated firm will be required to comply with common conduct standards. Senior executives will also have to comply with additional conduct standards related to running the part of the business for which they are responsible;
- Senior Executive Accountability Regime (**SEAR**): This will require in-scope firms to set out clearly and fully where responsibility and decision-making lie within the firm's senior management;
- Enhancements to the current Fitness & Probity (**F&P**) Regime: This will include clarifying firms' obligations to proactively certify that individuals carrying out CF functions are fit and proper; and
- Amendments to the Administrative Sanctions Procedure (**ASP**): A key change will be the Central Bank's ability to take enforcement action under the ASP directly against individuals for breaches of their obligations rather than only for their participation in breaches committed by a firm.

On 13 March 2023, the Central Bank published its Consultation Paper 153 (**CP153**) containing draft regulations and guidance which set out how it proposes to implement the new Individual Accountability Framework (**IAF**) following the signing into law of the Act on 9 March 2023.

CP153 contains draft implementing regulations including (i) SEAR Regulations, (ii) Fitness and Probity Certification Regulations and (iii) Holding Companies Regulations.

CP153 also includes draft Guidance proposed by the Central Bank which seeks to provide further clarity in terms of its expectations for the implementation of SEAR, the conduct standards applicable to control functions (**CFs**), pre-approval control function (**PCFs**) and those who may exercise significant influence on the conduct of the firm's affairs and certain aspects of the enhancements to the fitness and probity (**F&P**) regime.

The Central Bank has proposed the following implementation timeline:

- Conduct standards applicable to individuals working in regulated firms: 31 December 2023.
- F&P Regime - certification (and inclusion of Holding Companies requirements): 31 December 2023.
- SEAR Regulations – obligations on prescribing responsibilities of different roles and requirements on firms to clearly set out allocation of those responsibilities and decision-making are set to apply to in-scope firms: 1 July 2024.

The Central Bank has also confirmed that the business standards which will apply to all regulated firms under the Act are being reviewed as part of the current review of the Central Bank's Consumer Protection Code and accordingly has not yet provided a proposed timeline for implementation of those business standards in CP153.

Interested stakeholders are invited to submit their feedback on CP153 to the Central Bank by the deadline of 13 June 2023 via email to [IAFconsultation@centralbank.ie](mailto:IAFconsultation@centralbank.ie).

A copy of the Act can be found [here](#).

CP153 can be accessed [here](#).

Further information on the contents of CP153 is contained in our briefing which is accessible [here](#).

You can also view a webinar hosted by Dillon Eustace on CP153 [here](#).

### 3.4 Updated Fitness & Probity process for Individual Questionnaires

In March 2023, the Central Bank updated its Individual Questionnaire (IQ) which must be submitted by any person wishing to be approved by the Central Bank to perform a PCF function under the F&P regime. It also published draft guidance on a new process for the submission of IQs via the Central Bank Portal.

For more information on the changes to the IQ application process, please see a Dillon Eustace briefing [here](#).

A PDF version of the updated IQ can be accessed [here](#).

The Central Bank's draft guidance on the submission of the IQ can be accessed [here](#).

### 3.5 Central Bank announces changes to the Central Bank Portal

In a message sent to all Portal administrators in March 2023, the Central Bank confirmed that in H2 2023, the existing ONR login will be permanently disabled and that all users should link their Portal and ONR accounts by the end of June 2023 to ensure that they retain the same permissions and access for the Portal that they currently hold for the ONR system. Further guidance on how to link both accounts is available [here](#).

### 3.6 Central Bank removes COVID-19-related flexibility for regulated firms

During COVID-19, the Central Bank allowed for certain flexibility in how regulated firms complied with their regulatory obligations, including the suspension of certain due diligence requirements and periodic on-site visits to outsourcing providers and delegates by fund service providers.

On 28 February 2023, the Central Bank confirmed that it no longer considers such flexibility to be required and, as a result, all regulated firms should resume to comply with their regulatory requirements in the normal manner.

Further information can be accessed [here](#).

## 4. ANTI-MONEY LAUNDERING (AML) AND COUNTERING THE FINANCING OF TERRORISM (CFT)

### 4.1 Guidelines on the Definition of 'prominent public functions': Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

On 27 January 2023, the Department of Justice issued guidelines under Section 37(12) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended) (**Guidelines**). The Guidelines provide clarification on those functions in Ireland that shall be considered to be “prominent public functions” for the purposes of identifying domestic “Politically Exposed Persons”.

For the purpose of the Guidelines, a “prominent public function” within the State is considered an office or other employment in a public body (not including courts) in respect of which the remuneration is not less than the lowest remuneration in relation to the position of Deputy Secretary General in the Civil Service. The Guidelines set out specific examples of those falling within the scope of “prominent public function”.

The Guidelines can be found [here](#).

### 4.2 European Banking Authority Updated Single Rulebook Q&A - Directive 2015/849/EU (AMLD)

During the period 1 January 2023 to 31 March 2023, the European Banking Authority (**EBA**) updated its Single Rulebook Q&A publication for Directive 2015/849/EU (the **5th Anti-Money Laundering Directive** or **AMLD**). The Q&As in respect of the following articles have been updated:

- Article 11 – Payment Information Service Providers (**PISP**) obligations to conduct customer due diligence;
- Article 29 - Clarification of the relationship between EBA's Guidelines on outsourcing arrangements and Section 4 of the Directive (EU) 2015/849; and
- Article 45 - Establishment and appointment of a Central Counterparty Clearing House (**CCP**).

The full Q&A document, including changes, can be found [here](#).

### 4.3 EBA consults on amendments to Guidelines on risk-based AML/CFT supervision to include crypto-asset service providers

On 29 March 2023, the EBA published a consultation paper proposing changes to Guidelines EBA/GL/2021/16 on the characteristics of a risk-based approach to anti-money laundering and terrorist financing supervision, and the steps to be taken when conducting supervision on a risk-sensitive basis under Article 48(10) of Directive (EU) 2015/849 (amending the Joint Guidelines ESAs 2016 72) (**Risk-Based Supervision Guidelines**).

This publication proposes to complement the Markets in Crypto-Assets Regulation's (**MiCA**) entry into force as well as the proposed Regulation on information accompanying transfers of funds and certain crypto-assets (recast) which will bring crypto-assets within the EU regulatory scope. The proposed legislative changes will extend the scope of the Risk-Based Supervision Guidelines to cover crypto assets and therefore the consultation paper proposes to amend the Risk-Based Supervision Guidelines to clarify how they apply to the AML/CFT supervisors of crypto-asset service providers (**CASPs**).

The EBA has invited comments from stakeholders on all proposals in their consultation paper, in particular on the specific questions contained in section 5.2. The closing date for responses to this consultation paper is 29 June 2023.

The consultation paper can be found [here](#). The EBA is also holding a public hearing on the 7 June 2023 about the proposed changes which can be registered for [here](#).



## 5. DATA PROTECTION

### 5.1 Guidelines 05/2021 on the Interplay between the application of Article 3 and the provisions on international transfers under Chapter V of the GDPR

On 14 February 2023, the European Data Protection Board (**EDPB**) adopted revised guidelines on the interplay between Article 3 and Chapter V of the GDPR. The original guidelines were published on 18 November 2021.

The revised guidelines were issued in February 2023 following a public consultation. The original guidelines include various examples of data flows to third countries. The updated guidelines include additional examples to provide a better understanding, including providing further guidance on when personal data could be deemed to be “made available” to a third country controller, joint controller or processor. In the new guidelines, the EDPB states that:

*“Some examples of how personal data could be “made available” are by creating an account, granting access rights to an existing account, “confirming”/“accepting” an effective request for remote access, embedding a hard drive or submitting a password to a file. It should be kept in mind that remote access from a third country (even if it takes place only by means of displaying personal data on a screen, for example in support situations, troubleshooting or for administration purposes) and/or storage in a cloud situated outside the EEA offered by a service provider, is also considered to be a transfer provided that the three criteria outlined [above] are met”.*

In addition, the revised guidelines provide further guidance relating to (i) the transfers of data by a processor in the EEA (as exporter) back to its controller in a third country and (ii) the transfers of data by a processor in the EEA (as exporter to a sub-processor in a third country).

A copy of the original guidelines can be accessed [here](#).

A copy of the revised guidelines can be accessed [here](#).

### 5.2 EDPB adopts opinion on EU-US Data Privacy Framework

On 28 February 2023, the EDPB adopted its opinion (**Opinion**) on the proposed EU-US Data Privacy Framework having regard to the level of protection afforded in the United States of America on the basis of the examination of the draft decision prepared by the European Commission.

On 13 December 2022, the European Commission published its draft adequacy decision under which it provided a detailed assessment of the US legal framework for state surveillance, intended to replace the previous US Privacy Shield previously invalidated by the CJEU in the Schrems II case. The European Commission’s draft decision concludes that the framework ensures an adequate level of protection for personal data transferred from the EU to US companies.

In the Opinion, the EDPB expresses the opinion that the U.S. Executive Order 14086 has led to significant improvements in the level of protection for personal data compared to the US Privacy Shield. However, despite noting “substantial improvements” in contrast to the previous legal framework, the EDPB raises a number of concerns relating to “certain rights of data subjects, onward transfers, the scope of exemptions, temporary bulk collection of data and the practical functioning of the redress mechanism” which it suggests should be addressed and clarified by the European Commission “in order to solidify the grounds for the draft adequacy decision”.

On 14 February 2023, the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs published a [draft motion](#) for a resolution rejecting the proposed framework in which it urges the European Commission not to adopt the draft adequacy decision in relation to the US and calls for the introduction of meaningful reforms.

Before the European Commission can proceed with adopting the finalised adequacy decision, it is still subject to approval from a committee composed of representatives of the EU Member States, along with the European Parliament who have a right of scrutiny over such adequacy decisions.

For further information please see [here](#).

## 6. CONFLICT IN UKRAINE

### 6.1 Adoption of tenth package of sanctions against Russia by the EU on 25 February 2023

In reaction to Russia's continued military aggression against Ukraine, the European Union adopted additional economic sanctions against Russia which have been introduced through a suite of additional packages adopted by the Council of the European Union, announced on 25 February 2023. This package included, amongst others, the following measures:

- a new reporting obligation for individuals and legal entities to provide their competent authority and the European Commission with information on the assets and reserves of the Central Bank of Russia which they hold or control or are a counterparty to. The Central Bank subsequently confirmed that in-scope entities must make the relevant filings within two weeks of 27 April 2023 (i.e., by 11 May 2023) and must be updated every three months thereafter;
- additional reporting obligations on frozen assets (including for dealings before listing) and assets which should be frozen, with in-scope individuals and legal entities being required to report this information to their national competent authority and the European Commission within two weeks of acquiring this information; and
- an extension to the list of those individuals and entities subject to restrictive measures;

For a complete overview of the additional measures introduced on 25 February 2023, please see the related press release which is available [here](#).

The Central Bank's webpage on sanctions reporting is available [here](#).

A consolidated version of the European Commission's frequently asked questions on the range of measures introduced in response to Russia's continued military aggression against Ukraine is available [here](#).

### 6.2 Central Bank reminds regulated firms of obligations to ensure compliance with financial sanctions

In its Securities Markets Risk Outlook Report for 2023 (**Report**) published on 2 March 2023, the Central Bank reminded firms that they must remain in compliance with financial sanctions at all times with respect to any impacted asset or investor.

It expects all financial service providers to have appropriate systems and controls in place to identify relevant sanctioned instruments and individuals to ensure that they are compliant with their obligations in relation to financial sanctions.

The Report is available [here](#).

## 7. MISCELLANEOUS

### 7.1 Council of EU agrees negotiating mandate on distance financial services contracts

On 2 March 2023, the Council of the European Union (**Council**) announced via press release that it has agreed on a general approach (or negotiating mandate) regarding a proposed Directive on financial services contracts concluded at a distance (**Proposed Directive**). The Proposed Directive will amend the rules concerning financial services contracts concluded at a distance, repealing the existing Distance Marketing Directive, and inserting its provisions into the Consumer Rights Directive.

The European Commission first adopted its legislative proposal for the Proposed Directive in May 2022. The general approach adopted by the Council provides the Council Presidency with a mandate for negotiations with the European Parliament.

The Council have published an accompanying note from the Permanent Representatives Committee enumerating the general purpose and aim of the Proposed Directive, namely:

- to ensure a streamlined and future-proof framework for financial services concluded at a distance;
- to provide better protection for consumers in the digital environment;
- to reduce unnecessary burden and provide a level playing field for financial service providers; and
- to encourage the cross-border provision of such services.

A copy of the Council's press release can be accessed [here](#).

The Council's note can be accessed [here](#).

The Commission's proposal for the Directive can be accessed [here](#).

If you have any questions in relation to the content of this update, to request copies of our most recent newsletters, briefings or articles, or if you wish to be included on our mailing list going forward, please contact any of the team members below.

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