

A&O SHEARMAN



Regulatory monitoring

NEWSLETTER
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ECB in focus

ECB in focus is our blog dedicated to the banking supervisory activities of the European Central Bank (ECB). We report on key developments in European banking regulation led by the ECB as part of the Single Supervisory Mechanism (SSM).

SOME OF OUR RECENT POSTS

EU court's judgment sheds new light on how the ECB should apply national administrative measures

04 April 2024

The General Court of the European Union recently delivered its judgment on a dispute between an Austrian bank (BAWAG) and the ECB over the imposition of an administrative measure for breaching the large exposure limits. The case raises interesting questions about the competence of the ECB to apply national law provisions and the interpretation of national law implementing EU directives.

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Outsourcing on the rise: ECB warns of increased reliance on third party providers

07 March 2024

In its recent Supervisory Newsletter the ECB highlights the jump in the number of outsourcing contracts as banks have increased their reliance on non-EU providers for IT related services.

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Culture matters—The ECBs approach to assessing banks' culture and risk behaviour

26 September 2023

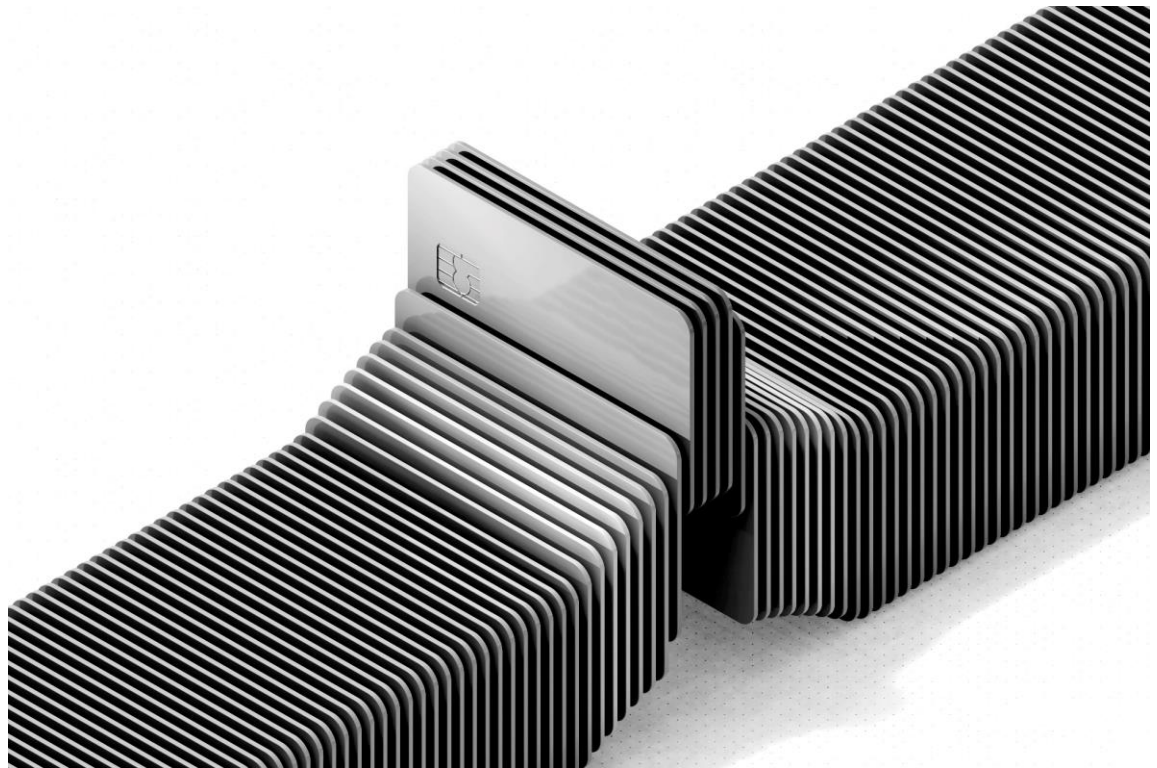
A recent speech by Frank Elderson, Vice-Chair of the ECB Supervisory Board, places culture firmly on the supervisory agenda. Mr Elderson considers how culture can drive risk behaviour in banks and how the ECB goes about assessing banks' culture.

Read more →

The blog features views and commentary from members of A&O Shearman's market-leading German financial services regulation practice.

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FINANCIAL REGULATORY LAW SOURCEBOOK

A categorised collection of all laws in the field of financial regulatory law for Europe and Germany (constantly being expanded), which can be compiled as an obligation register and commented on as desired.

IMPLEMENTATION MANAGEMENT

Effective implementation (including tailored impact analysis and gap analysis) of new legislation and agile control using our project management tool (including KPIs).

CHANGE ANALYSIS AND PREVIEW OF RULES

Read the future versions of a law early, including the official explanatory memorandum, and identify any legislative changes.

1. Bank regulation

1.1 PRUDENTIAL REGULATION

a) General

(i) International

BCBS: Work programme and strategic priorities for 2025/26

Status: Final

The BCBS has published its work programme and strategic priorities for 2025/2026, which include: (i) Basel III implementation; (ii) risk assessment and safeguarding resilience, including an investigation into banks' interconnection with non-bank financial intermediation and ongoing work responding to the 2023 banking turmoil; (iii) digitalisation of finance and AI-related issues; and (iv) actions relating to bank liquidity drawing on the lessons from the 2023 banking turmoil.

Date of publication: 05/02/2025

b) Solvency/Own funds issues

(i) EU

EBA: Consultation on draft ITS on amending Commission Implementing Regulation (EU) 2016/2070 with regard to the benchmarking of internal models as the 2026 benchmarking exercise

Status: Consultation

Deadline for the submission of comments: 26/05/2025

The EBA has launched a consultation on draft ITS on amending Commission Implementing Regulation (EU) 2016/2070 with regard to the benchmarking of internal models in advance of the 2026 benchmarking exercise. Article 78 of Directive 2013/36 (CRD VI) requires competent authorities to conduct an annual assessment of the quality of the approaches used for the calculation of own funds requirements. To assist competent authorities in this assessment, the EBA calculates and distributes benchmark values to competent authorities that allow a comparison of individual institutions' risk parameters. These benchmark values are based on data submitted by institutions as laid out in Commission Implementing Regulation (EU) 2016/2070, which specifies the benchmarking portfolios, templates and definitions to be used as part of the annual benchmarking exercises for the 2026 benchmarking exercise.

For market risk, changes to the templates and instructions for the Alternative Internal Model Approach (AIMA) framework are recommended, reflecting the changes introduced through a fundamental review of the trading book (FRTB). Given the complexity of the AIMA FRTB implementation, the initial application of the data submission has been reduced to a smaller subset of the instruments and portfolios than was required for the previous IMA framework. Granular data collection is limited to Expected Shortfall and Stress Scenario Risk Measures, while Default Risk Charge will be considered for future developments. Additionally, though no substantial change was introduced in the FRTB Alternative Standardised Approach (ASA) data collection, with the proposed changes to Article 78 of the CRD (which will enter into force at the beginning of 2026), the 2026 benchmarking exercise will see an increase in the number of institutions within the scope of the ASA data collection, and the EBA benchmarking

exercise will pay close attention to implementing the FRTB ASA framework. For credit risk, the asset classes definition will align with the breakdown of Credit Risk IRB templates adopted in the revised ITS on supervisory reporting.

Alongside the consultation, the EBA also published a press release reinforcing the benchmarking exercise and linking the four annexes to the ITS.

Date of publication: 25/02/2025

EBA: Heatmap following the scrutiny on the IRRBB standards implementation in the EU

Status: Final

The EBA has published a report on the implementation of the first phase of the short/medium-term objectives in its interest rate risk in the banking book (IRRBB) heatmap. In the report, the EBA sets out a number of observations and recommendations, including in relation to: (i) the materiality of non-maturity (NMD) behavioural assumptions and the complexity of their modelling. This includes a non-restrictive list of risk factors impacting NMD repricing behaviour and a toolkit to support supervisors in their analysis of NMD modelling; (ii) the complementary dimensions of the supervisory outlier test (SOT) on the Net Interest Income (NII) metric. The report discusses the additional dimensions that supervisors could consider for institutions considered outliers; (iii) the expected approach in the SOT on NII to model and project commercial margins of NMD, which are subject to behavioural optionality; and (iv) hedging strategies.

The EBA intends to continue assessing the impact of the IRRBB regulatory package and interacting closely with interested stakeholders. As medium/long-term objectives of the heatmap, the EBA will monitor the five-year cap on the weighted average repricing maturity of NMD and credit spread risk arising from banking book-related aspects, primarily regarding the perimeter of its application.

Date of publication: 06/02/2025

EC: Adoption of Commission Delegated Regulation (EU) .../... amending the RTS as regards the technical details of back-testing and profit and loss attribution requirements, the criteria for assessing the modellability of risk factors, and the treatment of foreign-exchange risk and commodity risk in the non-trading book

Status: Adopted by the EC

The EC has adopted a Delegated Regulation which amends the RTS laid down in the Commission Delegated Regulations (EU) 2022/2059, (EU) 2022/2060 and (EU) 2023/1577 as regards the technical details of: back-testing and profit and loss attribution requirements, the criteria for assessing the modellability of risk factors, and the treatment of foreign-exchange risk and commodity risk in the non-trading book under Articles 325, 325be and 325bg of the CRR. The amendments are to align the RTS with the amendments introduced by CRR III. In particular: (i) In relation to the technical details of back-testing and profit and loss attribution requirements, the technical standards remove the aggregation formula for computing the total own funds requirements for market risk for an institution using the alternative internal model approach as this formula has now been introduced in the CRR; (ii) in relation to the criteria for assessing the modellability of risk factors, the technical standards ensure that institutions are able to identify how far they rely on a third-party vendor for the purpose of assessing the modellability of a risk factor; and (iii) in relation to the treatment of foreign-exchange risk and commodity risk in the non-trading book, the technical standards ensure that translation risk is duly captured by institutions in light of the provisions introduced in Article 325b of the CRR.

The Delegated Regulation is now subject to scrutiny by the European Parliament and the Council and, assuming no objections, shall enter into force 20 days following its publication in the OJ.

Date of publication: 03/02/2025

ECB/ESRB: Joint report on the use of countercyclical capital buffers

Status: Final

The ECB and ESRB have published a joint report on the use of the positive neutral countercyclical capital buffer (PN CCyB) in the EEA. This approach has gained traction among EEA countries in recent years as a way of increasing resilience over the financial cycle and enhancing financial stability. The report addresses areas of commonality in the approaches adopted by EEA countries, including: (i) broad agreement on what a positive neutral approach means and what it is useful for; (ii) in most jurisdictions, there is no expectation that the PN CCyB will yield higher CCyB requirements at the peak of the cycle when cyclical systemic risks become elevated; (iii) there is broad consistency in the conditions that would guide authorities' decisions to release the CCyB; (iv) in most jurisdictions, the introduction of a PN CCyB does not need to be offset by a reduction in other capital requirements; and (v) clear and transparent communication is a key element in the introduction and use of a PN CCyB.

The report also addresses areas of challenge in implementing PN CCyB, including: (a) potential overlaps with the objective of the Systemic Risk Buffer (SyRB) which is concerning for the majority of authorities that have not adopted a PN CCyB approach; (b) a lack of clarity in EU legislation as an obstacle to adopting a framework for the use of a PN CCyB rate; and (c) the need to promote a more consistent implementation of the CCyB in the EU, including reaching a shared understanding of the objectives of a PN CCyB approach.

Date of publication: 31/01/2025

c) Securitisation

(i) EU

EC: Call for evidence on a review of the securitisation framework

Status: Consultation

Deadline for the submission of comments: 19/03/2025

The EC has published a call for evidence on a review of the securitisation framework. The initiative is meant to be a holistic review of the securitisation framework, including non-prudential elements (like transparency, due diligence, etc.) and prudential requirements (both for banks and insurers).

Date of publication: 19/02/2025

ESMA: Consultation on the revision of the disclosure framework for private securitisation under Article 7 of the Securitisation Regulation

Status: Consultation

Deadline for the submission of comments: 31/03/2025

ESMA has launched a consultation on the revision of the disclosure framework for private securitisation under Article 7 of the Securitisation Regulation. The consultation proposes a simplified disclosure template for private securitisations designed to improve proportionality in information-sharing processes while ensuring that supervisory authorities retain access to the essential data for effective oversight. The new template introduces aggregate-level reporting and streamlined requirements for transaction-specific data, reflecting the operational realities of private securitisations.

The proposal of the simplified template follows ESMA's previous consultation, where industry stakeholders called for short-term solutions to address key challenges and advocated for a simplified template for private securitisations. A summary of these responses was published in the December 2024 feedback statement. It adds to the recently announced ESMA initiative on simplification and burden reduction actions, while also preserving the main objectives of financial stability, orderly markets and investor protection.

Date of publication: 13/02/2025

d) Liquidity

(i) EU

EC: Call for evidence on amending NSFR treatment of SFTs under CRR

Status: Consultation

Deadline for the submission of comments: 10/03/2025

The EC has published a call for evidence on targeted amendments to the Capital Requirements Regulation (CRR) to adjust the prudential treatment of securities financing transactions (SFTs) under the net stable funding ratio (NSFR). Under Article 510(8) of the CRR, until 28 June 2025, EU credit institutions can apply lower required stable funding (RSF) factors for SFTs and unsecured transactions with a residual maturity of less than six months than those set out under the Basel standards. Under Article 510(7) of the CRR, the EC has the power to adopt a legislative proposal to amend the CRR provisions on the treatment of these instruments under the NSFR. The targeted amendments therefore aim to make the current transitory prudential treatment for SFTs and unsecured transactions with a residual maturity of less than six months permanent for financial customers, for the purposes of the NSFR (i.e., to extend the current treatment beyond 28 June 2025, and permanently). The EC is proposing to make this treatment permanent on the basis that the higher RSF factors which would otherwise apply would make these instruments more costly in the EU and would consequently harm the demand for collateral and the liquidity in the collateral markets. The EC is also responding to concerns that the decisions of the U.S. and the U.K. to maintain lower RSF factors than under the Basel standards for these instruments on a permanent basis may lead to a loss of competitiveness for EU banks.

Date of publication: 10/02/2025

ESRB: Monitoring framework for systemic liquidity risk

Status: Final

The ESRB has published a report setting out a framework for monitoring systemic liquidity risks. The report was prompted by liquidity events in recent years, including the 'dash for cash' during the Covid-19 pandemic, liquidity

stress faced by GBP funds pursuing liability-driven investment strategies in 2022, and the banking stress in the US and Switzerland in 2023. The ESRB notes that entities outside the traditional banking system were at the epicentre of events in some cases and markets other than sovereign bonds were impacted, highlighting the need to pay attention to liquidity stress beyond banks and asset classes outside sovereign bonds.

The report sets out four main steps for operationalising the liquidity risk surveillance framework: (i) identify the key entities and markets in scope – according to the ESRB, key entities may include investment funds, banks, insurance corporations and pension funds, while key markets may include government bond markets which are key for the overall EU financial system and derivatives markets, which are of systemic importance; (ii) select surveillance indicators for funding and market liquidity risks; (iii) select indicators for contagion and amplification risks and interactions between funding and market liquidity; and (iv) synthesise the information into practical heat maps and a set of composite liquidity risk indices. The ESRB observes that sound expert judgement must still be exercised when interpreting the proposed surveillance indicators.

Date of publication: 03/02/2025

e) Risk management/SREP/Pillar 2/Outsourcing/NPL

(i) EU

ECB: Clarification on ICAAPs and ILAAPs and respective package submissions

Status: Final

The ECB has published a report clarifying the internal capital adequacy assessment process (ICAAP) and the internal liquidity adequacy assessment process (ILAAP), as well as the respective package submissions. The ECB reminds banks of its main supervisory expectations on sound and effective capital and liquidity management in line with the ECB Guides on ICAAP and ILAAP published in November 2018. The ECB also outlines some clarifications on the governance around the submissions and key content areas which should be reflected in ICAAP and ILAAP packages. The report notes that it remains the responsibility of the banks to determine and apply the most appropriate approach to ensure sound capital and liquidity adequacy assessment processes tailored to their own specificities. Therefore, the ECB's clarifications focus on sound practices instead of setting additional expectations or requirements, and should be considered by banks to refine or improve their capital and liquidity management practices. Regarding the technical details around ICAAP and ILAAP package submissions, the note "Technical implementation of the EBA Guidelines on ICAAP information collected for SREP purposes" that was sent to banks in February 2017 remains applicable and is included in the annex to the report.

Date of publication: 10/02/2025

(ii) International

BCBS: Amendments to principles for the management of credit risk

Status: Consultation

Deadline for the submission of comments: 21/03/2025

The BCBS has launched a consultation on updating the principles for the management of credit risk. The principles, first issued in October 2000, provide guidelines for banking supervisory authorities to evaluate banks' credit risk management processes in four key areas, namely: (i) establishing a suitable credit risk environment; (ii) operating under a sound credit-granting process; (iii) maintaining an appropriate credit administration, measurement and monitoring process; and (iv) ensuring adequate controls over credit risk. The BCBS mandated a review of the

principles in 2023 to determine whether they remain fit for purpose, given the developments in global financial market-related credit risks and trends and changes in the supervisory and regulatory landscape over the past 25 years. The review confirmed the ongoing relevance of the credit risk principles but identified certain parts that either have become obsolete, superseded and redundant or are not fully aligned with the current Basel Framework and the BCBS' guidance. Therefore, the BCBS proposes a limited set of technical amendments to align the principles with the current Basel Framework and the latest Guidelines. A comparison against the 2000 version has been published alongside the consultation.

Date of publication: 05/02/2025

f) Cyber security

(i) EU

Publication of two DORA technical standards

Status: Published in the OJ

Date of entry into force: 12/03/2025

Date of application: 12/03/2025

Two delegated acts have been published in the OJ in respect of DORA. Both acts relate to ICT-related incident management, one of the key pillars of the DORA legislation, and are mandated by Article 20 of DORA, which seeks to harmonise reporting content and templates in relation to ICT-related incidents and cyber threats.

- ♦ Commission Delegated Regulation (EU) 2025/301 supplementing DORA with regard to RTS specifying the content and time limits for the initial notification of, and intermediate and final report on, major ICT-related incidents, and the content of the voluntary notification for significant cyber threats
- ♦ Commission Implementing Regulation (EU) 2025/302 laying down ITS for the application of DORA with regard to the standard forms, templates, and procedures for financial entities to report a major ICT-related incident and to notify a significant cyber threat

Date of publication: 20/02/2025

ESAs: Roadmap to the designation of CTPPs

Status: Final

The ESAs have published a roadmap for the designation of critical ICT third-party service providers (CTPPs) under DORA. The roadmap of key dates between now and the end of the year sets out four milestones: (i) by 30 April, the ESAs will collect the registers of information that financial entities submitted to the competent authorities; (ii) by the end of July, the ESAs will perform criticality assessments required under DORA and notify third-party service providers if they are classified as critical; (iii) in the first half of September, there will be a hearing period where ICT third-party service providers may object to the assessment, providing a reasoned statement and supporting information; and (iv) by the end of the year, the ESAs will have designated and published the list of CTPPs and started the oversight engagement.

Alongside the roadmap, the EBA published a [press release](#) confirming that ICT third-party service providers not designated as critical may voluntarily request to be designated as critical once the list of CTPPs is published, with details of how to make such a request to be provided soon. The ESAs also plan to organise a workshop with ICT third-party providers in Q2 this year, with details to be published in due course.

Date of publication: 18/02/2025

EC: Adoption of Commission Delegated Regulation (EU) .../... supplementing DORA with regard to RTS specifying the criteria used for identifying financial entities required to perform threat-led penetration testing, the requirements and standards governing the use of internal testers, the requirements in relation to the scope, testing methodology and approach for each phase of the testing, results, closure and remediation stages and the type of supervisory and other relevant cooperation needed for the implementation of TLPT and for the facilitation of mutual recognition

Status: Adopted by the EC

The EC has adopted a Commission Delegated Regulation supplementing the Digital Operational Resilience Act (DORA) with regard to RTS, specifying the criteria used for identifying financial entities required to perform threat-led penetration testing (TLPT). Article 26(11) of DORA mandates the European Supervisory Authorities (ESAs), in agreement with the European Central Bank (ECB), to develop joint draft RTS in accordance with the ECB's European framework for threat intelligence-based ethical red teaming (TIBER-EU framework) to specify further the following: (i) the criteria for identifying financial entities required to perform TLPT; (ii) the requirements regarding test scope, testing methodology and results of TLPT; (iii) the requirements and standards governing the use of internal testers; and (iv) the rules on supervisory measures and other cooperation needed for the implementation of TLPT and mutual recognition of testing. The Delegated Regulation will enter into force on the twentieth day following its publication in the Official Journal of the EU. The ECB has also published an updated version of the TIBOR-EU framework that aligns with the DORA RTS on TLPT.

Date of publication: 13/02/2025

EBA: Final report on Guidelines amending Guidelines on ICT and security risk management

Status: Final

The EBA has published a final report on amending Guidelines in respect of Guideline EBA/GL/2019/04 on ICT and security risk management. The EBA reviewed the Guidelines in light of DORA, which introduced harmonised requirements for ICT, risk management framework (RMF), incident reporting and third-party risk management and testing for certain financial entities. The entities subject to DORA and the related RTS on RMF overlap with those subject to the Guidelines. Therefore, to ensure transparency and legal certainty, the EBA reviewed the Guidelines and concluded that the entities subject to the Guidelines should be identified, and the scope of the Guidelines should be reduced to cover certain institutions providing payment services which are not in the scope of DORA. Guidelines on relationship management of payment services where this is not covered by the DORA requirements were also recommended.

The amending Guidelines will be translated into the official EU languages and will apply within two months after issuance (at the latest).

Date of publication: 11/02/2025

ECB: Updated TIBER-EU framework to align with DORA RTS on TLPT

Status: Final

The ECB has published an updated version of the threat intelligence-based ethical red teaming (TIBER-EU) framework (dated January) to align with the DORA RTS on threat-led penetration testing (TLPT). The ECB also published a news item on the updated framework. The TIBER-EU framework enables EU and national authorities to work with financial and other entities to put in place a programme to test and improve their resilience against sophisticated cyber-attacks. It also sets out detailed guidance on how to complete DORA TLPT in a qualitative, controlled and safe manner, applying a uniform approach across the EU. The updates introduced in the framework include: (i) aligning the process steps with the deliverables derived from the DORA RTS on TLPT; (ii) specifying

purple-teaming as mandatory under TIBER-EU, as prescribed in the DORA RTS; (iii) introducing terminological changes to ensure consistency with DORA terminology (e.g., “White Team” to “Control Team”); (iv) providing advice on how to assess the quality of a provider in the updated Guidance for Service Provider Procurement; (v) moving away from the requirement for authorities that want to implement TIBER-EU to publish a full national implementation guide (authorities can instead refer to the adoption of the TIBER-EU documentation and publish a short implementation document described in the framework); and (vi) establishing TIBER-EU guidance documents to facilitate the implementation of different parts of the framework and ensure a secure and controlled TLPT execution.

Date of publication: 11/02/2025

EC: Eight Delegated Regulations regarding MiCA and DORA

Status: Published in the OJ

Date of entry into force: 05/03/2025

Date of application: 05/03/2025

The following eight Delegated Regulations supplementing the MiCA and DORA Regulations have been published in the OJ:

- Commission Delegated Regulation (EU) 2025/292 supplementing the MiCA Regulation with regard to RTS establishing a template document for cooperation arrangements between competent authorities and supervisory authorities of third countries
- Commission Delegated Regulation (EU) 2025/293 supplementing the MiCA Regulation with regard to RTS specifying the requirements, templates and procedures for the handling of complaints relating to ARTs
- Commission Delegated Regulation (EU) 2025/294 supplementing the MiCA Regulation with regard to RTS specifying the requirements, templates and procedures for the handling of complaints by the crypto-asset service providers
- Commission Delegated Regulation (EU) 2025/295 supplementing DORA with regard to RTS on harmonisation of conditions enabling the conduct of the oversight activities
- Commission Delegated Regulation (EU) 2025/296 supplementing the MiCA Regulation with regard to RTS specifying the procedure for the approval of a crypto-asset white paper
- Commission Delegated Regulation (EU) 2025/297 supplementing the MiCA Regulation with regard to RTS specifying the conditions for the establishment and functioning of consultative supervisory colleges
- Commission Delegated Regulation (EU) 2025/298 supplementing the MiCA Regulation with regard to RTS specifying the methodology to estimate the number and value of transactions associated to uses of ARTs and of EMTs denominated in a currency that is not an official currency of a Member State as a means of exchange
- Commission Delegated Regulation (EU) 2025/299 supplementing the MiCA Regulation with regard to RTS on continuity and regularity in the performance of crypto-asset services

Date of publication: 13/02/2025

EC: Rejection of draft RTS on sub-contracting ICT services supporting critical or important functions under DORA

Status: Final

The EC has published a letter (dated 21 January) addressed to the ESAs rejecting certain **draft RTS** the ESAs submitted under DORA in July 2024. The draft RTS specified the elements which a financial entity should determine when subcontracting ICT services supporting critical or important functions. These include the overall risk profile of the financial entity and its services and operations, the need for due diligence processes and a risk assessment of

service providers, and the need for a description of the services and the conditions under which they would be provided. The EC rejected the draft RTS on the grounds that the proposed Article 5 on subcontracting in relation to the chain of ICT subcontractors for critical or important functions went beyond the scope of the mandate granted to the ESAs under DORA because it introduced requirements not specifically linked to the conditions for subcontracting. The EC has also proposed certain non-substantive drafting amendments to the draft RTS. The EC intends to adopt the RTS once these modifications have been made by the ESAs.

Date of publication: 31/01/2025

g) Qualifying holdings

(i) EU

ESAs: Publication of Guidelines on the system established by the ESAs for the exchange of information relevant to the assessment of the fitness and propriety of holders of qualifying holdings, directors and key function holders of financial institutions and financial market participants by NCAs in the official EU languages

Status: Final

ESMA has published official EU language versions of the ESA Joint Guidelines on the system for the exchange of information relevant to the assessment of the fitness and propriety. The Joint Guidelines were published previously, with a final report of 20 November 2024, and relate to the assessment of fitness and propriety of holders of qualifying holdings, directors and key function holders of financial institutions and financial market participants. The ESAs have developed a system which consists of a cross-sectoral database and these joint Guidelines, with the aim of fostering a timely exchange of information between competent authorities.

The Guidelines in relation to data input in respect of natural persons and confidentiality apply from 17 February, with the remaining Guidelines applying in respect of natural persons from 15 May. For legal persons, the Guidelines in relation to data input will apply from 30 January 2026, with the remaining Guidelines applying from 30 April 2026.

Date of publication: 17/02/2025

h) Supervisory reporting

(i) EU

EC: Commission Implementing Regulation (EU) .../... amending the ITS laid down in Commission Implementing Regulation (EU) 2016/2070 as regards benchmark portfolios, reporting templates and reporting instructions to be applied in the Union for the reporting referred to in Article 78(2) CRD

Status: Adopted by the EC

The EC has adopted Commission Implementing Regulation (EU) .../... amending the ITS laid down in Commission Implementing Regulation (EU) 2016/2070 as regards benchmark portfolios, reporting templates and reporting instructions to be applied in the Union for the reporting referred to in Article 78(2) CRD.

Date of publication: 26/02/2025

i) Disclosure

(i) EU

EBA: Final report on draft ITS on IT solutions for public disclosures by institutions, other than small and non-complex institutions, of the information referred to in Titles II and III of Part Eight CRR

Status: Final

The EBA has published its final report on draft ITS on IT solutions for public disclosures by institutions, other than small and non-complex institutions, relating to Pillar 3 disclosures under the Capital Requirements Regulation (CRR). Following the entry into force of the CRD VI/CRR III, the EBA is required to prepare a layer of regulatory products that ensures a technical implementation of the prudential framework, including amendments to the disclosure requirements and development of IT solutions that allow the submission of the Pillar 3 information to the EBA to proceed with a centralised publication of this information. This information will be available through a Data Access Portal on the EBA website, known as the Pillar 3 Data Hub (P3DH). Based on the CRR III mandate, the EBA will receive the Pillar 3 information for large and other EEA credit institutions and publish it on the dedicated page in its EBA Data Access Portal (EDAP public portal). The P3DH will take effect on 30 June for large and other institutions, and on 31 December for small and non-complex institutions, in the interest of providing more time for the finalisation of the ITS.

During Q1 2025, the EBA intends to publish an onboarding communication plan, including further technical guidance covering: (i) information on the onboarding of large and other institutions; (ii) confirmation of the identification system used by institutions when submitting Pillar 3 reports; and (iii) the date on which the P3DH will go live for the submissions. Draft ITS for small and non-complex institutions and the resubmission policy will be subject to a separate consultation, intended to be launched in the first half of 2025.

Date of publication: 12/02/2025

1.2 RECOVERY AND RESOLUTION

(i) Germany

BaFin: FAQ on the form of recovery plan according to simplified requirements as per Section 19 of the German Recovery and Resolution Act (*FAQ zum Formular „Sanierungsplan nach vereinfachten Anforderungen gemäß § 19 SAG“*)

Status: Final

BaFin has updated its FAQ on the form of recovery plan, according to simplified requirements as per Section 19 of the German Recovery and Resolution Act (*Sanierungs- und Abwicklungsgesetz – SAG*). With the update, the FAQ are revised and expanded.

Date of publication: 26/02/2025

BaFin: Circular 02/2025 on MaStructural resolution tools (*Rundschreiben 02/2025 zu MaStrukturellen Abwicklungsinstrumenten*)

Status: Final

BaFin has published Circular 02/2025 on MaStructural resolution tools (*Rundschreiben 02/2025 zu Mindestanforderungen zur Umsetzbarkeit von Übertragungen in der Abwicklung – MaStrukturelle Abwicklungsinstrumente*). It is intended to improve the resolvability of institutions for which the application of

structural resolution tools is planned. The Circular is an extension of the [initial previous version](#), and contains requirements for the operationalisation of resolution tools that provide for a transfer. These include resolution instruments involving the sale of a business, transfers to bridge institutions, and transfers to asset management companies. The extension primarily concerns requirements for a standardised data model that institutions must provide on request.

The Circular is aimed at all institutions and group companies for which BaFin is the relevant resolution authority. It does not apply to institutions and group companies whose resolution plan provides for insolvency.

Date of publication: 12/02/2025

(ii) Eurozone

SRB: Announcement that no additional SRF bank levies is needed for 2025 and that the fund continues to meet target level

Status: Final

The SRB has announced that no additional Single Resolution Fund (SRF) bank levies will be required for this year. The SRF is paid for by industry and managed by the SRB to provide confidence to the market in the event of financial instability. It can also be used to help ensure that a troubled institution can be dealt with in an orderly fashion. The SRB chair stated that the SRF's target level was reached at the end of 2024, and as a result, banks will not need to contribute to the SRF this year. The target level will be verified again at the beginning of 2026. The SRF's target level (at least 1% of covered deposits held in Banking Union Member States) is verified annually. As of 31 December 2024, the SRF amounted to EUR 80 billion, which is above the target level of 1% of covered deposits.

Date of publication: 10/02/2025

2. Investment firms regulation

(i) EU

Publication of two DORA technical standards

Status: Published in the OJ

Date of entry into force: 12/03/2025

Date of application: 12/03/2025

Two delegated acts have been published in the OJ in respect of DORA. Both acts relate to ICT-related incident management, one of the key pillars of the DORA legislation, and are mandated by Article 20 of DORA, which seeks to harmonise reporting content and templates in relation to ICT-related incidents and cyber threats. For more information, please see section 1.1f) above.

Date of publication: 20/02/2025

ESAs: Roadmap to the designation of CTPPs

Status: Final

The ESAs have published a roadmap for the designation of critical ICT third-party service providers (CTPPs) under DORA. For more information, please see section 1.1f) above.

Date of publication: 18/02/2025

EC: Adoption of Commission Delegated Regulation (EU) .../... supplementing DORA with regard to RTS specifying the criteria used for identifying financial entities required to perform threat-led penetration testing, the requirements and standards governing the use of internal testers, the requirements in relation to the scope, testing methodology and approach for each phase of the testing, results, closure and remediation stages and the type of supervisory and other relevant cooperation needed for the implementation of TLPT and for the facilitation of mutual recognition

Status: Adopted by the EC

The EC has adopted a Commission Delegated Regulation supplementing the Digital Operational Resilience Act (DORA) with regard to RTS, specifying the criteria used for identifying financial entities required to perform threat-led penetration testing (TLPT). For more information, please see section 1.1f) above.

Date of publication: 13/02/2025

EBA: Final report on Guidelines amending Guidelines on ICT and security risk management

Status: Final

The EBA has published a final report with amending Guidelines in respect of Guideline EBA/GL/2019/04 on ICT and security risk management. For more information, please see section 1.1f) above.

Date of publication: 11/02/2025

ECB: Updated TIBER-EU framework to align with DORA RTS on TLPT

Status: Final

The ECB has published an updated version of the threat intelligence-based ethical red teaming (TIBER-EU) framework (dated January) to align with the Digital Operational Resilience Act (DORA) RTS on threat-led penetration testing (TLPT). For more information, please see section 1.1f) above.

Date of publication: 11/02/2025

EC: Eight Delegated Regulations regarding MiCA and DORA

Status: Published in the OJ

Date of entry into force: 05/03/2025

Date of application: 05/03/2025

Eight Delegated Regulations supplementing the MiCA and DORA Regulations have been published in the OJ. For more information, please see section 1.1f) above.

Date of publication: 13/02/2025

EC: Rejection of draft RTS on sub-contracting ICT services supporting critical or important functions under DORA

Status: Final

The EC has published a letter (dated 21 January) addressed to the ESAs rejecting certain draft RTS the ESAs submitted under DORA in July 2024. For more information, please see section 1.1f) above.

Date of publication: 31/01/2025

3. Market regulation/ Conduct rules

3.1 GENERAL

(i) Germany

BaFin: Updated Guidance Notice with notes on investment advice (*Aktualisiertes Merkblatt mit Hinweisen zum Tatbestand der Anlageberatung*)

Status: Final

BaFin has published an updated Guidance Notice on investment advice. It includes editorial changes, as well as additional information regarding the supervisory categorisation of investment recommendations by Finfluencers. This document replaces the [common information sheet](#) published by BaFin and Deutsche Bundesbank on investment advice (*Gemeinsame Informationsblatt der Bundesanstalt für Finanzdienstleistungsaufsicht und der Deutschen Bundesbank zum Tatbestand der Anlageberatung*) dated February 2019.

Date of publication: 14/02/2025

(ii) EU

ESMA: First risk monitoring report 2025

Status: Final

ESMA has published its first risk monitoring report of 2025, setting out the key risk drivers currently facing EU financial markets. The report provides an update on structural developments and the status of key sectors of financial markets during the second half of 2024. ESMA finds that overall risks in EU securities markets are high, and market participants should be wary of potential market corrections.

Date of publication: 13/02/2025

ESMA: Press release on the contribution to simplification and burden reduction

Status: Final

ESMA has published a press release setting out how it will be supporting the EC's objective to simplify and reduce the reporting burden in the financial sector. In December 2024, its Board of Supervisors discussed how to best contribute to efficient simplification and burden reduction actions, while preserving the main objectives of financial stability, orderly markets and investor protection. The first areas on which ESMA has focused are the following: (i) transparency and volume cap regimes; (ii) transaction reporting; and (iii) digitalising sustainability and financial disclosure.

Date of publication: 07/02/2025

ESMA: 2026-2028 programming document

Status: Final

ESMA has published its 2026-2028 programming document, setting out its key priorities. These include: (i) preparing for and implementing key supervisory mandates, including those related to the Digital Operational Resilience Act (DORA), the European Green Bond Regulation and the Rating on ESG Rating Providers; (ii) taking action to protect against the risk of greenwashing and to ensure transparency in ESG disclosures; and (iii) the review of key pieces of EU legislation, including MiFIR/MiFID, EMIR, CSDR Refit, AIFMD, UCITS and the ELTIF Regulation. ESMA's priorities will also be shaped by key initiatives of the new EC, including T+1 settlement, monitoring of the non-bank financial intermediation sector, and increasing efficiency and competitiveness of the regulatory framework, following Mario Draghi's flagship report on EU competitiveness.

The document includes a detailed breakdown of ESMA's 2026 work programme, which will be guided by its strategic priorities and thematic drivers, namely: (a) effective markets and financial stability; (b) effective supervision; (c) retail investor protection; (d) sustainable finance; and (e) effective use of data and technological innovation.

Date of publication: 31/01/2025

(iii) International

IOSCO: Report on thematic review on technological challenges to effective market surveillance issues and regulatory tools

Status: Final

The IOSCO has published a final report on the thematic review of technological challenges to effective market surveillance issues and regulatory tools. The review aimed to assess the consistency of the outcomes of the implementation of the eight recommendations of the 2013 IOSCO Report on Technological Challenges to Effective Market Surveillance: Issues and Regulatory Tools. The review examined the legislative, regulatory, and practical measures in place in participating jurisdictions as of December 2023.

The review covered each of the recommendations of the report, including: (i) regulatory capabilities; (ii) surveillance capabilities; (iii) access to data; (iv) customer identification; (v) data formats; (vi) data protection; (vii) synchronisation of business clocks; and (viii) cross-border surveillance capabilities. The report details which of the recommendations have been implemented, and whether any issues were experienced. The review demonstrates that most jurisdictions have taken meaningful steps to address the challenges that technology poses to effective market surveillance, particularly in more complex markets where these challenges are more significant. A press release accompanies the report.

Date of publication: 19/02/2025

3.2 BENCHMARKS

(i) EU

ECON: Information note on the proposed regulation amending the EU BMR

Status: Draft

The chair of the ECON Committee has published an information note, attaching a letter dated 17 January 2025, regarding the Council's position on the proposal for a regulation amending the Benchmarks Regulation (EU 2016/1011) (BMR). The proposed regulation will amend the scope of the benchmark rules, the use of benchmarks

provided by a third-country administrator, and certain reporting requirements. In December 2024, the Council of the European Union and the European Parliament reached a provisional agreement on key points, including reducing the scope of the application of the BMR to certain benchmarks, adding further qualitative criteria to the calculation methodology for significant benchmarks, requiring certain disclosures in the context of benchmarks claiming to take ESG factors into account in their methodology, and a specific exemption regime for spot foreign exchange benchmarks. The letter appends the provisionally-agreed text, and confirms that if the Council transmits the position (as appended) to the Parliament, the ECON chair will recommend that the Council's position be accepted without amendment, subject to legal-linguistic verification, at the Parliament's second reading. Once formally adopted, the final text will be published in the EU Official Journal of the EU.

Date of publication: 19/02/2025

3.3 MIFID/MIFIR

(i) EU

EC: Consultation on a review of the functioning of commodity derivatives markets and certain aspects relating to spot energy markets

Status: Consultation

Deadline for the submission of comments: 09/04/2025

The EC has published a targeted consultation on a review of the functioning of commodity derivatives markets (including for these purposes emissions allowances) and certain aspects relating to spot energy markets. The outcome of this consultation will feed into the MiFID report exercise, with a view to making the EU commodity derivatives markets more efficient and resilient. The consultation seeks stakeholder feedback on a broad range of issues, including: (i) data aspects relating to commodity derivatives; (ii) the ancillary activity exemption; (iii) position management and position reporting; (iv) position limits; (v) circuit breakers; and (vi) other elements stemming from the Draghi report on EU competitiveness.

Date of publication: 26/02/2025

ESMA: Updated Q&A on MiFID II

Status: Final

ESMA has updated its Q&A on MiFID II by adding one new question on the topic of open interest thresholds in energy derivatives, asking, specifically, how open interest thresholds that are denominated in lots (such as in Article 83(1)(b) of CDR 2017/565 (10,000 lots) and in Article 57(1) of MiFID II (300,000 lots)) translate into underlying units of energy derivatives such as Megawatt Hour (MWh), million British Thermal Units (MMBTU), or Therms (therm).

Date of publication: 21/02/2025

ESMA: SMSG advice on consultation on draft technical advice to the EC on the amendments to the research provisions in the MiFID II Delegated Directive in the context of the Listing Act

Status: Draft

ESMA has published advice from the Securities and Markets Stakeholder Group (SMSG) on the ESMA consultation paper of 28 October 2024, which sets out draft technical advice to the European Commission (EC) in relation to investment research. The technical advice relates to changes to the Markets in Financial Instruments Directive (MiFID) regime for investment research in the context of the EU Listing Act legislative package. These changes

allow for joint payments to be made for execution services and research, subject to certain conditions. The ESMA consultation paper proposed amendments to Article 13 of Directive (EU) 2017/593 (referred to as the MiFID Delegated Directive). The SMSG advice includes a summary of findings from academic studies on MiFID research provisions, and notes that there has been an improvement in research quality and mitigation of conflicts of interest, but a reduction in the overall quantity of research. The SMSG advice also notes that there has been a shift from traditional sell-side research to sponsored research for SMEs, and that there is a trend among asset managers to continue to pay for research separately (even in circumstances where they would be able to pay for it jointly with other services) due to the operational complexity of running two separate invoicing systems.

The deadline for ESMA to deliver its technical advice to the EC is 30 April 2025.

Date of publication: 17/02/2025

EC: Consultation on draft Delegated Regulation amending Delegated Regulation on fees relating to supervision of CTPs under MiFIR

Status: Consultation

Deadline for the submission of comments: 10/03/2025

The EC has launched a consultation on a draft Commission Delegated Regulation amending Commission Delegated Regulation (EU) 2022/930 regarding fees relating to the supervision by ESMA of consolidated tape providers (CTPs). Commission Delegated Regulation (EU) 2022/930 supplements MiFIR by specifying fees relating to ESMA supervision of data reporting service providers (DRSPs), as required under Article 38(n) of MiFIR. The draft Delegated Regulation: (i) clarifies that Commission Delegated Regulation (EU) 2022/930 covers all DRSPs subject to ESMA supervision, including CTPs; (ii) introduces a fixed one-off authorisation fee per CTP of EUR 100,000. The amount of the one-off authorisation fee for CTPs is higher in comparison to the fees for approved publication arrangements (APAs) and approved reporting mechanisms (ARMs), given the complexity of the authorisation process for CTPs. That fee is lowered to EUR 50,000 where an already authorised CTP applies for authorisation to provide the services of an APA, ARM or CTP for a different asset class; and (iii) clarifies that, in general, the same methodology that is currently used to calculate annual supervisory fees for APAs and ARMs also applies for the purposes of calculating annual supervisory fees for CTPs. When calculating the actual amount of annual supervisory fees, ESMA will monitor CTPs' revenues on an ongoing basis. As newly operating CTPs will not have the applicable turnover data available for the first two years of operation, the draft Delegated Regulation introduces a special regime for this period under which a fixed annual supervisory fee of EUR 400,000 will apply.

Date of publication: 10/02/2025

EC: Draft Delegated Regulation on procedural rules for the exercise of power by ESMA regarding consolidated tape providers

Status: Consultation

Deadline for the submission of comments: 06/03/2025

The EC has launched a consultation on the draft Delegated Regulation on procedural rules for the exercise of power by ESMA regarding consolidated tape providers. It aims at ensuring that the scope of application of the procedural rules for ESMA supervision of data reporting service providers includes consolidated tape providers. The procedural rules govern: (i) rights of defence; (ii) the collection of fines or periodic penalty payments; and (iii) the limitation periods for imposing and enforcing fines and periodic penalties.

Date of publication: 06/02/2025

EC: Consultation on draft Delegated Regulation extending procedural rules for penalties imposed on DSRPs to CTPs under MiFIR

Status: Consultation

Deadline for the submission of comments: 10/03/2025

The EC has launched a consultation on a draft Delegated Regulation amending Commission Delegated Regulation (EU) 2022/803 by specifying rules of procedure for the exercise of the power to impose fines or periodic penalty payments by ESMA regarding data reporting service providers (DRSPs). Commission Delegated Regulation (EU) 2022/803 specifies the rules applying to ESMA for the exercise of power to impose fines or periodic penalty payments regarding two specific types of DRSP: approved publication arrangements, and approved reporting mechanisms. Consolidated tape providers (CTPs), which are also DRSPs, were intentionally left out of scope. This was due to the absence of entities providing consolidated tape services in the EU, and because the review of the rules governing CTPs under MiFIR was still ongoing at that time. In light of the upcoming CTP authorisation process introduced by MiFIR II, it is necessary to amend the scope of Commission Delegated Regulation (EU) 2022/803 to ensure it covers all DRSPs, including CTPs.

Date of publication: 06/02/2025

3.4 PROSPECTUS REGULATION

(i) EU

ESMA: Consultation on draft Guidelines on supplements which introduce new securities to a base prospectus

Status: Consultation

Deadline for the submission of comments: 19/05/2025

ESMA has launched a consultation on draft Guidelines on supplements which introduce new securities to a base prospectus. This is further to the new EU Listing Act provision at Article 23(4a) of the Prospectus Regulation that a supplement cannot be used to introduce a new type of security for which the necessary information has not been included in the base prospectus, and ESMA's mandate under new Article 23(8) to develop Guidelines to specify the circumstances in which a supplement is to be considered a new type of security that is not already described in a base prospectus. ESMA is proposing the draft Guidelines to align member state practice on when a supplement is to be considered to introduce a new type of security, in view of the longstanding divergence in the supervision of "product supplements" (meaning supplements considered to introduce a new type of security that is not already described in a base prospectus). Draft Guideline 1 is based on Article 23 of the Prospectus Regulation, and focuses on the purpose of a supplement, which is to provide an investor with material information that would concern the assessment of securities that are already described in a base prospectus. Draft Guideline 2 recalls the basic problem that arises in the context of product supplements, which is that issuers attempt to introduce new type(s) of non-equity security information into a base prospectus using a supplement but the base prospectus does not generally provide for the type of non-equity securities concerned.

ESMA will publish a final report containing final Guidelines in Q4 2025.

Date of publication: 18/02/2025

4. Market infrastructure

4.1 CUSTODY RULES

(i) EU

ESMA: First set of technical standards to recalibrate and clarify the CSDR Regulation framework

Status: Final

ESMA has published technical standards in relation to the Central Securities Depositories Regulation (CSDR) Refit. Three final reports containing the draft technical standards have been published: the first covers the review and evaluation process of EU central securities depositories (CSDs), setting a harmonised approach for the information sharing of CSDs and including a one-year implementation period for new reporting data that requires CSDs to update their processes (Article 22 CSDR); the second covers the assessment of whether an EU CSD in a host member state could be considered to be of substantial importance for the functioning of securities markets and investor protection (Article 24a(13) CSDR); and the third relates to notification requirements for third-country CSDs and aims to streamline the notification process (Articles 25 and 69 CSDR).

The final reports and draft technical standards have been submitted to the EC for adoption.

- ♦ Final report on draft technical standards amending Regulation (EU) 2017/392 and Regulation (EU) 2017/394 under CSDR on review and evaluation
- ♦ Final report on draft RTS on the Substantial Importance of CSDs under Article 24a(13) of CSDR
- ♦ Final report on draft RTS on the information notified by third-country CSDs

Date of publication: 20/02/2025

EC: Summary of conclusions on the EU T+1 Coordination Committee meeting

Status: Final

The EU T+1 Coordination Committee has published its summary of a meeting held on 6 February. At the meeting, the EC representative indicated that the proposal to amend EU CSDR to shorten the securities settlement cycle was expected to be adopted soon. The chair of the Industry Committee raised the point that the strong will of the Industry Committee is to exempt securities financing transactions from the T+1 requirement, and that it was important for the EU to align with the UK on this point. The meeting also discussed the consultation paper (which was published on 13 February) and the chair of the Industry Committee provided updates on the workstreams and workplan, and a timetable for deliverables.

Date of publication: 18/02/2025

EC: Article on T+1 settlement

Status: Final

The EC has published an article on the legislative proposal to introduce a targeted amendment to the Central Securities Depository Regulation (CSDR). The proposed amendment will reduce the settlement cycle for in-scope transactions in transferable securities executed on trading venues, from two days to one (as required by Article 5 of the CSDR). The article summarises key points relating to the background of the legislative proposal, including the

impact of the evolution of financial markets and technology, and the shift to T+1 that has been, or is being, made by other jurisdictions. It also highlights the benefits of T+1 in terms of avoiding market fragmentation and costs linked to misalignment. The article iterates that the EC is proposing 11 October 2027 as the appropriate date for the move to T+1 settlement, and that coordination with the UK and Switzerland (both of which are also aiming to move to T+1 on 11 October 2027) is important.

Date of publication: 14/02/2025

ESMA: Consultation on the amendments to the RTS on settlement discipline

Status: Consultation

Deadline for the submission of comments: 14/04/2025

ESMA has launched a consultation on a Delegated Regulation amending Commission Delegated Regulation (EU) 2018/1229, which supplements the Central Securities Depositories Regulation (CSDR) with regard to RTS on settlement discipline. The Regulation amending the CSDR (CSDR Refit) introduced in Article 6(5) and Article 7(10) of the CSDR two mandates for ESMA to develop draft RTS in relation to settlement discipline measures and tools to improve settlement efficiency. ESMA plans to fulfil these mandates by amending Commission Delegated Regulation (EU) 2018/1229, including on: timing and means for sending allocations and confirmations; requiring all central securities depositories (CSDs) to offer hold and release and partial settlement functionalities and to enable automated use of intraday cash credit secured with collateral; and the requirements for CSDs to report top failing participants, with the information on settlement fails to be published by CSDs. ESMA also explores additional tools to improve settlement efficiency, for which ESMA's preliminary view is that no regulatory action is required, but on which it would nevertheless like to receive stakeholders' views. These include topics such as the CSD business day schedule, the Standard Settlement Instructions format, the Unique Transaction Identifier (UTI), Place of Settlement (PSET) and Place of Safekeeping (PSAF).

ESMA expects to publish a final report and submit the draft RTS to the EC by October 2025.

Date of publication: 13/02/2025

EC: Adoption of a proposal for a Regulation amending the CSDR as regards a shorter settlement cycle in the Union

Status: Adopted by the EC

The EC has published a legislative proposal it has adopted for a Regulation amending the Central Securities Depositories Regulation (CSDR) to shorten the settlement cycle for EU transactions in transferable securities. The proposed Regulation shortens the settlement period under Article 5(2) of the CSDR from two business days after trading takes place (T+2) to one business day (T+1). The proposal is intended to: (i) promote settlement efficiency and increase the resilience of EU capital markets; (ii) improve the liquidity of EU capital markets; and (iii) eliminate the costs linked to the misalignment of settlement cycles between EU and other jurisdictions. Due to the urgency to act in light of international developments, the EC has also prepared a Commission Staff Working Document alongside this proposal, analysing the impacts of an EU move to a shorter settlement cycle. The document assesses the costs and benefits of a shorter settlement cycle in the EU, highlighting that the mostly one-off costs should, over time, be outweighed by the long-term benefits of lower counterparty and market risks, more efficient and timely settlement and increased attractiveness of EU capital markets for investors. The EC has also published a set of FAQs alongside its proposal. The proposed Regulation will enter into force on the twentieth day following its publication in the Official Journal of the EU and will apply from 11 October 2027.

Date of publication: 12/02/2025

4.2 EMIR

(i) EU

ESMA: Updated Q&As on EMIR implementation

Status: Final

ESMA has updated its Q&A on the implementation of EMIR, amending two questions on the following topics:

(i) assessment of significance by counterparties for the purpose of error and omission notifications; and (ii) reporting of settlement rate options for FX products, such as FX non-deliverable forwards or FX non-deliverable options.

Date of publication: 21/02/2025

ESMA: Update on the composition of CCP colleges under Article 18(2) EMIR

Status: Final

ESMA has published an updated composition of central clearing counterparty (CCP) colleges under Article 18(2) EMIR. The relevant provisions of EMIR require ESMA to update its website regularly, and require each CCP's competent authority to publish on its website a list of college members. National competent authorities are therefore invited to confirm or suggest any modification to the list of members of the CCP college as published, by maintaining a regularly updated website with the correct composition of that college.

Date of publication: 18/02/2025

ESMA: Two consultations on CCP authorisations, extensions and validations

Status: Consultation

Deadline for the submission of comments: 07/04/2025

ESMA has launched two consultations on central counterparty (CCP) authorisations, extensions and validations under EMIR 3. The first consultation paper is on the conditions for the extension of authorisations and includes a list of documents and information for applications required by CCPs for initial authorisations and extensions. For extensions of services and activities, Articles 15, 15a, 17 and 17a of EMIR now distinguish between a "normal extension" of authorisation procedure and an accelerated procedure, and details changes that can benefit from an exemption from authorisation. Under Articles 14(6), 15(3), 17a(5) and 15a(2) of EMIR, ESMA is mandated to develop four draft RTS, specifying: (i) the list of documents that are to accompany an application for authorisation and an application for an extension of an authorisation; (ii) the conditions for the accelerated procedure referred to in Article 17a(1), points (a) to (e), of EMIR; (iii) the procedure for consulting ESMA and the college on whether or not those conditions are fulfilled and; (iv) the type of extension of services or activities that could benefit from an exemption from authorisation. The second consultation paper relates to the conditions for validations of changes to CCP's models and parameters and the list of required documents and information for applications for validations of such changes. Article 49(1) of EMIR now distinguishes between two approval procedures for a CCP intending to adopt a change to a model or parameters. For significant changes, a validation in accordance with Article 49 of EMIR is necessary, while for non-significant changes, the CCP can apply under a newly introduced accelerated procedure as set out under Article 49a of EMIR. ESMA is mandated under Article 49(5) of EMIR to develop draft RTS further specifying: (a) what constitutes a significant increase or decrease for the purposes of Article 49(1i), points (a) and (c) to (h), of EMIR; (b) the elements to be considered when assessing whether one of the conditions referred to in Article 49(1i) of EMIR is met; (c) what constitutes other changes that can be considered as already covered by the approved model and therefore not subject to the validation procedures under Article 49 or 49a of

EMIR, and; (d) the list of required documents and information that are to accompany an application for validation pursuant to Articles 49(1c) and 49a of EMIR.

After ESMA has prepared the final reports, it must submit the final draft RTS to the EC by 25 December.

- ♦ Consultation on draft RTS on the conditions for extensions of authorisation and the list of documents for applications for initial authorisations and extensions of authorisation under Articles 14(6), 15(3), 17a(5) and 15a(2) of EMIR
- ♦ Consultation on draft RTS on the conditions and the list of documents for an application for validation of changes to models and parameters under Articles 49 and 49a of EMIR

Date of publication: 07/02/2025

Commission Implementing Decision (EU) 2025/215 extending temporary equivalence of UK regulatory framework for CCPs

Status: Published in the OJ

Date of entry into force: 01/02/2025

Date of application: 01/07/2025

Date of expiration: 30/06/2028

Commission Implementing Decision (EU) 2025/215 has been published in the OJ, extending EU equivalence for UK central counterparties (CCPs) under EMIR. The EC published a [press release](#) on the same date, noting that the extension is designed to provide time for the implementation of EMIR 3.

Date of publication: 31/01/2025

5. Anti-money laundering

(i) International

FATF: Consultation on complex proliferation financing and sanctions evasion schemes project

Status: Consultation

Deadline for the submission of comments: 21/03/2025

The FATF has launched a consultation aimed at improving country and private sector understanding of current proliferation financing (PF) risks. This study will detail the techniques used by those evading the targeted financial sanctions detailed in Recommendation 7 of the FATF Standards, as well as other national and supranational sanctions that are not covered by the FATF Standards. The resulting report will focus on providing a comprehensive, up-to-date understanding of typologies in complex sanctions evasion schemes relevant to PF and identifying enforcement challenges and best practices, which helps to inform countries' PF risk assessment and risk mitigation. The questions posed by the FATF include: (i) which unique products or services are most vulnerable to exploitation by sanctions evaders and PF actors; (ii) how risks related to vulnerable products or services and/or high-risk countries for sanctions evasion and/or PF activity are managed; (iii) measures (such as setting suspicious transaction report rules) that effectively detect potential sanctions evasion activity; (iv) best practices for information sharing with the public and/or private sectors; and (v) what public information the FATF can provide to assist the private sector and others in mitigating PF risk.

Date of publication: 26/02/2025

FATF: Consultation on AML/CFT and financial inclusion for an updated FATF Guidance on AML/CFT measures and financial inclusion

Status: Consultation

Deadline for the submission of comments: 04/04/2025

The FATF has launched a consultation on proposals for the update of the FATF Guidance on AML/CFT measures and financial inclusion to equip policy makers and regulators with practical examples. This is part of the FATF's programme of work to address the unintended consequences of AML/CFT measures. The FATF is inviting views and comments on the updated Guidance from interested stakeholders. The updated Guidance proposed for public consultation: reflects the recently adopted amendments to the FATF Standards, with increased focus on proportionality and simplified measures in the risk-based approach, updates the concept and state of financial inclusion and its relevance to financial integrity, and provides additional guidance and updated best practice examples of implementation of the risk-based approach in AML/CFT regimes, with particular focus on simplified measures in lower-risk scenarios.

Date of publication: 25/02/2025

FATF: Revised FATF Recommendations

Status: Final

The FATF has published an updated version of its AML and CTF standards following the February FATF Plenary approved changes to Recommendation 1 and its Interpretive Note, with corresponding amendments to the Interpretive Notes for Recommendations 10 and 15, and related Glossary definitions to better support financial

inclusion. The amendments aim to better promote financial inclusion through increased focus on proportionality and simplified measures under the risk-based approach.

Date of publication: 25/02/2025

FATF: Second consultation on Recommendation 16 on payment transparency

Status: Consultation

Deadline for the submission of comments: 18/04/2025

The FATF has launched a second consultation on payment transparency, in particular proposed revisions to Recommendation 16 (R.16). The revisions adapt the FATF Standards to the changes in payment business models and messaging standards, as well as to the evolving risks and vulnerabilities. This consultation picks up the main issues raised in the first consultation (held between February 2024 and May 2024), and how these have now been addressed. It also provides more information on the questions of policy intent and proportionality that were raised as overarching issues during that consultation. The revised proposal is attached as an annex to the consultation.

The FATF will finalise the revisions in June, following which it will develop a guidance paper on payment transparency to facilitate consistent implementation of the updated standards.

Date of publication: 24/02/2025

6. Payments

6.1 PAYMENT SERVICES/E-MONEY

(i) EU

Publication of two DORA technical standards

Status: Published in the OJ

Date of entry into force: 12/03/2025

Date of application: 12/03/2025

Two delegated acts have been published in the OJ in respect of DORA. Both acts relate to ICT-related incident management, one of the key pillars of the DORA legislation, and are mandated by Article 20 of DORA, which seeks to harmonise reporting content and templates in relation to ICT-related incidents and cyber threats. For more information, please see section 1.1f) above.

Date of publication: 20/02/2025

ESAs: Roadmap to the designation of CTPPs

Status: Final

The ESAs have published a roadmap for the designation of critical ICT third-party service providers (CTPPs) under DORA. For more information, please see section 1.1f) above.

Date of publication: 18/02/2025

EC: Adoption of Commission Delegated Regulation (EU) .../... supplementing DORA with regard to RTS specifying the criteria used for identifying financial entities required to perform threat-led penetration testing, the requirements and standards governing the use of internal testers, the requirements in relation to the scope, testing methodology and approach for each phase of the testing, results, closure and remediation stages and the type of supervisory and other relevant cooperation needed for the implementation of TLPT and for the facilitation of mutual recognition

Status: Adopted by the EC

The EC has adopted a Commission Delegated Regulation supplementing the Digital Operational Resilience Act (DORA) with regard to RTS specifying the criteria used for identifying financial entities required to perform threat-led penetration testing (TLPT). For more information, please see section 1.1f) above.

Date of publication: 13/02/2025

EBA: Final report on Guidelines amending Guidelines on ICT and security risk management

Status: Final

The EBA has published a final report with amending Guidelines in respect of Guideline EBA/GL/2019/04 on ICT and security risk management. For more information, please see section 1.1f) above.

Date of publication: 11/02/2025

ECB: Updated TIBER-EU framework to align with DORA RTS on TLPT

Status: Final

The ECB has published an updated version of the threat intelligence-based ethical red teaming (TIBER-EU) framework (dated January) to align with the Digital Operational Resilience Act (DORA) RTS on threat-led penetration testing (TLPT). For more information, please see section 1.1f) above.

Date of publication: 11/02/2025

EC: Eight Delegated Regulations regarding MiCA and DORA

Status: Published in the OJ

Date of entry into force: 05/03/2025

Date of application: 05/03/2025

Eight Delegated Regulations supplementing the MiCA and DORA Regulations have been published in the OJ. For more information, please see section 1.1f) above.

Date of publication: 13/02/2025

EC: Rejection of draft RTS on sub-contracting ICT services supporting critical or important functions under DORA

Status: Final

The EC has published a letter (dated 21 January) addressed to the ESAs rejecting certain draft RTS the ESAs submitted under DORA in July 2024. For more information, please see section 1.1f) above.

Date of publication: 31/01/2025

6.2 PAYMENT ACCOUNTS

(i) EU

EBA: Final draft ITS on uniform reporting templates in relation to the level of charges for credit transfers and shares of rejected transactions under the SEPA Regulation

Status: Final

The EBA has published a final report, including draft ITS, on uniform reporting templates in relation to the level of charges for credit transfers and shares of rejected transactions under SEPA (Regulation (EU) No 260/2012). The aim of the ITS is to provide the EC with the information necessary for it to develop a report on the evolution of charges for payment accounts, credit transfers and instant credit transfers, as well as the shares of rejected transactions due to the application of EU wider-targeted financial restrictive measures. The ITS requires that Payment Services Providers (PSPs) report the level of charges for regular and instant credit transfers, with breakdowns by type of transfer, type of payment service users, and type of payment initiation channels, and by parties that are subject to the charge, as well as the charges for payment accounts and share of instant transfers that were rejected. The deadline for reporting to NCAs under the ITS has been delayed by one year until 9 April 2026, to avoid creating a significant compliance and administrative burden for industry and NCAs. NCAs must then report the data to the EBA and EC by 9 October 2026. The EC must now adopt the draft ITS. The EBA will also develop the data-point model (DPM), XBRL taxonomy and validation rules based on the final draft ITS by Q2 2025.

Date of publication: 04/02/2025

6.3 PAYMENT AND SETTLEMENT SYSTEMS

(i) EU

ECB: Decision (EU) 2025/222 on access by non-bank payment service providers to Eurosystem central bank operated payment systems and central bank accounts

Status: Published in the OJ

Date of entry into force: 26/02/2025

Date of application: 09/04/2025

The ECB's Decision (EU) 2025/222 relating to access by non-bank payment service providers (NB-PSPs) to Eurosystem central bank operated payment systems and central bank accounts has been published in the OJ. The EU Instant Payments Regulation (Regulation (EU) 2024/886) introduced certain changes to the EU Settlement Finality Directive (SFD) and Payment Services Directive (PSD 2), including adding NB-PSPs to the list of institutions eligible to become participants in payment systems designated under the SFD and permitting NB-PSPs to deposit their clients' funds for safeguarding in a separate account in a bank or central bank, at the central bank's discretion.

The ECB's decision: (i) sets out the circumstances in which a Eurosystem central bank should provide access to central bank operated payment systems, including installing and ensuring the security of IT infrastructure to connect to the central bank operated payment system, as well as providing any supporting information deemed necessary for their application to obtain access (Article 2); (ii) prohibits Eurosystem central banks from offering or providing safeguarding accounts to NB-PSPs or crypto-asset services providers (Article 3); (iii) determines the maximum amounts that may be held by an NB-PSP across its accounts at any given central bank operated payment system (Article 4); and (iv) provides for penalties in the event that an NB-PSP fails to comply with the maximum holding amount limit or requirements for access to central bank operated payment systems, including termination of the NB-PSP's participation in the central bank operated system without prior notice.

Date of publication: 06/02/2025

(ii) International

BCBS: Report on interlinking fast payment systems to enhance cross-border payments

Status: Final

The BCBS has published a CPMI brief on interlinking fast payment systems to enhance cross-border payments. It sets out that the G7 supports responsible innovation that enables: interoperability among new and existing cross-border payment systems; a level playing field for private sector competition and innovation; and the observance of relevant international standards. It also claims that emerging markets and developing economies have made considerable progress in fast payment adoption, laying the foundation for interlinking at the regional and international levels, thus enhancing cross-border payments. The brief states that CPMI is committed to delivering on its roadmap actions, focusing on those that support end users that are most disproportionately affected by inefficient cross-border payments, and redoubling its efforts to promote implementation at the jurisdictional level.

Date of publication: 20/02/2025

7. Institutional supervisory framework

(i) EU

EC: 2025 work programme

Status: Final

The EC has published a communication outlining its 2025 work programme. The EC also published the annexes to the 2025 work programme, which include: (i) Annex I – new initiatives. The table in this annex lists the new initiatives the EC intends to adopt in 2025 to deliver on its priorities; (ii) Annex II – annual plan on evaluations and fitness checks. The EC's annual plan of evaluations and fitness checks is designed to ensure continuity of the simplification and burden reduction exercise; (iii) Annex III – pending proposals. This includes a list of pending legislative files where the EC wants the co-legislators to reach agreement; (iv) Annex IV – withdrawals. This includes a list of pending legislative proposals that the EC intends to withdraw within six months; and (v) Annex V – envisaged appeals. There are no items listed in the table in this annex that relate to financial services. The 2025 work programme focuses strongly on simplification. It includes a first series of omnibus packages and proposals designed to make EU policies and laws work better and faster to strengthen the EU's competitiveness. The first omnibus will put forward far-reaching simplification, notably in the fields of sustainable finance reporting, sustainability due diligence and taxonomy. Having adopted the 2025 work programme, the EC presented it to the European Parliament plenary on 11 February. It will now present it to a meeting of the General Affairs Council. On the basis of the 2025 work programme and priorities put forward by the other institutions, the EC, the Parliament and the Council will establish a joint declaration on the EU's legislative priorities for 2025 and joint conclusions on priorities for the term.

Date of publication: 11/02/2025

(ii) International

FSB: Letter calling for renewed focus on implementation

Status: Final

The FSB has published a letter directed at the G20 finance ministers and central bank governors ahead of their meeting on 26 and 27 February. The letter addressed areas of focus for the FSB, including: (i) Implementation monitoring, providing a strategic review of the FSB's monitoring of 15 years of implementation of reforms. The review is intended to provide valuable insights into the effectiveness of the monitoring of post-global financial crisis regulatory reforms and identify areas where improvements can be made in the tools used to ensure consistent, global implementation of agreed reforms. The FSB will publish a progress report in October; (ii) Completing the G20 roadmap to enhance cross-border payments. The FSB notes that as the work has advanced, many structural issues have become apparent that require concerted efforts to resolve. Addressing these issues calls for significant additional work up to and beyond 2027. The FSB will report in October on progress towards the G20's goal of making cross-border payments faster, cheaper, more transparent, and more accessible. The FSB's focus this year is on improving the end-user experience, closely coordinating the work of the Bank for International Settlements Committee on Payments and Market Infrastructures and other partner organisations; (iii) Resilience of the non-bank financial intermediation (NBFI) sector. In July, the FSB will deliver recommendations to address financial stability risks from leverage in NBFI and a work plan to address issues related to NBFI data availability, use and quality; (iv)

Digital innovation. In October, the FSB will deliver to the G20 a thematic peer review on implementation of the FSB's crypto-asset recommendations (see the Fintech and AI sections for an update on the terms of reference of such review) and a report on how authorities in the financial sector can monitor AI adoption and assess related vulnerabilities. The FSB will also continue work on enhancing operational and cyber resilience. It will finalise the format for operational incident reporting exchange (FIRE), including cyber incidents, and FIRE will be delivered to the G20 in April; and (v) Climate-related financial risks. The FSB this year will focus on operationalising its analytical framework and toolkit to better assess such vulnerabilities and risks to global financial stability. The FSB will also work with members to develop a medium-term work plan and, in July, provide a progress report on actions taken by the FSB and other organisations in the four areas of the Roadmap for Addressing Climate-related Financial Risks.

Date of publication: 24/02/2025



8. Investment funds

8.1 PRODUCT REGULATION

a) AIF

(i) EU

ESMA: Launch of a Common Supervisory Action with NCAs on compliance and internal audit functions

Status: Final

ESMA has published a press release confirming the launch of a Common Supervisory Action (CSA) with NCAs on compliance and internal audit functions of management companies of UCITS and AIFMs in the EU. The CSA will assess the effectiveness of fund managers' compliance and internal audit functions in accordance with the relevant applicable provisions of the AIFM and the UCITS Directives, looking at the adequacy of staffing, authority, knowledge and expertise. ESMA will publish the final report in 2026.

Date of publication: 14/02/2025

b) UCITS

(i) EU

ESMA: Launch of a Common Supervisory Action with NCAs on compliance and internal audit functions

Status: Final

ESMA has published a press release confirming the launch of a Common Supervisory Action (CSA) with NCAs on compliance and internal audit functions of management companies of UCITS and AIFMs in the EU. For more information, please see section 8.1a) above.

Date of publication: 14/02/2025

8.2 PRUDENTIAL REGULATION

a) Compliance

(i) Germany

Publication of the Eighth Regulation amending the Regulation pursuant to the Insurance Supervision Act (*Veröffentlichung der achten Verordnung zur Änderung von Verordnungen nach dem Versicherungsaufsichtsgesetz*)

Status: Published in the Federal Gazette

Date of entry into force: 07/02/2025

The Eighth Regulation amending the Regulation pursuant to the Insurance Supervision Act has been published in the Federal Gazette. This Regulation implements the changes to the Investment Regulations (*Anlageverordnung – AnIV*) that were included in the government draft of a Second Company Pension Strengthening Act (*Zweites Betriebsrentenstärkungsgesetz*).

Date of publication: 06/02/2025

(ii) EU

ESMA: Guidelines on stress test scenarios under the MMF Regulation

Status: Final

ESMA has published official translations of its Guidelines on stress test scenarios under the money market funds (MMF) Regulation. These Guidelines apply to competent authorities, MMFs and managers of MMFs in relation to Article 28 of the MMF Regulation. In particular, and as specified in Article 28(7) of the MMF Regulation, they establish common reference parameters of the stress test scenarios to be included in the stress tests. The parts of the Guidelines shown in red text will apply from 24 April. The other parts of the Guidelines already apply from the dates specified in Articles 44 and 47 of the MMF Regulation.

Date of publication: 24/02/2025

ESRB: Compliance report on recommendation on reform of MMFs

Status: Final

The ESRB has published a compliance report on the implementation of Recommendation (ESRB/2021/9) on the reform of money market funds (MMFs). In accordance with Section 2(3) of the Recommendation, the EC was asked to explain the measures taken to comply with the Recommendation or provide adequate justification for inaction by 31 December 2023. The ESRB assessed the EC as materially non-compliant, given that three of the four Recommendations were not implemented, including: Recommendation A – reducing threshold effects; Recommendation B – reducing liquidity transformation; and Recommendation D – enhancing monitoring and stress testing. Recommendation C – imposing the cost of redemptions and subscriptions on redeeming and subscribing investors – was the only Recommendation implemented and assessed as largely compliant. Since the justifications for the non-compliance were not considered adequate, they were all assessed as being insufficiently explained.

Date of publication: 12/02/2025

9. Special topics

9.1 FINTECH/DIGITAL FINANCE

(i) Germany

BaFin: Consultation 06/2025 on a Circular on obligations of depositaries and capital management companies for investment funds investing in crypto-assets (*Konsultation 06/2025 zum Entwurf eines Rundschreibens über die Pflichten von Verwahrstelle und Kapitalverwaltungsgesellschaft bei in Kryptowerte investierenden Investmentvermögen*)

Status: Consultation

Deadline for the submission of comments: 31/03/2025

BaFin has launched a consultation on a Circular on obligations of depositaries and capital management companies of investment funds investing in crypto-assets. Since the Future Financing Act (*Zukunftsfinanzierungsgesetz – ZuFinG*) came into force, in addition to special AIFs without fixed investment conditions and special AIFs with fixed investment conditions, other domestic public AIFs pursuant to Section 221 of the Capital Investment Code (*Kapitalanlagegesetzbuch – KAGB*) and closed public AIFs pursuant to Section 261 KAGB have also been able to invest directly in crypto assets. Furthermore, crypto securities and DLT financial instruments can also be acquired for the account of a public investment fund if they meet the corresponding acquisition requirements of Sections 193 ff. KAGB. Investment funds investing directly in crypto-assets or crypto securities pose new technical and regulatory challenges for both the depositary and the capital management company. The Circular is intended to provide the aforementioned actors with minimum regulatory requirements in connection with investments for the account of investment funds in this new asset class.

Date of publication: 25/02/2025

BaFin: Updated Guidance Notice 02/2022 on notes for the crypto securities registration procedure (*Aktualisiertes Merkblatt 02/2022 über Hinweise zum Erlaubnisverfahren für die Kryptowertpapierregisterführung*)

Status: Final

BaFin has updated its Guidance Notice 02/2022 on notes for the crypto securities registration procedure by deleting the chapter on procedural notes on the basis of transitional provisions pursuant to Section 65 of the German Banking Act (*Kreditwesengesetz – KWG*) and by adding content to the sub-chapter on the prevention of money laundering and terrorist financing.

Date of publication: 14/02/2025

(ii) EU

EC: Three draft Delegated Regulations supplementing the MiCA Regulation

Status: Adopted by the EC

The EC has adopted the following three Delegated Regulations supplementing the MiCA Regulation. The Council of the EU and the EP will now scrutinise the Delegated Regulations; if neither objects, they will be published in the OJ and enter into force 20 days after publication.

- ♦ Commission Delegated Regulation (EU) .../... supplementing the MiCA Regulation as regards RTS specifying the requirements for policies and procedures on conflicts of interest for issuers of ARTs
- ♦ Commission Delegated Regulation (EU) .../... supplementing the MiCA Regulation with regard to RTS specifying the requirements for policies and procedures on conflicts of interest for crypto-asset service providers and the details and methodology for the content of disclosures on conflicts of interest
- ♦ Commission Delegated Regulation (EU) .../... supplementing the MiCA Regulation with regard to RTS specifying records to be kept of all crypto-asset services, activities, orders and transactions undertaken

Date of publication: 27/02/2025

EBA: Opinion on the EC's amendments relating to the final draft RTS on the information to be included in the application for authorisation to offer to the public and to seek admission to trading of ARTs under Article 18(6) MiCA Regulation

Status: Draft

The EBA has published an opinion on the EC's amendments relating to the final draft RTS on the information to be included in the application for authorisation to offer the public and to seek admission to trading of asset-reference tokens (ARTs) under Article 18(6) of the MiCA Regulation. The EBA has endorsed the substantive amendments to the draft RTS submitted by the EC and has accepted the remaining changes to other parts that are not considered substantive. The EBA also published a letter to the EC setting out its intention to accept the changes but inviting the EC to consider amending the Level 1 text at the next available opportunity to include certain elements that were set out in the draft RTS, given their importance from a supervisory perspective. In particular, the EBA suggested that the EC amend the MiCA Regulation to address the requirements of: (i) a market abuse policy; (ii) an independent third-party audit of the issuer's proprietary DLT that is operated by the issuer or by a third-party operator; and (iii) a notion of good repute aligned with the rest of the financial sector.

Date of publication: 27/02/2025

ESMA: Guidelines on the specification of Union standards for the maintenance of systems and security access protocols for offerors and persons seeking admission to trading of crypto-assets other than ARTs and EMTs

Status: Published

Date of application: 27/04/2025

ESMA has published official translations of the Guidelines on the maintenance of systems and security access protocols for offerors and persons seeking admission to trading of crypto-assets other than asset referenced tokens (ARTs) and e-money tokens (EMTs). The Guidelines apply to competent authorities and to 'offerors' as defined in Article 3(1)(13) of the MiCA Regulation and persons seeking admission to trading of crypto-assets other than ARTs or EMTs in relation to Article 14(1), point (d), of the MiCA Regulation. The purpose of these Guidelines is to specify the appropriate standards for offerors and persons seeking admission to trading who are not subject to the same operational resilience under the MiCA Regulation and the DORA as their crypto-asset service provider and issuer counterparts. The Guidelines include discussion of: (i) the general principle on proportionality; (ii) administrative arrangements and roles and responsibilities concerning systems and security access protocols; (iii) physical security access protocols; (iv) security access protocols for network and information systems; and (v) cryptographic key management.

National competent authorities must notify ESMA by 26 April of whether they: comply, do not comply but intend to comply, or do not intend to comply with the Guidelines. Offerors and persons seeking admission to trading are not required to report on whether they comply with the Guidelines.

Date of publication: 26/02/2025

ESMA: Guidelines on the procedures and policies, including the rights of clients, in the context of transfer services for crypto-assets under the MiCA Regulation on investor protection

Status: Published

Date of application: 27/04/2025

ESMA has published official translations of its Guidelines on the procedures and policies, including the rights of clients, in the context of transfer services for crypto-assets under the MiCA Regulation on investor protection. The Guidelines apply to competent authorities and crypto-asset service providers that act as providers of transfer services for crypto-assets on behalf of clients within the meaning of Article 3(1)(26) of the MiCA Regulation. These Guidelines aim to ensure the common, uniform and consistent application of the provisions in Article 82 of the MiCA Regulation. They include Guidelines on: (i) the policies and procedures in the context of transfer services for crypto-assets; (ii) information requirements for individual transfers for crypto-assets; (iii) execution times and cut-off times; (iv) rejection or suspension of an instruction to transfer crypto-assets or the return of crypto-assets transferred; and (v) the liability of the crypto-asset service provider.

National competent authorities must notify ESMA by 26 April of whether they: comply, do not comply but intend to comply, or do not intend to comply with the Guidelines. Crypto-asset service providers are not required to report on whether they comply with the Guidelines.

Date of publication: 26/02/2025

ESMA: Guidelines on situations in which a third-country firm is deemed to solicit clients established or situated in the EU and the supervision practices to detect and prevent circumvention of the reverse solicitation exemption under the MiCA Regulation

Status: Published

Date of application: 27/04/2025

ESMA has published official translations of its Guidelines on situations in which a third-country firm is deemed to solicit clients established or situated in the EU and supervision practices to detect and prevent circumvention of the reverse solicitation exemption under the MiCA Regulation. The Guidelines apply to competent authorities in relation to Article 61(3) of the MiCA Regulation. The Guidelines include discussion of: (i) the means of solicitation; (ii) the fact that the solicitation may be carried out by the third-country firm itself or any person acting on its behalf or having close links with the third-country firm; and (iii) the construction of the concept of 'exclusive initiative of the client'. The Annex to the Guidelines contains a non-exhaustive list of examples of circumstances where a third-country firm is likely to be regarded as soliciting clients in the EU.

National competent authorities must notify ESMA by 26 April of whether they: comply, do not comply but intend to comply, or do not intend to comply with the Guidelines.

Date of publication: 26/02/2025

ESMA: Updated Q&A on the European crowdfunding service providers for business Regulation

Status: Final

ESMA has updated its Q&A on the European crowdfunding service providers for business Regulation (ECSPR) by adding two new questions on the following topics: (i) calculation of threshold laid down in of Article 1(2) point (c) of ECSPR; and (ii) whether a project owner can seek funding for its project through both a crowdfunding offer and an offer to the public of transferable securities at the same time.

Date of publication: 21/02/2025

Publication of technical standards on the MiCA Regulation

Status: Published in the OJ

Date of entry into force: 12/03/2025

Date of application: 12/03/2025

Two delegated acts were published in the OJ in respect of the EU MiCA Regulation. Both sets of technical standards concern the notification requirements applied to certain firms seeking to provide crypto-asset services, where Article 60 of the MiCA Regulation imposes a requirement to supply specified information to the competent authority of the applicant's home member state at least 40 working days before providing those services.

- ♦ Commission Delegated Regulation (EU) 2025/303 supplementing the MiCA Regulation with regard to RTS specifying the information to be included by certain financial entities in the notification of their intention to provide crypto-asset services
- ♦ Commission Implementing Regulation (EU) 2025/304 laying down ITS for the application of the MiCA Regulation with regard to standard forms, templates and procedures for the notification by certain financial entities of their intention to provide crypto-asset services

Date of publication: 20/02/2025

ECB: Eurosystem update on settling DLT-based transactions in central bank money

Status: Final

The ECB has published a press release confirming its decision to expand its initiative to settle transactions recorded on distributed ledger technology (DLT) in central bank money. The press release confirms that the Eurosystem will develop a settlement platform that is interoperable with trans-European automated real-time gross settlement express transfer system (referred to as TARGET) services, and will also consider a more integrated, long-term solution for settling DLT transactions in central bank money which will include international considerations. This expansion follows Eurosystem's work last year on new technologies for wholesale central bank money settlement, which comprised various settlement experiments and included bank, financial market and DLT platform participants.

Date of publication: 20/02/2025

Publication of two DORA technical standards

Status: Published in the OJ

Date of entry into force: 12/03/2025

Date of application: 12/03/2025

Two delegated acts have been published in the OJ in respect of DORA. Both acts relate to ICT-related incident management, one of the key pillars of the DORA legislation, and are mandated by Article 20 of DORA, which seeks

to harmonise reporting content and templates in relation to ICT-related incidents and cyber threats. For more information, please see section 1.1f) above.

Date of publication: 20/02/2025

ESAs: Roadmap to the designation of CTPPs

Status: Final

The ESAs have published a roadmap for the designation of critical ICT third-party service providers (CTPPs) under DORA. For more information, please see section 1.1f) above.

Date of publication: 18/02/2025

ESMA: Consultation on Guidelines for the criteria on the assessment of knowledge and competence under the MiCA Regulation

Status: Consultation

Deadline for the submission of comments: 22/04/2025

ESMA has published a consultation paper on the Guidelines for the assessment of knowledge and competence criteria under the MiCA Regulation. The Guidelines relate to natural persons giving advice or information about crypto-assets or a crypto-asset service. In terms of approach, ESMA has taken as a reference the Markets in Financial Instruments Directive Guidelines on the assessment of knowledge and competence as a basis. ESMA proposes four Guidelines: Guideline one is a general Guideline to ensure that crypto-asset service providers take sufficient steps to ensure that their staff providing information or advice on crypto-assets or crypto-asset services possess the necessary knowledge and competence to fulfil their obligations. This includes an understanding of how to apply the crypto-asset service providers' internal policies and procedures designed to comply with the MiCA Regulation. Guideline two concerns criteria for staff giving information about the relevant crypto-assets or crypto-asset services. Guideline three concerns criteria for staff giving advice about crypto-assets or crypto-asset services, and addresses the minimum requirements for professional qualification and professional experience, as well as the minimum number of hours of continuous professional development or training per year. Finally, Guideline four on organisational requirements states that crypto-asset service providers' organisational requirements should ensure that the knowledge and competence of the staff giving information and advice on crypto-assets or crypto-asset services are assessed, maintained and updated appropriately. ESMA is planning to publish a final report and Guidelines in Q3 this year.

Date of publication: 17/02/2025

EC: Adoption of Commission Delegated Regulation (EU) .../... supplementing DORA with regard to RTS specifying the criteria used for identifying financial entities required to perform threat-led penetration testing, the requirements and standards governing the use of internal testers, the requirements in relation to the scope, testing methodology and approach for each phase of the testing, results, closure and remediation stages and the type of supervisory and other relevant cooperation needed for the implementation of TLPT and for the facilitation of mutual recognition

Status: Adopted by the EC

The EC has adopted a Commission Delegated Regulation supplementing the Digital Operational Resilience Act (DORA) with regard to RTS specifying the criteria used for identifying financial entities required to perform threat-led penetration testing (TLPT). For more information, please see section 1.1f) above.

Date of publication: 13/02/2025

EC: Eight Delegated Regulations regarding MiCA and DORA

Status: Published in the OJ

Date of entry into force: 05/03/2025

Date of application: 05/03/2025

Eight Delegated Regulations supplementing the MiCA and DORA Regulations have been published in the OJ. For more information, please see section 1.1f) above.

Date of publication: 13/02/2025

EBA: Final report on Guidelines amending Guidelines on ICT and security risk management

Status: Final

The EBA has published a final report with amending Guidelines in respect of Guideline EBA/GL/2019/04 on ICT and security risk management. For more information, please see section 1.1f) above.

Date of publication: 11/02/2025

ECB: Updated TIBER-EU framework to align with DORA RTS on TLPT

Status: Final

The ECB has published an updated version of the threat intelligence-based ethical red teaming (TIBER-EU) framework (dated January) to align with the Digital Operational Resilience Act (DORA) RTS on threat-led penetration testing (TLPT). For more information, please see section 1.1f) above.

Date of publication: 11/02/2025

EBA: Opinion on the EC's amendments relating to the final draft RTS on conflicts of interests for issuers of ARTs supplementing the MiCA Regulation in accordance with Article 32(5)

Status: Draft

The EBA has published an opinion responding to the EC's proposed amendments to the EBA's draft RTS on conflicts of interests for issuers of asset-referenced tokens (ARTs) under the MiCA Regulation. The draft RTS set out the requirements for ART issuers' policies and procedures on conflicts of interest, with the aim of bolstering the management of such conflicts and boosting convergence across the EU. The EBA submitted the final draft RTS to the EC on 5 June 2024. On 29 November 2024, the EC informed the EBA of its intention to endorse the RTS with amendments. The EBA's opinion confirms that, although it considers certain of the amendments to be substantive, they increase the proportionality of the relevant provisions without altering their purpose and the EBA therefore has no concerns regarding those proposed amendments. The EBA also notes that the EC has agreed to reinstate the reference to the 'risk alignment mechanism' for remuneration in the adopted version of the RTS, which it had proposed to delete. The EBA has therefore endorsed the EC's proposed amendments and submitted the amended draft RTS to the EC for endorsement.

The draft RTS will next be scrutinised by the Council of the European Union and the European Parliament before publication in the OJ. They will enter into force 20 days after publication in the OJ.

Date of publication: 05/02/2025

EC: Rejection of draft RTS on sub-contracting ICT services supporting critical or important functions under DORA

Status: Final

The EC has published a letter (dated 21 January) addressed to the ESAs rejecting certain draft RTS the ESAs submitted under DORA in July 2024. For more information, please see section 1.1f) above.

Date of publication: 31/01/2025

(iii) International

FSB: Request for feedback on thematic peer review on FSB global regulatory framework for crypto-asset activities

Status: Consultation

Deadline for the submission of comments: 28/03/2025

The FSB has published summary terms of reference for its thematic peer review on the FSB global regulatory framework for crypto-asset activities. The objective of this peer review is to examine members' progress, experience and lessons learned in implementing the FSB global regulatory framework for crypto-asset activities. This includes the high-level recommendations for the regulation, supervision and oversight of both crypto-asset markets and activities, and global stablecoin arrangements. It will focus particularly on : (i) the regulatory frameworks and implementation status; (ii) data reporting; (iii) cross-border cooperation; and (iv) stablecoins. The FSB expects to publish the peer review report in October.

The FSB is seeking feedback from stakeholders as part of its thematic peer review and a questionnaire has been distributed to relevant jurisdictions to collect information. The FSB invites feedback on issues such as: (a) the impact of jurisdictional regulatory frameworks on decisions of crypto-asset issuers and service providers; (b) experiences and challenges faced by crypto-asset market participants in meeting the relevant regulatory and supervisory requirements; (c) how financial stability vulnerabilities of crypto-asset activities differ across jurisdictions; and (d) whether there are specific market practices and/or trends in certain geographies and/or segments that may pose a threat to financial stability.

Date of publication: 21/02/2025

9.2 AI

(i) EU

EC: Guidelines on AI system definition to facilitate the first AI Act's rules application

Status: Final

The EC has published draft Guidelines on the definition of an AI system to explain the practical application of the legal concept, as anchored in the EU AI Act. The EC aims to assist providers and other relevant persons in determining whether a software system constitutes an AI system to facilitate the effective application of the rules. The AI Act does not apply to all systems, but only to those systems that fulfil the definition of an 'AI system' within the meaning of Article 3(1) of the EU AI Act. The definition of an AI system is therefore key to understanding the scope of application of the EU AI Act. These Guidelines take into account the outcome of a stakeholder consultation and the consultation of the European Artificial Intelligence Board. The definition comprises seven main elements, including: (i) a machine-based system; (ii) that is designed to operate with varying levels of autonomy; (iii) that may exhibit adaptiveness after deployment; (iv) and that, for explicit or implicit objectives; (v) infers, from the

input it receives, how to generate outputs; (vi) such as predictions, content, recommendations, or decisions; and (vii) that can influence physical or virtual environments. This approach to defining an AI system reflects the complexity and diversity of AI systems, ensuring that the definition aligns with the EU AI Act's objectives by accommodating a wide range of AI systems. The EC highlights that, considering the wide variety of AI systems, it is not possible to provide an exhaustive list of all potential AI systems in these Guidelines. The definition of an AI system should not be applied mechanically; each system must be assessed based on its specific characteristics. The Guidelines are not binding and are designed to evolve over time and will be updated as necessary, in particular in light of practical experiences, and new questions and use cases that arise. Any authoritative interpretation of the EU AI Act may ultimately only be given by the CJEU.

Date of publication: 06/02/2025

EC: Guidelines on prohibited AI practices under EU AI Act

Status: Final

The EC has published Guidelines on prohibited AI practices, as defined by the EU AI Act. The Guidelines provide an overview of the prohibited AI practices under Article 5 of the EU AI Act which are deemed unacceptable due to their potential risks to European values and fundamental rights. Article 5, which prohibits the placing on the EU market, putting into service, or use of certain AI systems for manipulative, exploitative, social control or surveillance practices, apply as of 2 February. The Guidelines specifically address practices such as harmful manipulation, social scoring, and real-time remote biometric identification, among others. The Guidelines are designed to ensure the consistent, effective, and uniform application of the EU AI Act across the EU. While they offer valuable insights into the EC's interpretation of the prohibitions, they are non-binding, with authoritative interpretations reserved for the CJEU. The Guidelines provide legal explanations and practical examples to help stakeholders understand and comply with the EU AI Act's requirements.

Date of publication: 04/02/2025

9.3 SUSTAINABLE FINANCE

(i) EU

EC: Proposal for omnibus sustainability package, including two draft Directives amending the CSRD and CSDDD

Status: Draft

The EC has published two omnibus proposals on sustainability and EU investments, designed to address overlapping, unnecessary or disproportionate rules that are creating unnecessary burdens for EU businesses. The package includes amendments to the Corporate Sustainability Reporting Directive (CSRD), the Corporate Sustainability Due Diligence Directive (CSDDD), and the Carbon Adjustment Mechanism (CBAM).

In particular, the proposals seek to make sustainability reporting more accessible and efficient, simplify due diligence to support responsible business practices, strengthen the carbon border adjustment mechanism for a fairer trade and unlock opportunities in European investment programmes. The EC also published a [Q&A](#) explaining in further detail the purpose of the omnibus legislation and the changes that are proposed. The legislative proposals will now be submitted to the European Parliament and the Council for their consideration and adoption. The changes to the CSRD, CSDDD, and CBAM will enter into force once the co-legislators have reached an agreement on the proposals, and after publication in the Official Journal. The Commission invites the co-legislators to treat this omnibus package with priority, in particular the proposal postponing certain disclosure requirements under the

CSRD and the transposition deadline under CSDDD, as they aim to address key concerns identified by stakeholders.

The draft Delegated Act amending the current delegated acts under the Taxonomy Regulation will be adopted after public feedback and will apply at the end of the scrutiny period by the European Parliament and the Council.

- ♦ Proposal for a Directive amending the CSRD and CSDDD as regards the dates from which Member States are to apply certain corporate sustainability reporting and due diligence requirements
- ♦ Proposal for a Directive amending the Audit Directive, Accounting Directive, CSRD and CSDDD as regards certain corporate sustainability reporting and due diligence requirements

Date of publication: 26/02/2025

EC: Consultation on draft Delegated Regulation amending the taxonomy delegated acts

Status: Consultation

Deadline for the submission of comments: 26/03/2025

As part of the omnibus sustainability package, the EC has published a call for evidence on a draft Commission Delegated Regulation amending Commission Delegated Regulation 2021/2178 in relation to the simplification of the content and presentation of information to be disclosed concerning environmentally sustainable activities. The draft also proposes amendments to Commission Delegated Regulations 2021/2139 and 2023/2486 as regards simplification of certain technical screening criteria for determining whether economic activities cause significant harm to environmental objectives. The proposals in the Draft Regulation include a 10% de minimis threshold, and exclude from the denominator of the key performance indicators (KPIs) exposures of financial institutions to undertakings with an average number of over 1000 employees, until the Commission's review of Delegated Regulation 2021/2178 is finalised. The application of the trading book and the fees and commission KPIs is also postponed until 2027. The EC also proposes to simplify templates such as summary KPIs and 'per activity' information to no longer duplicate elements that are covered by general reporting templates. The call for evidence closes on 26 March.

Date of publication: 26/02/2025

EBA: Report on data availability and feasibility of common methodology for ESG exposures

Status: Final

The EBA has published a report on the data availability and feasibility of a common methodology for ESG exposures. In accordance with the mandate under Article 501c(1) of Regulation 575/2013 (CRR), this report aims to assess the availability and accessibility of data related to ESG risks, as well as the feasibility of introducing a standardised methodology for identifying and qualifying banking book credit exposures to ESG risks. The EBA explores institutions' existing practices and identifies the current challenges in standardising the identification and classification of exposures to ESG risks, building on observations related to data quality and collection, assessment methodologies, and available regulatory guidance. The overview of current practices is complemented by an analysis of specific elements covered by the mandate, including sustainability disclosure reporting frameworks, supervisory stress testing and ESG scores in the credit risk ratings of external credit assessment institutions. The EBA concludes that significant data gaps remain for social and governance risks. The EBA is of the view that the potential building blocks are not yet sufficiently developed to be a basis for developing a robust, standardised methodology for the identification and qualification of ESG risks at this stage, especially in the context of their impact on credit risk. However, the situation varies significantly, depending on the type of exposures and risks considered, and a sequenced approach would most likely be necessary if introducing a standardised methodology

for the identification and qualification of ESG risks. Introducing a standardised methodology to identify and qualify exposures currently seems to be the most feasible approach for the climate-related transition risk for non-financial corporates (NFCs).

Date of publication: 24/02/2025

ESMA: Final report on technical standards on the European Green Bonds Regulation

Status: Final

ESMA has published a final report on the technical standards in respect of the external reviewer regime under the European Green Bonds Regulation (EuGB). The regime requires external reviews of the pre-issuance factsheet and allocation report after full allocation of proceeds, and imposes certain requirements on external reviewers. The final report covers the RTS in relation to: (i) assessing senior management, board members and others involved in assessment activities; (ii) assessing sound and prudent management and conflict of interest management; (iii) assessing knowledge and experience of analysts; and (iv) criteria applicable to outsourcing of assessment activities. Respondents were broadly in support of ESMA's proposals. However, a key architectural change has been made, in that the RTS on assessing knowledge and experience of analysts (under Article 28(1) of the EuGB Regulation) has been merged into the RTS on assessing senior management, board members and others involved in assessment activities (under Article 23(6) of the EuGB Regulation).

The final report also covers the implementing technical standards in relation to the standard forms, templates and procedures for the provision of registration information, where ESMA has made some technical changes, including restructuring the original proposed articles to refer to annexes split by areas of relevance, and some material changes to the policies and procedures annex. ESMA has submitted the technical standards to the European Commission for adoption, subject to non-objection by the European Parliament and the Council. A transitional period is currently in force for the external review regime, and is due to end on 21 June 2026.

Date of publication: 14/02/2025

EU Platform on Sustainable Finance: Report on enhancing usability of EU Taxonomy framework

Status: Final

The EU Platform on Sustainable Finance has published a report on enhancing the usability of the EU's Taxonomy regime. The report takes account of the European Commission's stated ambition to streamline ESG reporting requirements through the proposed omnibus simplification regulation. The Platform makes four core proposals for simplifying Taxonomy-related reporting, namely: (i) reducing the corporate reporting burden by over a third by taking steps such as enhancing the alignment with financial reporting and simplifying reporting templates; (ii) simplifying the green asset ratio (GAR) by ensuring a symmetrical GAR with similar numerator and denominator composition and allowing for estimates and proxies for reporting; (iii) taking a practical approach to the 'do no significant harm' criteria under the Taxonomy regime; and (iv) helping SMEs access sustainable finance by adopting a streamlined and voluntary approach for banks' and investors' exposures to unlisted SMEs, and a simplified approach to the Taxonomy for listed SMEs.

Date of publication: 05/02/2025

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