

# A&O SHEARMAN



## Regulatory monitoring

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NEWSLETTER  
JANUARY 2025

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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

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### **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.

[Read more →](#)

### **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.

[Read more →](#)

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

*26 September 2023*

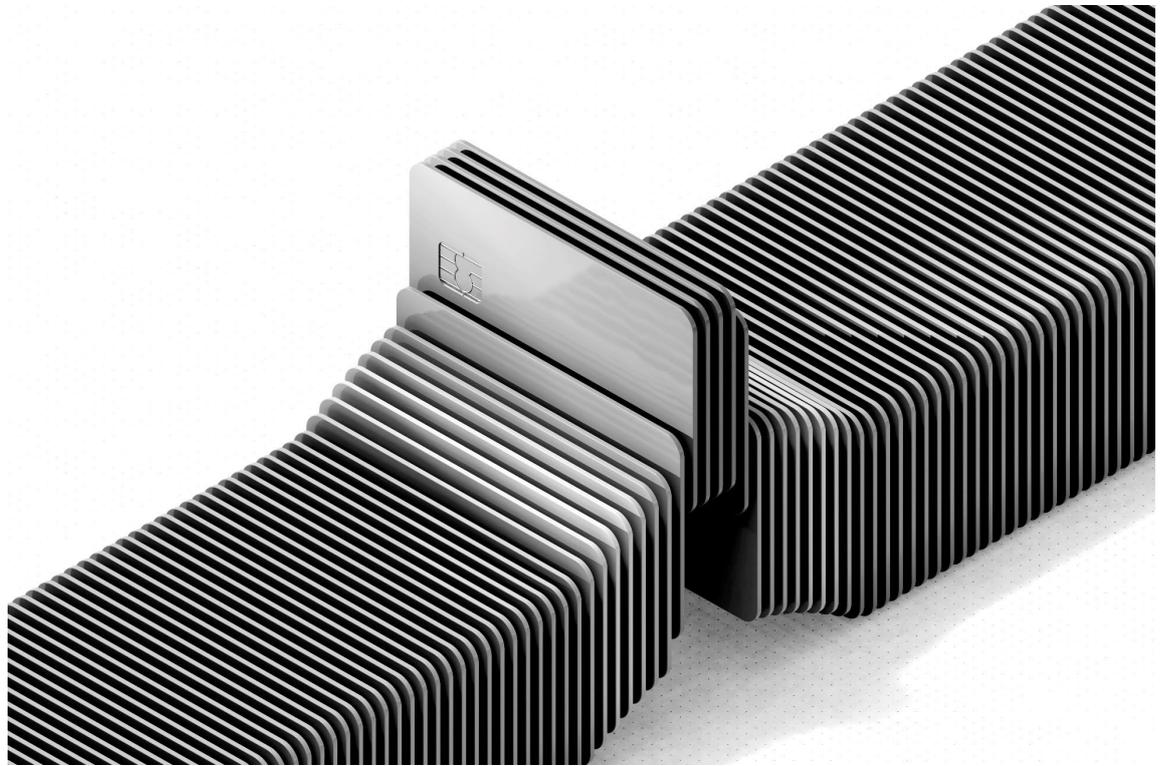
A recent speech by Frank Elderson, Vice-Chair of the ECB Supervisory Board, places culture firmly on the supervisory agenda. Mr Elderson considers how culture can drive risk behaviour in banks and how the ECB goes about assessing banks' culture.

**[Read more →](#)**

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

For enquiries regarding A&O Shearman's ECB in focus blog, please contact us.





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### HORIZON SCANNING/REGULATORY MONITORING

Identify new regulatory developments easily and tailored to the specific type of regulated firm, so that only relevant changes appear.

### 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

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a) General

(i) Germany

### **BaFin: Report on risks in focus 2025 (*Report über Risiken im Fokus 2025*)**

Status: Final

BaFin has published its annual report on the risks it will focus on throughout the year in English and German. It sets out the main risks that BaFin has identified for the financial stability or integrity of the financial markets in Germany and that it will pay particularly close attention to in 2025. In particular, BaFin sets out that natural disasters which are made more likely by climate change, international tensions and the weak domestic economy could create new risks for the German financial system or exacerbate existing risks. It therefore urges companies in the German financial sector to ensure that their risk management incorporates more comprehensive information on the consequences of climate change in order to diminish the impact of extreme weather or natural disasters in the form of major fires, droughts or floods on banks' loan portfolios and insurers' loss amounts in future.

The main risks currently facing the German financial market are risks arising from: (i) corrections on the real estate markets; (ii) significant corrections on the international financial markets; (iii) corporate loan defaults; (iv) cyber incidents with serious consequences; (v) inadequate money laundering prevention; and (vi) market concentration due to the outsourcing of IT services.

Date of publication: 28/01/2025

(ii) EU

### **EC: Communication on EU competitiveness compass**

Status: Final

The EC has published a communication on a Competitiveness Compass for the EU, which sets out an action plan in response to the Draghi report published in September 2024. The communication sets out the framework for the EC's work on competitiveness for the next five years and lists its initial priorities. One of the EC's key aims is to reduce the regulatory burden, which for the financial services sector will include publishing, in February, the first of a series of Simplification Omnibus packages relating to sustainable finance reporting, sustainability due diligence and the sustainable finance taxonomy. Additionally in Q1 2025 the Commission will set a strategy on a Savings and Investments Union (SIU), followed by a set of specific proposals, which will aim to promote low-cost saving and investment products at EU level for retail investors. Longer term work includes removing barriers to consolidation of financial markets infrastructure and taxation barriers to cross-border investment, promoting the EU's securitisation market, and pursuing the reform and harmonisation of insolvency frameworks in the EU. A tentative agenda for forthcoming College of Commissioners' meetings indicates that the EC will publish a communication on the SIU on 19 March.

Date of publication: 29/01/2025

(iii) International

**BCBS: Innovation Hub work programme for 2025-26**

Status: Final

The BCBS has set out its Innovation Hub's work programme for 2025-26. At the start of 2025, the Innovation Hub's project portfolio consists of 26 active projects, with 31 projects completed since its establishment in 2019. The BIS started 16 new projects in 2024. Highlights of the work programme include: (i) enhancing horizon scanning capabilities to identify trends and developments in financial technology that could have a meaningful impact on central banks; (ii) exploring synergies between different projects and themes, focusing on developing solutions to support central banks in their core responsibilities of the provision of money, monetary policy, payments infrastructure, financial stability, and regulation and supervision; (iii) launching two new projects using AI-enabled tools, including Project Gaia which will build on an already developed proof of concept which addressed the specific use case of climate-related risk analysis, by extending it to other uses cases in and beyond the area of green finance; (iv) further developing ongoing projects, such as Project Agora, in which partners from seven central banks and over 40 private sector financial institutions are exploring how tokenisation can enhance wholesale cross-border payments; and (v) exploring the potential of central bank community-driven ecosystems in the creation of code and other solutions that can add value to central banking.

Date of publication: 14/01/2025

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b) Solvency/Own funds issues

(i) Germany

**BaFin: Publication of the General Administrative Act on business credit balances for 2025 (*Bekanntmachung der Allgemeinverfügung zum Geschäftsguthaben 2025*)**

Status: Final

BaFin has published a General Administrative Act on business credit balances for 2025, pursuant to Articles 26(3), 77(1)(a), 78(1)(b) CRR and Article 32(2) of the Delegated Regulation (EU) 241/2014. It regulates the extent to which newly issued shares in cooperative banks can be classified as instruments of common equity tier 1 capital. In the version valid from 1 January 2025, BaFin also stipulates the conditions under which the repayment of business credit balances based on cancelled cooperative shares is approved in advance.

Date of publication: 01/01/2025

(ii) EU

**EC: Commission Delegated Regulation (EU) .../... amending the RTS laid down in Delegated Regulation (EU) 2021/931 as regards the specification of the formula for calculating the supervisory delta of call and put options mapped to the commodity risk category**

Status: Adopted by the EC

The EC has adopted the draft Delegated Regulation amending RTS as regards the specification of the formula for calculating the supervisory delta of call and put options mapped to the commodity risk category. The RTS specify the formula for the purposes of Article 279a(3) of the CRR in the standardised approach for counterparty credit risk. CRR III expanded the scope of Article 279a(3) to cover commodity risk, which requires amendment to the RTS.

The Council of the EU and the European Parliament will now scrutinise the Delegated Regulation. If neither objects, the Regulation will be published in the OJ and enter into force 20 days after publication.

Date of publication: 28/01/2025

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c) Securitisation

(i) Germany

**BaFin: Publication of Circular 01/2025 on securitisation (*Veröffentlichung des Rundschreibens 01/2025 zur Verbriefung*)**

Status: Final

Date of application: 15/01/2025

BaFin has published a Circular on securitisation, specifying the criteria for simple, transparent and standardised (STS) balance sheet securitisation. The Circular also aims to implement modified Guidelines for asset-backed commercial paper (ABCP) and non-ABCP securitisation. With the circular, BaFin is adopting the [EBA Guidelines on the STS criteria for on-balance-sheet securitisations](#) into its administrative practice.

Date of publication: 15/01/2025

(ii) International

**FSB: Report on the evaluation of the effects of the G20 financial regulatory reforms on securitisation**

Status: Final

The FSB has published an evaluation report on the effects of the G20 financial regulatory reforms on securitisation. It focuses, in terms of scope, on the collateralised debt/loan obligation (CDO/CLO) and the nongovernment-guaranteed part of the residential mortgage-backed securities (RMBS) markets; and, in terms of reforms, on the IOSCO minimum retention recommendations to address incentive problems and the BCBS revisions to prudential requirements for banks' securitisation-related exposures. These reforms aimed to address the vulnerabilities in the securitisation market that contributed to the amplification of losses during the 2008 global financial crisis.

This report has been accompanied by a [note summarising the feedback](#) received on the consultation regarding this report – both from the public responses and from the workshop – and setting out the main changes made to the final report in order to address them. The note also provides a short overview of additional analysis carried out by the FSB since the consultation report to enhance the robustness of the results.

Date of publication: 22/01/2025

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

(i) Germany

**BaFin: Protocol of the MaRisk expert meeting (*Protokoll der MaRisk Fachgruppensitzung*)**

Status: Final

BaFin has published the protocol from an expert meeting discussing topics regarding the Minimum requirements for the risk management (*Mindestanforderungen an das Risikomanagement – MaRisk*). In particular, the meeting

deliberated on an update to the LSI SREP methodology and questions for interpretation regarding the seventh MaRisk update.

Date of publication: 15/01/2025

### **BaFin: Update of the Circular 10/2017 on banking supervisory requirements for IT (*Update des Rundschreibens 10/2017 über die Bankaufsichtlichen Anforderungen an die IT – BAIT*)**

Status: Final

BaFin has updated the Circular 10/2017 on banking supervisory requirements for IT (*Bankaufsichtlichen Anforderungen an die IT – BAIT*) as part of its gradual repeal of this Circular. This repeal aims to avoid double regulation following the application of the supervisory requirements for IT set out in DORA from 17 January 2025. From then on, institutions that must operate risk management for information and communication technology (ICT) in accordance with Articles 5 to 15 or Article 16 DORA will be excluded from the BAIT user group. In addition, BaFin is repealing Chapter 11 of the BAIT.

The Financial Market Digitisation Act (*Finanzmarktdigitalisierungsgesetz – FinmadiG*) revised Section 1a(2) of the Banking Act (*Kreditwesengesetz – KWG*), according to which other institutions must apply DORA from 1 January 2027. As of 31 December 2026, the BAIT will therefore be completely repealed.

Date of publication: 10/01/2025

(ii) EU

### **EBA: Opinion on interaction between Pillar 2 requirements and the output floor**

Status: Final

The EBA has published an opinion on the interaction between the output floor and Pillar 2 requirements under CRD IV. The opinion describes how competent authorities should operationalise the temporary cap that ensures that Pillar 2 requirements do not increase as a result of a firm becoming bound by the output floor. The EBA is mandated to issue Guidelines on the interaction between the output floor and Pillar 2 requirements. However, the Guidelines need to be incorporated into the SREP Guidelines, which will soon be reviewed as part of the assessment of the impact of the new Banking Package. In the meantime, the opinion aims to harmonise the approach on the described narrow interaction.

Date of publication: 21/01/2025

### **EBA: Peer review on the application of proportionality under the SREP**

Status: Final

The EBA has published a peer review on the application of proportionality under the Supervisory Review and Evaluation Process (SREP). Despite the overall positive results of the peer review on the application on proportionality in SREP and in the liquidity risk assessment under SREP, the deficiencies identified concerned consistency of implementation of the SREP Guidelines, sources used for SREP categorisation, and implementation of the minimum supervisory engagement model. The EBA notes that while these do not lead to material risks being unaddressed, they undermine the aim of the SREP Guidelines of having a more consistent approach across the EU. To address these deficiencies, the EBA identified a number of follow-up measures addressed to all competent authorities across the EEA. These include incorporating the classification of 'large' and 'small and non-complex' institutions under the CRR into the categorisation of institutions for SREP purposes and aligning to the minimum

supervisory engagement model and in the area of liquidity stress testing. The report also sets out several best practices observed, such as the use of benchmarking tools, 'pilot inspections' where several institutions use the same service provider, and spot checks on the quality, accuracy and reliability of information provided by institutions in self-assessment questionnaires. The EBA will conduct a follow-up peer review of the implementation of the measures included in this report in two years. It will also consider the outcome of this peer review in the context of the upcoming review of the SREP Guidelines. In particular, it will consider providing more clarity on how the focus and granularity of the SREP assessment could be adapted to the risk profile of the institution and on the scope and level of assessments to be performed under the minimum supervisory engagement model.

Date of publication: 16/01/2025

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e) Cyber security

(i) EU

### **ESAs: Approval of terms of reference for new EU-SCICF Forum under DORA**

Status: Final

The ESAs have published the terms of reference for the EU systemic cyber incident co-ordination framework Forum established under DORA. The Forum will be composed of representatives of EU and national bodies, including the ESAs and the EC. The Forum is tasked with: (i) developing and maintaining documents, protocols, procedures, arrangements, taxonomy and plans to support co-ordination in case of crisis mode, taking into account the existing coordination frameworks and the cyber threat landscape; (ii) preparing the set-up of a dedicated ad-hoc group responsible for managing crisis mode; and (iii) exercise and test the protocols and procedures to ensure continued preparedness in the event of activation of crisis mode. The terms of reference will be subject to review and endorsement by the Joint Committee and subsequent approval by the ESAs' Boards of Supervisors, and adapted to reflect any new developments, as relevant and appropriate, every two years. The terms of reference came into effect on 17 January.

Date of publication: 27/01/2025

### **ESAs: Report on the feasibility for further centralisation of reporting of major ICT-related incidents under DORA**

Status: Final

The ESAs have published a joint report on the feasibility of further centralisation of the reporting of major ICT-related incidents by financial entities to competent authorities. In line with the DORA mandate, the ESAs' joint report explores the potential for further centralisation through the establishment of a single EU hub, assessing the feasibility of three different models: (i) the baseline model; (ii) a model with enhanced data sharing arrangements; and (iii) a fully centralised model (i.e., an EU hub). The report considers the potential burden and cost reductions, as well as the efficiency and effectiveness gains that each model would bring for cross-sector supervisory practices.

The report concludes that all three models are feasible, noting that the baseline scenario must be implemented this year. For the other two models, their implementation is considered feasible within three years for the data sharing solution, given this could be implemented progressively from the baseline solution, and from five years onwards for the fully centralised hub. In terms of costs, the analysis shows that there is no significant difference among the three scenarios assessed and from overall cost perspective all three solutions are in a similar range. The report also discusses the local solutions that have already been or are in the process of being built at national level to enable reporting by 17 January. Therefore, while there are some envisaged advantages and cost reductions in absolute

terms for the fully centralised scenario, it inevitably becomes less attractive with limited advantage and incentives for changing the existing reporting channels. The ESAs stress that it is thus important that co-legislators continue to assess and consider further centralisation into a single EU hub, having regard to the different elements and aspects highlighted in this report, especially minimising costs of a transition to a fully centralised EU hub solution.

Date of publication: 17/01/2025

## **Publication of Regulation (EU) 2025/38 laying down measures to strengthen solidarity and capacities in the Union to detect, prepare for and respond to cybersecurity threats and incidents (Cyber Solidarity Act)**

Status: Published in the OJ

Date of entry into force: 04/02/2025

Date of application: 04/02/2025

The Cyber Solidarity Act has been published in the OJ. It aims to strengthen capacities in the EU to detect, prepare for and respond to significant and large-scale cybersecurity threats and attacks in a more resilient and reactive manner and to improve cooperation mechanisms.

Date of publication: 15/01/2025

## **ESMA: New Q&A on the application of the DORA**

Status: Final

ESMA has published four new Q&A on the application of the DORA regarding the following topics: (i) [questions on Microenterprises and RMF](#); (ii) [ICT-related incidents on critical services affected](#); (iii) [ICT-related incidents on duplicate ICT incident reporting](#); and (iv) [oversight framework of CTPPs on an exemption for non-EU ICT intra-group service providers](#).

Date of publication: 10/01/2025

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f) Remuneration

(i) Germany

## **BReg: Second government draft of the Second Future Financing Act (*Regierungsentwurf des Zweiten Zukunftsfinanzierungsgesetzes*)**

Status: Final

The Federal Government (*Bundesregierung* – BReg) has published another government draft on the Second Financing for the Future Act (*Zweites Zukunftsfinanzierungsgesetz* – 2. ZuFinG). The aim of this planned legislative package is to ensure increasing investment in growth companies and infrastructure projects by way of establishing a more attractive legal and tax framework. This is intended to further strengthen the competitiveness and attractiveness of Germany as a financial centre and, in particular, to improve financing options for young and dynamic companies.

In particular a loosening of employment protection rules which so far only applied to managers in systemically important banks, should in future also apply to smaller financial institutions, insurance companies and investment firms. In addition, the federal government is planning to create a legally secure framework for investments in

renewable energies and infrastructure in order to implement urgently needed projects and accelerate the transition to a more sustainable future.

Date of publication: 15/01/2025

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g) Qualifying holdings

(i) Germany

**BaFin: Translation of the updated Holder Control Regulation (*Übersetzung der aktualisierten Inhaberkontrollverordnung*)**

Status: Final

BaFin has published an updated English version of the Holder Control Regulation (*Inhaberkontrollverordnung – InhKontrollV*), the Regulation on Notifications in Accordance with Section 2c of the German Banking Act (*Kreditwesengesetz – KWG*) and Section 104 of the German Insurance Supervision Act (*Versicherungsaufsichtsgesetz – VAG*).

Date of publication: 16/01/2025

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h) Supervisory reporting

(i) Germany

**BaFin: Consultation 03/2025 on a General Administrative Act regarding diversity reporting (*Konsultation 03/2025 über eine Allgemeinverfügung zu Diversitätsanzeigen*)**

Status: Consultation

Deadline for the submission of comments: 21/02/2025

BaFin has launched a consultation on a General Administrative Act regarding diversity reporting, aiming to comply with the [EBA Guidelines on benchmarking of diversity practices, including diversity policies and gender pay gap under the CRD](#). The Guidelines specify which data must be collected to comply with the requirement for national competent authorities (NCAs) to collect data on diversity in institutions pursuant to Article 91(11) CRD. They will be applied for the first time this year, starting from 30 April 2025. In future, selected institutions will have to submit the notification every three years. The legislative process to adapt the German Banking Act (*Kreditwesengesetz – KWG*) and the Notification Regulation (*Anzeigenverordnung – AnzV*) could not be completed by these reporting deadlines. Therefore, a General Administrative Act is necessary.

The target group of these Guidelines are significant credit institutions pursuant to Section 1(3c) KWG. BaFin will inform the other participating institutions individually about their participation. In addition, the EBA has published the list of participating institutions on its [website](#).

Date of publication: 31/01/2025

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i) Accounting/Prudential filter/Audit

(i) EU

### **Publication of Commission Delegated Regulation (EU) 2025/19 of 26 September 2024 amending the regulatory technical standards laid down in Delegated Regulation (EU) 2019/815 as regards the 2024 update of the taxonomy for the single electronic reporting format**

Status: Published in the OJ

Date of entry into force: 04/02/2025

Date of application: 01/01/2025

The Commission Delegated Regulation (EU) 2025/19 of 26 September 2024 amending the regulatory technical standards laid down in Delegated Regulation (EU) 2019/815 as regards the 2024 update of the taxonomy for the single electronic reporting format has been published in the OJ.

The EC has published a draft Delegated Regulation amending the RTS laid down in Delegated Regulation (EU) 2019/815 as regards the 2024 update of the taxonomy for the single electronic reporting format (the European Single Electronic Format – ESEF). This RTS aims to amend the existing RTS on ESEF to reflect, in combination, the 2023 and the 2024 updates of the IFRS Accounting taxonomies.

Date of publication: 15/01/2025

## **1.2 RECOVERY AND RESOLUTION**

(i) Eurozone

### **SRB: Revised operational guidance on operational continuity in resolution**

Status: Final

The SRB has published a revised version of the operational guidance on operational continuity in resolution. The guidance provides further clarifications to banks on how to implement SRB expectations for resolvability related to: (i) service identification and mapping; (ii) assessment of operational continuity risk; and (iii) mitigating measures, such as having adequately documented, resolution-resilient contracts, appropriate management information systems, and governance arrangements. The guidance was originally published in 2021, the new revisions follow the development of new frameworks, such as DORA, and new provisions, such as the EBA Guidelines on improving resolvability. The SRB notes that some of the additions will, in practice, depend for their application on measures currently pending.

Date of publication: 23/01/2025

## **1.3 STRESS TESTS/MACROPRUDENTIAL TOPICS**

(i) EU

### **EBA: EU-wide stress test for banks**

Status: Final

The EBA has published a press release announcing the launch of the 2025 EU-wide stress test for banks. The aim of the stress test is to provide supervisors, banks and other market participants with a common analytical framework to compare and assess the resilience of EU banks and the EU banking system to shocks, as well as

challenging the capital position of EU banks. The resilience will be assessed under a common macro-economic baseline and common adverse scenario covering 2025-2027, and includes hypothetical worsening of geopolitical tensions. The EBA has published a [methodological note](#) defining how banks should calculate the stress impact of the common scenarios and sets of constraints for their calculations, as well as providing further guidance to banks for performing the test. Accompanying this note is a [Template Guidance](#), also provided by the EBA, to further assist banks with populating their templates for the stress test. The EBA have also published a set of [FAQs](#) on the key features of the stress test. The new banking package, which has applied since 1 January, is also embedded in the stress test accordingly. The stress test covers a sample of 64 banks representing about 75% of banks' total assets in the EU and Norway. The ECB has also published a [press release](#) together with [FAQs](#) on their role in the stress test as prudential supervisor of banks in the single supervisory mechanism. The EBA expects to publish the results of the exercise at the beginning of August.

Date of publication: 20/01/2025



## 2. Investment firms regulation

(i) EU

### **ESAs: Approval of terms of reference for new EU-SCICF Forum under DORA**

Status: Final

The ESAs have published the terms of reference for the EU systemic cyber incident co-ordination framework Forum established under DORA. For more information, please see section 1.1e) above.

Date of publication: 27/01/2025

### **ESAs: Report on the feasibility for further centralisation of reporting of major ICT-related incidents under DORA**

Status: Final

The ESAs have published a report on the feasibility for further centralisation of reporting of major ICT-related incidents by financial entities according to Article 21 DORA. For more information, please see section 1.1e) above.

Date of publication: 17/01/2025

### **ESMA: New Q&A on the application of the DORA**

Status: Final

ESMA has published four new Q&A on the application of the DORA. For more information, please see section 1.1e) above.

Date of publication: 10/01/2025

# 3. Market regulation/ Conduct rules

## 3.1 BENCHMARKS

### (i) EU

#### **EP: Publication of provisionally agreed text of proposed Regulation amending the Benchmark Regulation**

Status: Final

The EP has updated its legislative procedure file for the proposed Regulation amending the BMR as regards the scope of the rules for benchmarks, the use in the Union of benchmarks provided by an administrator located in a third country and certain reporting requirements. The EP has published the provisionally agreed text of the proposed Regulation (dated 7 January) to the document gateway section of the procedure file.

The provisional agreement now needs to be confirmed by the EP and the Council of the EU before it can be formally adopted. The provisionally agreed text will be submitted to the EP's Committee on Economic and Monetary Affairs for decision on 16 January. Once the proposed Regulation has been formally adopted, the final text will be published in the OJ. It will enter into force on the twentieth day following its publication and apply from 1 January 2026.

Date of publication: 10/01/2025

## 3.2 MIFID/MIFIR

### (i) EU

#### **EC: Commission Delegated Regulation (EU) .../... supplementing MiFIR as regards OTC derivatives identifying reference data to be used for the purposes of the transparency requirements laid down in Article 8a(2) and Articles 10 and 21 MiFIR**

Status: Adopted by the EC

The EC has adopted the draft Delegated Regulation supplementing MiFIR as regards OTC derivatives identifying reference data to be used for the purposes of the transparency requirements laid down in Article 8a(2) and Articles 10 and 21 MiFIR, following its consultation on the draft text in June 2024. The identifying reference data are to be used from 1 September 2026 for OTC interest rate and OTC credit default swaps. The Delegated Regulation includes an annex which lists identifying reference data for OTC interest rate swaps and separately lists standard business terms for the reference rates referenced in OTC interest rate swaps subject to the MiFIR transparency requirements.

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

Date of publication: 24/01/2025

## **ESMA: Start of DPE regime on 3 February and end of publication of Systematic Internalisers data**

Status: Final

ESMA has published a press release, reminding market participants that the new regime for the reporting of Over the Counter (OTC) transactions for post-trade transparency purposes, the Designated Publishing Entities (DPE) regime, becomes fully operational on 3 February 2025. The DPE regime was introduced following the EU MiFID/MiFIR Review and means the responsibility for reporting transactions carried out over-the-counter will turn on whether or not firms hold DPE status. The press release also confirms that ESMA will no longer publish the quarterly systematic internaliser (SI) data. From September 2025, ESMA will no longer be required to calculate quarterly SI data and given the imminence of the end of the regime, ESMA has decided stop publishing this data. Accordingly, the mandatory SI regime will no longer apply from 1 February although firms may continue to opt in to the regime.

Date of publication: 24/01/2025

## **EBA: Application specifications on consolidated tape provider selection procedure – bonds**

Status: Final

The ESMA has launched the first selection procedure for the Consolidated Tape Provider (CTP) for bonds. The CTP aims to enhance market transparency and efficiency by consolidating trade data from various trading venues into a single and continuous electronic stream. ESMA believes that this consolidated view of market activity should help market participants to access accurate and timely information and make better-informed decisions, leading to more efficient price discovery and trading. Entities interested in applying are encouraged to register and submit their requests to participate in the selection procedure by 7 February. ESMA will assess the received requests against the exclusion and selection criteria and will invite the successful candidates to submit their application. ESMA intends to adopt a reasoned decision on the selected applicant by early July. The successful applicant will be selected to operate the CTP for a period of five years and invited to apply for authorisation with ESMA without undue delay. Once authorised, the CTP will be supervised by ESMA. Further information about the process is available on the dedicated webpage.

Date of publication: 03/01/2025

# 4. Market infrastructure

## 4.1 CUSTODY RULES

### (i) EU

#### **ESMA: New Q&A on the implementation of the CSDR**

Status: Final

ESMA has published new Q&A on the implementation of the Central Securities Depositories Regulation (CSDR) regarding the following topic: change of beneficial ownership.

Date of publication: 10/01/2025

## 4.2 EMIR

### (i) EU

#### **ECB: FAQs on initial margin model approvals under EMIR3**

Status: Final

The ECB has published eleven FAQs on the topic of initial margin (IM) model approvals under EMIR3, following the [no action letter](#) on the application of EMIR published on 17 December 2024 by the EBA. The questions relate to the interim approach for the time until the application of EMIR as well as the requirements following its application.

Date of publication: 31/01/2025

#### **ESMA: Speech on EMIR 3 work programme**

Status: Final

ESMA has published a speech given by Klaus Löber, Chair of the ESMA CCP Supervisory Committee. In the speech, Mr Löber set out several areas where ESMA sees an opportunity to progress and improve the efficiency of EU capital markets, including in relation to clearing. He noted a number of recommendations for more effective and attractive capital markets, including initiatives in relation to the Savings and Investment Union workstream and the opportunity presented by the new Presidency to streamline regulatory rules to remove inconsistencies or duplications. Specifically in relation to its EMIR 3 mandates, Mr Löber noted ESMA prioritisation of the work given the need to finalise most of the required RTS and ITS by December and that ESMA firstly focused on the active account requirement, and Mr Löber confirmed that ESMA is on track to deliver a draft RTS to the EC “well before” June 2025. Among other comments in relation to the integration and coordination of the supervisory framework for CCPs, Mr Löber welcomed the Commission's proposal to extend the equivalence decision for UK CCPs until 30 June 2028.

Date of publication: 29/01/2025

## **ESMA: Final report on RTS on colleges for CCPs**

Status: Draft

ESMA has published its final report containing draft RTS relating to colleges for central counterparties (CCPs) under EMIR 3. The report presents draft amendments to the RTS on colleges for CCPs, to reflect the changes introduced by EMIR 3 on the functioning of CCP colleges. The proposed draft amendments concern the practical arrangements for the functioning of the college with regard to the respective roles of the co-chairs and the interaction between them, the information to be shared with the college and the modalities of communication between college members.

ESMA is not conducting an open public consultation on the proposed amendments, as the proposed amendments are limited in scope and only concern competent authorities. ESMA has consulted the ESCB and other relevant competent authorities, and has also consulted the Securities and Markets Stakeholder Group. ESMA will submit the draft amendments to the EC, which will have three months to decide whether to endorse them.

Date of publication: 28/01/2025

## **ESMA: New Q&A on the implementation of EMIR**

Status: Final

ESMA has published new Q&A on the implementation of EMIR regarding the following topic: calibration of confidence interval for CCP margin requirements.

Date of publication: 10/01/2025

### **4.3 CLEARING, SETTLEMENT, AND CCPS RELATED RULES OTHER THAN IN THE CONTEXT OF DERIVATIVES**

#### **(i) EU**

#### **ESMA: Start of new governance structure for transition to T+1 settlement cycle**

Status: Final

ESMA has launched a new governance structure for transition to T+1 settlement cycle in the EU. Following ESMA's report with recommendations on the shortening of the settlement cycle, the new governance structure has been designed to oversee and manage the operational, regulatory and technological aspects of this transition. Given the high level of interconnectedness within the EU capital market, a coordinated approach across the EU, involving authorities, market participants, financial market infrastructures and investors, is desirable. ESMA has recommended 11 October of 2027 as the optimal date for the transition to T+1 in the EU. In its Report ESMA concluded that the transition to T+1 should be implemented in phases, with key milestones including technology upgrades, stakeholder engagement and regulatory alignment.

Date of publication: 22/01/2025

(ii) International

### **BCBS/IOSCO: Report on effective practices for streamlining variation margin in centrally cleared markets**

Status: Final

The BCBS has published that the CPMI and IOSCO have agreed on a final report on examples of effective practices for streamlining variation margin in centrally cleared markets. The report sets out eight effective practices which aim to provide examples of how standards set out in the CPMI-IOSCO Principles for Financial Market Infrastructures (PFMI), as supplemented by the relevant guidance, can be met. In particular, they are intended to inform CCPs as they design their variation margin call and collection processes in line with the PFMI and 2017 CPMI-IOSCO final report on Resilience of central counterparties: Further guidance to the PFMI. The effective practices cover several aspects of cleared variation margin practices, including scheduled and ad hoc intraday variation margin calls, the use of excess collateral held at CCPs to meet variation margin requirements, the pass-through of variation margin by CCPs, and CCP-clearing members and clearing member-client transparency regarding variation margin processes. The effective practices take into account feedback from industry on the discussion paper streamlining variation margin in centrally cleared markets published in February and build on the BCBS-CPMI-IOSCO review of margining practices published in September 2022. The report forms one element of a comprehensive approach to improving transparency, streamlining margin processes, increasing the predictability of margin requirements and improving the liquidity preparedness of non-bank market participants for margin calls, jointly taken by the BCBS, CPMI, IOSCO and the FSB. It is intended to be read alongside the other related reports published on the same day, discussed below.

Date of publication: 15/01/2025

### **BCBS/IOSCO: Final report on transparency and responsiveness of initial margin in centrally cleared markets – review and policy proposals**

Status: Final

The BCBS, CPMI and IOSCO have published a final report on transparency and responsiveness of initial margin in centrally cleared markets. The report sets out ten final policy proposals, with the aim of increasing the resilience of the centrally cleared market ecosystem in times of market stress. The proposals are also designed to improve market participants' understanding of centrally cleared initial margin calculations and potential future margin requirements. They cover aspects of CCP transparency, governance and review of initial margin models, as well as clearing member transparency for clients and CCPs. The final policy proposals take into account feedback received from industry on the consultative report on the same topic published in January 2024. A note published alongside the report summarises the feedback received from respondents on the proposals set out in the consultative report and the rationale for the changes made as a result of that feedback. The relevant standard setting bodies will now consider how best to implement the ten proposals. The report forms one element of a comprehensive approach to improving transparency, streamlining margin processes, increasing the predictability of margin requirements and improving the liquidity preparedness of non-bank market participants for margin calls, jointly taken by the BCBS, CPMI, IOSCO and the FSB. It is intended to be read alongside the other related reports published on the same day, discussed further in this section. On the same day, the BoE announced that it co-chaired, with the Commodity Futures Trading Commission (CFTC), international work on increasing the transparency and evaluating the responsiveness of initial margin in centrally cleared markets, which resulted in publication of this report. The BoE and the CFTC support the report's findings.

Date of publication: 15/01/2025

## **BCBS/IOSCO: Report on streamlining variation margin processes and initial margin responsiveness of margin models in non-centrally cleared markets**

Status: Final

The BCBS and IOSCO have published a final report on streamlining variation margin processes and initial margin responsiveness of margin models in non-centrally cleared markets. The report follows on from the BCBS-CPMI-IOSCO September 2022 review of margining practices. To encourage the widespread implementation of good market practices related to variation margin processes and the responsiveness of initial margin models, the report sets out eight recommendations to participants in non-centrally cleared markets. The first four recommendations aim to address challenges that could inhibit a seamless exchange of variation margin during a period of stress. The other four highlight practices that would support market participants' smooth implementation of initiatives to ensure the calculation of initial margin is consistently adequate for market conditions and proposes that supervisors monitor whether these developments are sufficient to make initial margin responsive enough to extreme market shocks. The report forms one element of a comprehensive approach to improving transparency, streamlining margin processes, increasing the predictability of margin requirements and improving the liquidity preparedness of non-bank market participants for margin calls, jointly taken by the BCBS, CPMI, IOSCO and the FSB. It is intended to be read alongside the other related reports published on the same day, discussed further in this section.

Date of publication: 15/01/2025

### **4.4 STOCK EXCHANGES**

#### **(i) International**

#### **GFXC: Amended FX Global Code of Conduct**

Status: Final

The Global Foreign Exchange Committee (GFXC) published the updated version of the FX Global Code of Conduct (dated December 2024), which supersedes the previous version (from July 2021). Updates have been made to strengthen the Code's content and guidance on settlement risk, transparency and use of data on electronic trading platforms. The updated Code also includes links to GFXC reports which are published from time to time and while not forming part of the Code, are intended to facilitate wider awareness and understanding of specific aspects of the FX market. The GFXC has also published enhanced disclosure cover sheets (DCS) for liquidity providers and platforms available via its DCS webpage. The GFXC encourages all market participants to review the amendments to the Code and consider renewing their Statement of Commitment (SoC), taking into account the nature and relevance of the updates to their FX market activities. It considers that a 12-month period should be sufficient for those affected by the changes to align their practices with the Code's principles.

Date of publication: 24/01/2025

# 5. Anti-money laundering

## (i) Germany

### **BaFin: Interpretation and application guidance on the Money Laundering Act for credit institutions (*Auslegungs- und Anwendungshinweise zum Geldwäschegesetz für Kreditinstitute*)**

Status: Final

BaFin has published an English translation for convenience on its interpretation and application guidance – special part for credit institutions, in fulfillment of its legal mandate under Section 51(8) Money Laundering Act (*Geldwäschegesetz – GwG*), regarding the version dated June 2021. The guidance specifies the legal provisions which are intended to support the credit institutions obliged under Section 2(1)(1) GwG in the implementation of their duties. The guidance is aimed at facilitating the proper implementation of the legally prescribed due diligence obligations as well as the internal security measures and follows a risk-based approach. For example, the areas of correspondent banking relationships and monitoring systems are explained in detail.

The information applies to all obliged entities under the GwG that are under BaFin's supervision pursuant to Section 50(1) and (2) GwG.

Date of publication: 28/01/2025

### **Regulation on the amendment of the German Money Laundering Act Reporting Regulation for real property (*Verordnung zur Änderung der Geldwäschegesetzmeldepflichtverordnung-Immobilien*)**

Status: Published in the Federal Gazette

Date of entry into force: 17/02/2025

The Regulation on the amendment of the German Money Laundering Act (*Geldwäschegesetz – GwG*) reporting regulation for real property (*GwGMeldV-Immobilien*) has been published in the Federal Gazette. This amendment aims to strengthen the fight against financial crime in the real estate sector. Since the GwGMeldV-Immobilien came into force in 2020, adjustments to individual provisions of the regulation have become necessary due to legal changes in the GwG and the results of an evaluation, which are being implemented with the amending regulation. The core aim of the amendment is to adapt the GwGMeldV-Immobilien to the ban on cash payments when purchasing real estate (Section 16a GwG). Two new reporting provisions ensure that reports are made to the Central Office for Financial Transaction Investigations not only in the event of a violation of the cash payment ban, but also in the event of a violation or abusive circumvention of the evidence requirements of Section 16a GwG.

In addition, the results of a comprehensive evaluation of the reporting provisions of the GwGMeldV-Immobilien informed the exclusion of certain reports that are not valuable in terms of preventing and combating money laundering and terrorist financing. The associated increase in the quality of suspicious transaction reports is a further building block in the intensive and ongoing work of the Federal Government to improve the fight against money laundering and terrorist financing.

Date of publication: 20/01/2025

# 6. Payments

## 6.1 PAYMENT SERVICES/E-MONEY

### (i) Germany

#### **BaFin: Repeal of the Circular 03/2022 on reporting major payment security incidents pursuant to Section 54(1) of the Payment Services Oversight Act (*Aufhebung des Rundschreibens 03/2022 zur Meldung schwerwiegender Zahlungssicherheitsvorfälle gemäß § 54 Abs. 1 ZAG*)**

Status: Final

BaFin has announced that the Circular 03/2022 on reporting major payment security incidents pursuant to Section 54(1) of the Payment Services Oversight Act (*Rundschreiben zur Meldung schwerwiegender Zahlungssicherheitsvorfälle gemäß § 54 Abs. 1 ZAG*) will be repealed on 17 January 2025, the date of applicability for the DORA. The reason is that Chapter III of the DORA will then require financial companies to report serious ICT-related incidents. Accordingly, all incidents that occur before 17 January 2025 must be reported in accordance with Circular 03/2022. For incidents for which an initial report is submitted before 17 January 2025, interim and final reports must also be reported after 17 January 2025 in accordance with the requirements of Circular 03/2022 regarding the PSD2 payment security incidents procedure in the BaFin reporting and publication platform (*Melde- und Veröffentlichungsplattform – MVP*). Incidents that occur from 17 January 2025 are subject to the reporting obligations under Chapter III DORA and must be reported in accordance with these requirements.

Date of publication: 10/01/2025

#### **BaFin: Repeal of the Circular 11/2021 on the payment services supervisory requirements for the IT payment and e-money institutions (*Aufhebung des Rundschreibens 11/2021 über die zahlungsdiensteaufsichtlichen Anforderungen an die IT von Zahlungs- und E-Geld-Instituten – ZAIT*)**

Status: Final

BaFin has published that it will repeal the Circular 11/2021 on the payment services supervisory requirements for the IT payment and e-money institutions (*Rundschreiben 11/2021 über die zahlungsdiensteaufsichtlichen Anforderungen an die IT von Zahlungs- und E-Geld-Instituten – ZAIT*) at the end of 16 January 2025. The reason for this repeal is that the supervisory requirements for IT are essentially covered by the EU Regulation DORA which will apply from 17 January 2025. By repealing the ZAIT, BaFin avoids double regulation.

Date of publication: 10/01/2025

(ii) EU

**Commission Delegated Regulation (EU) 2025/212 correcting Commission Delegated Regulation (EU) 2017/2055 supplementing PSD2 with regard to RTS for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions**

Status: Published in the OJ

Date of entry into force: 20/02/2025

Date of application: 20/02/2025

The Commission Delegated Regulation (EU) 2025/212 correcting Commission Delegated Regulation (EU) 2017/2055 supplementing PSD2 with regard to RTS for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions has been published in the OJ. Annex I to Commission Delegated Regulation (EU) 2017/2055 specifies the format of the relevant unique identification number for each Member State. According to Annex I, for Denmark the ID number type for a natural person is the personal registration number (CPR number). The Delegated Regulation amends Annex I to Commission Delegated Regulation (EU) 2017/2055 to clarify that a Danish 'sole proprietorship' shall use the company registration number (CVR number) and not the CPR number.

Date of publication: 31/01/2025

**ESAs: Approval of terms of reference for new EU-SCICF Forum under DORA**

Status: Final

The ESAs have published the terms of reference for the EU systemic cyber incident co-ordination framework Forum established under DORA. For more information, please see section 1.1e) above.

Date of publication: 27/01/2025

**ESAs: Report on the feasibility for further centralisation of reporting of major ICT-related incidents under DORA**

Status: Final

The ESAs have published a report on the feasibility for further centralisation of reporting of major ICT-related incidents by financial entities according to Article 21 DORA. For more information, please see section 1.1e) above.

Date of publication: 17/01/2025

**ESMA: Repeal of Guidelines on major incident reporting under PSD2**

Status: Final

ESMA has repealed its [Guidelines on major incident reporting under PSD2](#) due to the application of harmonised incident reporting under the DORA. DORA introduced harmonised incident reporting requirements that apply to financial entities across the banking, securities/markets, insurance, and pensions sectors, including most PSPs. DORA also disapplies the incident reporting requirements under PSD2 for those PSPs. As such the EBA has repealed the Guidelines to simplify the reporting of major incidents by PSPs and provide legal certainty to the market. The EBA reminds firms that incident reporting requirements under PSD2 still apply for other types of PSPs, such as post-office giro institutions and credit unions, that are not covered by DORA. The EBA notes that those PSPs that are still subject to PSD2 incident reporting requirements may be subject to national incident reporting

requirements, regardless of the existence of the EBA Guidelines. Competent national authorities willing to retain the incident reporting approach included in the EBA Guidelines for those PSPs can continue to do so under their national legal framework or supervisory measures.

Date of publication: 17/01/2025

## **ESMA: New Q&A on the application of the DORA**

Status: Final

ESMA has published four new Q&A on the application of the DORA. For more information, please see section 1.1e) above.

Date of publication: 10/01/2025

(iii) International

## **BCBS: Promotion of ISO 20022 harmonisation for enhanced cross-border payments**

Status: Final

The BIS Committee on Payments and Market Infrastructures (CPMI) has announced further steps to promote the adoption of its harmonised ISO 20022 data requirements for more efficient processing of cross-border payments. The announcement should provide clarity to industry regarding the medium-term governance and maintenance of the harmonised data requirements during the period of global transition to the ISO 20022 messaging standard. These steps also provide impetus to industry-led efforts to develop ISO 20022 market practice Guidelines for cross-border fast payments.

Date of publication: 07/01/2025

## **6.2 PAYMENT ACCOUNTS**

(i) Germany

### **BaFin: FAQ on the process for the “comparison website for payment accounts” (FAQ zum Fachverfahren „Vergleichswebsite für Zahlungskonten“)**

Status: Final

BaFin has updated its FAQ on questions submitted by payment service providers regarding the process for the “comparison website for payment accounts”, adding two new questions: (i) Do account models other than consumer payment accounts need to be registered?; and (ii) How should payment cards be registered and named?

The aim of this website, which is available to consumers free of charge, is to create more transparency so that consumers in Germany can better compare different payment account offers. The comparison website thus contributes to collective consumer protection. With this Regulation, BaFin supplements the legal regulations in the Payment Accounts Act (*Zahlungskontengesetz – ZKG*, Sections 16 ff.) and specifies the reporting obligation of payment service providers that offer payment accounts for consumers.

Date of publication: 10/01/2025

## 6.3 PAYMENT AND SETTLEMENT SYSTEMS

### (i) International

#### **BCBS: Report on practical approaches to extend payment system operating hours**

Status: Final

The BCBS has published a CPMI report on practical approaches to extend payment system operating hours. In particular, it sets out that several real-time gross settlement (RTGS) systems have extended operating hours in recent years and have experienced notable adoption of the additional hours by participants. With the extended hours, payment system participants can offer better services to end users, such as 24/7 fast payments. Many more RTGS systems are evaluating or planning to extend operating hours in the near to medium term. Furthermore, it finds that involving payment system participants, a broader set of stakeholders or sometimes the general public from the onset and throughout such a project is critical to its success. The report holds that RTGS systems that have successfully extended operating hours to 24/7 often did so gradually. Their experience in overcoming operational, technical and risk management challenges provides important insights to other payment system operators.

Date of publication: 31/01/2025

# 7. Institutional supervisory framework

## (i) International

### **FSB: Work programme for 2025**

Status: Final

The FSB has published its work programme for 2025. Priority areas of work for 2025 include: (i) supporting global cooperation on financial stability, the FSB will continue monitoring global financial stability developments and the implications of emerging financial innovation, and conduct in-depth analysis on vulnerabilities in non-bank financial intermediation (NBFI) and climate change; (ii) enhancing the resilience of NBFI, while preserving its benefits, includes finalising policy recommendations on NBFI leverage, developing and beginning implementation of a medium-term workplan to address issues relating to non-bank data availability, use and quality and analysing the resilience and functioning of the repo market; (iii) harnessing the benefits of digital innovation while containing its risks. The FSB will produce a thematic peer review on implementation of its crypto asset recommendations, a report on how financial authorities can monitor AI adoption and assess related vulnerabilities, and finalise the format for incident reporting exchange; (iv) enhancing cross-border payments, focus will be on full implementation of the key attributes of effective resolution regimes for financial institutions across sectors; (v) completing resolution reforms; and (vi) monitoring and evaluating implementation of agreed reforms, the FSB will undertake a strategic review of the FSB's monitoring of 15 years of implementation of reforms. The Annex to the programme provides an indicative timeline of the FSB's planned publications for 2025 and 2026.

Date of publication: 23/01/2025

# 8. Investment funds

## 8.1 PRODUCT REGULATION

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a) AIF

(i) EU

### **ESMA: Seventh market report on the costs and performance of EU retail investment products**

Status: Final

ESMA has published the seventh market report on the costs and performance of EU retail investment products, showing a decline in the costs of investing in key financial products. It found that: (i) UCITS costs decline gradually, from high levels; (ii) UCITS performance slightly improved in 2023; (iii) ESG UCITS remain at lower costs and higher performance than non-ESG equivalents; (iv) AIFs are less demanded by retail investors; and (v) Structured Retail Product costs improve but remain difficult to assess for clients.

Date of publication: 14/01/2025

### **ESMA: New Q&A on the application of the AIFMD**

Status: Final

ESMA has published two new Q&A on the application of the AIFMD regarding the following topics: (i) [permission of AIFMs to delegate portfolio or risk management](#) to non-supervised undertakings established outside of the EU; and (ii) [AIFMs safekeeping client money](#).

Date of publication: 10/01/2025

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b) UCITS

(i) EU

### **ESMA: Seventh market report on the costs and performance of EU retail investment products**

Status: Final

ESMA has published the seventh market report on the costs and performance of EU retail investment products, showing a decline in the costs of investing in key financial products. For more information, please see section 8.1a) above.

Date of publication: 14/01/2025

## 8.2 PRUDENTIAL REGULATION

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a) Compliance

(i) Germany

### **BaFin: Repeal of the Circular 11/2019 on supervisory requirements for IT in German asset managers (Aufhebung des Rundschreibens 11/2019 über Kapitalverwaltungsaufsichtlichen Anforderungen an die IT – KAIT)**

Status: Final

BaFin has published that it will repeal the Circular 11/2019 on the (*Rundschreiben 11/2019 über Kapitalverwaltungsaufsichtlichen Anforderungen an die IT – KAIT*) at the end of 16 January 2025. The reason for this repeal is that the supervisory requirements for IT are essentially covered by the EU Regulation DORA which will apply from 17 January 2025. By repealing the KAIT, BaFin avoids double regulation.

Date of publication: 10/01/2025

(ii) EU

### **EC: Communication on EU competitiveness compass**

Status: Final

The EC has published a communication on a Competitiveness Compass for the EU, which sets out an action plan in response to the Draghi report published in September 2024. For more information, please see section 1.1a) above.

Date of publication: 29/01/2025

### **ESMA: Final report on Guidelines on stress test scenarios under the MMF Regulation**

Status: Final

ESMA has published its final report on Guidelines on stress test scenarios under the Money Market Funds (MMF) Regulation. Article 28 of the MMF Regulation requires ESMA to annually update the Guidelines taking into account the latest market developments. The final report includes: (i) an additional explanation on the way to report the results of the macro systemic shocks in section 4.8 of the Guidelines; and (ii) updated Guidelines and risk parameters, so that managers of MMFs have the information needed to fill in the reporting template mentioned in Article 37 of the MMF Regulation, in section 5 of the Guidelines. The annex to the report contains the full text of the updated Guidelines and the calibration of the scenarios for 2024, with the changes illustrated in red text. The Guidelines will be translated into the official EU languages and published on the ESMA website. The publication of the translations will trigger a two-month period during which national competent authorities (NCAs) must notify ESMA whether they comply or intend to comply with the Guidelines. The updated Guidelines, including the new 2024 parameters, will apply two months after the publication of the translations. Once the Guidelines apply, managers will have to report the results of the new parameters to NCAs with their quarterly reports, for the purpose of the reporting referred to in Article 37 of the MMF Regulation and set out in Commission Implementing Regulation (EU) 2018/7083. Until then, ESMA explains that managers should continue to use the parameters set in the 2023 Guidelines and report the results accordingly. In addition to the report, the European Systemic Risk Board (ESRB) published the adverse scenario for the 2024 ESMA's MMF stress-testing Guidelines (dated 3 December). The document sets out the adverse financial market scenario for the stress-testing exercise carried out by ESMA. The ESRB, in collaboration with the ECB and ESMA, has updated the calibration of stress parameters for the 2024

ESMA MMF Guidelines. The updated parameters were approved by the ESRB General Board in November. All assumptions about redemptions and the additional guidance on applying the scenario are provided by ESMA as part of its MMF stress-testing Guidelines.

Date of publication: 07/01/2025



# 9. Special rules for real estate financing and covered bonds

## 9.1 COVERED BONDS

### (i) Germany

#### **BaFin: Letter to covered bonds banks (*Schreiben für Pfandbriefbanken*)**

Status: Final

BaFin has published a letter directed at the German banking industry. Since the CRR3 has entered in force on 1 January 2025, it allows the financial supervisory authority BaFin make a decision of the application of limit on value appreciations set out in CRR3. The letter sets out how BaFin aims to make use of this. Value appreciation of real estate is generally not permitted under covered bonds law if it serves as collateral to cover mortgage bonds subject to two exceptions set out in the letter.

Date of publication: 02/01/2025

## 9.2 BUILDING SOCIETIES

### (i) Germany

#### **BaFin: General Administrative Act regarding the collective report on building societies (*Allgemeinverfügung bezüglich des kollektiven Lageberichts von Bausparkassen*)**

Status: Final

BaFin has published a General Administrative Act regarding the collective report on building societies. According to Section 3(5) of the Building Societies Act (*Bausparkassengesetz – BauSparkG*), building societies have to submit their collective annual report to BaFin annually. With this draft, BaFin intends to further develop the relevant requirements on these reports: from 2025, building societies will need to submit their collective annual reports to BaFin on a uniform date. In doing so, they are to submit the results of the building society simulation model. BaFin also intends to provide building societies with a specific scenario from 2025 that they should use for their collective annual report.

The General Administrative Act is addressed at all building societies in accordance with the BauSparkG.

Date of publication: 20/01/2025

# 10. Special topics

## 10.1 FINTECH/DIGITAL FINANCE

### (i) Germany

#### **BaFin: Two Guidance Notices with regard to the MiCA Regulation (*Zwei Merkblätter zu MiCA*)**

Status: Final

BaFin has published two Guidance Notices with regard to the MiCA Regulation, dealing with crypto asset services and authorisation requirements for ART and EMT.

- ♦ [Guidance Notice on crypto asset services according to the MiCA Regulation \(\*Merkblatt Kryptowerte-Dienstleistungen nach MiCAR\*\)](#)
- ♦ [Guidance Notice on authorisation requirements for ART and EMT according to the MiCA Regulation \(\*Merkblatt Zulassungsanforderungen bzgl. ART und EMT nach MiCAR\*\)](#)

Date of publication: 03/01/2025

### (ii) EU

#### **ESMA: Supervisory briefing on the authorisation of CASPs under MiCA**

Status: Final

ESMA has published a supervisory briefing on the authorisation of CASPs under MiCA, aiming to align practices across the EU member states. The briefing promotes convergence and prevents regulatory arbitrage, providing concrete guidance about the expectations on applicant Crypto Asset Service Providers (CASPs), and on NCAs when they are processing the authorisation requests. For example, the briefing contains clear guidance on: (i) substance and governance and the ability of CASPs offering their service in the EU to operate autonomously and with sufficient in-country personnel; (ii) outsourcing and the effective limits to set regarding the externalisation of functions and services; and (iii) suitability of personnel and the importance for CASPs, and particularly its executive management, to demonstrate effective technical knowledge of the crypto ecosystem. The guidance in the briefing helps NCAs, applicants and the general public to operationalise MiCA and RTS obligations into concrete controls and checks. Consequently, it serves to maintain a strong regulatory framework characterised by a consistent, effective, and forceful supervision.

Date of publication: 31/01/2025

#### **ESAs: Approval of terms of reference for new EU-SCICF Forum under DORA**

Status: Final

The ESAs have published the terms of reference for the EU systemic cyber incident co-ordination framework Forum established under DORA. For more information, please see section 1.1e) above.

Date of publication: 27/01/2025

## **ESMA: Opinion on RTS specifying certain requirements in relation to conflicts of interest for crypto-asset service providers under MiCA**

Status: Draft

ESMA has published an opinion on draft RTS specifying the policies and procedures relating to conflicts of interest for cryptoasset service providers (CASPs) under MiCAR and the details and methodology for the content of disclosing conflicts of interest.

ESMA had submitted its final report on the draft RTS to the EC on 31 May 2024. The EC subsequently notified ESMA that it intended to adopt the draft RTS with amendments and invited ESMA to submit a new draft reflecting the proposed amendments should it wish to do so. ESMA's opinion proposes limited changes to the EC's amendments which relate to personal transactions, conflicts of interest policies and procedures in the context of remuneration, conflicts of interest potentially detrimental to the CASP, dedication of adequate resources by CASPs and multifunction crypto-asset intermediaries. The EC may adopt the RTS with the amendments it considers relevant or reject them. The European Parliament and the Council of the EU have a period of three months to object to any RTS adopted by the EC.

Date of publication: 24/01/2025

## **ESMA: Public statement on the provision of certain crypto-asset services in relation to non-MiCA compliant ARTs and EMTs**

Status: Final

ESMA has published a statement on the provision of certain cryptoasset services in relation to asset-referenced tokens (ARTs) and e-money tokens (EMTs) that are non-compliant under the regulation on markets in cryptoassets. On the same day, the EC delivered a Q&A clarifying that certain cryptoasset services may constitute an offer to the public or admission to trading in the EU and that to comply with the MiCA Regulation, those services may only be carried out if the issuer of the ART or EMT is EU-authorized. In its statement, ESMA warns cryptoasset service providers (CASPs) to promptly take action to ensure that they are compliant. However, ESMA is aware that sudden actions to align with the MiCA Regulation could lead to disorderly cryptoasset markets. To mitigate such disruptions and to aid with a smooth transition, ESMA calls on national competent authorities (NCAs) to guide CASPs towards ceasing by no later than Q1 this year any non-compliant cryptoasset services relating to unauthorised issuers of ARTs or EMTs. In the event a CASP is uncertain of the classification of cryptoassets, it should contact its relevant NCA for further guidance. To aid with a smooth transition to MiCA Regulation-compliant alternatives, CASPs providing non-compliant services are expected to restrict such services by the end of this month. CASPs must also avoid entering into new products and offering services involving non-MiCA Regulation compliant ARTs and EMTs. To allow EU investors to liquidate or convert their position in non-compliant ARTs and EMTs, CASPs may continue to maintain cryptoasset services for these products on a "sell only" basis until the end of Q1 this year. ESMA's recommendation is that CASPs should implement technical procedures and initiatives to facilitate this liquidation.

Date of publication: 17/01/2025

## **ESAs: Report on the feasibility for further centralisation of reporting of major ICT-related incidents under DORA**

Status: Final

The ESAs have published a report on the feasibility for further centralisation of reporting of major ICT-related incidents by financial entities according to Article 21 DORA. For more information, please see section 1.1e) above.

Date of publication: 17/01/2025

## **EBA/ESMA: Joint report on recent developments in crypto-assets (Article 142 MiCA Regulation)**

Status: Final

The EBA and ESMA have published a joint report on recent developments in crypto-assets. In the report, the EBA and ESMA found that decentralised finance (DeFi) remains a niche phenomenon, with value locked in DeFi protocols representing 4% of all cryptoasset market value at the global level. The report also explains that EU adoption of DeFi, while above the global average, is lower than other developed economies, and that the number of DeFi hacks and the value of stolen cryptoassets has generally evolved in correlation with the DeFi market size. Since flows on decentralised exchanges represent 10% of spot crypto trading volumes globally, DeFi protocols present significant risks of money laundering and terrorist financing. The EBA and ESMA also found the implications of maximal extractable value (MEV) on DeFi markets to be widespread in DeFi and negative externalities of MEV would require technical solutions. On the lending, borrowing and staking of cryptoassets, the report contains an analysis of the main types and typical features of the business models observed in the market, in both centralised and decentralised forms. These services are offered by several CASPs in EU jurisdictions which in some cases also offer regulated cryptoasset services. Based on the limited existing evidence, the regulators found there to be limited engagement of EU consumers and financial institutions with crypto lending, borrowing and staking services. The report sets out and assesses the specific risks associated with each of them, such as excessive leverage, information asymmetries, exposure to money laundering and terrorist financing risks, and systemic risks arising from re-hypothecation and collateral chains, procyclicality and interconnectedness. In particular, the report finds that some users may receive insufficient information on the terms and conditions of these services in areas such as fees, interest rates paid or yields, changes to collateral requirements, among other relevant disclosures. Despite this, the EBA and ESMA have not identified current risks from a financial stability perspective.

Date of publication: 16/01/2025

## **ESMA: New Q&A on the MiCA Regulation**

Status: Final

ESMA has published three new Q&A on the MiCA Regulation regarding the following topics: (i) [possibility of natural persons and trusts / trustees to be authorised as CASPs](#); (ii) [minimum capital requirements for CASPs](#); and (iii) [audit / certification of CASP financial statements](#).

Date of publication: 10/01/2025

## **ESMA: New Q&A on the application of the DORA**

Status: Final

ESMA has published four new Q&A on the application of the DORA. For more information, please see section 1.1e) above.

Date of publication: 10/01/2025

## **EBA: Consultation on draft RTS on the calculation and aggregation of crypto exposure values under Article 501d(5) of the CRR**

Status: Consultation

Deadline for the submission of comments: 08/04/2025

The EBA has published a consultation paper on its draft RTS on the calculation and aggregation of crypto exposure values under Article 501d(5) of the CRR. The RTS specify the technical elements necessary for institutions to

calculate and aggregate crypto-asset exposures in relation to the prudential treatment of such exposures. The RTS aim to address implementation aspects and ensure harmonisation of the capital requirements on crypto-assets exposures by institutions across the EU. The draft RTS also further develop the relevant capital treatment for credit risk, counterparty credit risk, market risk and credit valuation adjustment risk for 'asset reference tokens' and 'other' crypto-assets exposures and align, to the extent possible, the capital treatment with the elements specified in the Basel standard on prudential treatment of crypto-asset exposures. The draft RTS also include all the relevant technical elements on the use of netting, aggregating of long and short positions, criteria to allow hedge recognition for other crypto-assets, and the underlying formulas relevant for calculating the exposure value of crypto-assets for the counterparty credit risk and market risk treatment. In addition, the draft RTS propose that all fair valued crypto-assets within the scope of MiCAR under the applicable accounting framework shall be subject to the requirements for prudent valuation under the CRR 3. Transitional provisions in the CRR 3, together with the rules set out in these draft RTS, enable institutions to adequately capitalise their crypto-asset exposures until a permanent prudential treatment comes into force. The EBA will hold a virtual public hearing on 4 March. The deadline for comments is 8 April.

Date of publication: 08/01/2025

## 10.2 AI

### (i) International

#### **Global Financial Innovation Network: Report on key insights on the use of consumer-facing AI in global financial services**

Status: Final

The Global Financial Innovation Network (GFIN) has published a report summarising discussions led by the FCA and the Dubai Financial Services Authority on the use of consumer-facing AI in global financial services and the implications for global financial innovation. These discussions took place at roundtables in July and October 2024, and covered use cases of consumer-facing AI in financial services and the opportunities and challenges presented. The FCA roundtable in July 2024 in particular explored robo-advice, personalised finance and the provision of consumer education and information. Overall, the report supported the development of further innovative solutions for consumers and the exploration of striking a balance with consumer and market protection, and international collaboration and knowledge sharing. In particular, participants proposed the creation of a formalised GFIN AI Working Group, which could include non-GFIN stakeholders to explore various AI topics. The GFIN will consider this suggestion as it plans its next steps to ensure collaboration continues and grows.

Date of publication: 27/01/2025

## 10.3 SUSTAINABLE FINANCE

### (i) EU

#### **EC: Communication on EU competitiveness compass**

Status: Final

The EC has published a communication on a Competitiveness Compass for the EU, which sets out an action plan in response to the Draghi report published in September 2024. For more information, please see section 1.1a) above.

Date of publication: 29/01/2025

## **Platform on Sustainable Finance: Report on building trust in transition – core elements for assessing corporate transition plans**

Status: Final

The EU Platform on Sustainable Finance (PSF) has published a report providing advice to the EC on the development and assessment of corporate transition plans. The PSF identifies core elements for evaluating transition plans and makes recommendations to the EC on how best to improve the effectiveness of its policy framework and support the market's provision and access to transition finance. In its report, the PSF states that companies should clearly communicate to financial market participants (FMPs) any gaps and how they will be addressed. FMPs, should then use credible and robust transition plans to help inform their investment and lending decisions, supporting companies in enhancing their plans over time.

The key recommendations addressed in the report include: (i) developing sectoral transition pathways for high-emitting sectors at the EU level, including technology roadmaps; (ii) providing guidance for selecting scenarios that can be used for credible science-based corporate target setting and transition planning; (iii) creating criteria for qualifying targets as credible and science-based; (iv) considering robust transition plans as a valuable source of information for discussions on future decarbonisation initiatives and infrastructure planning; (v) conducting further work to explain the depreciation of assets at risk of becoming stranded, the impact of embedded emissions in fossil fuel reserves, and the identification of carbon lock-in with new investments; (vi) introducing a monitoring framework or a public registry of emission reduction data per sector to track implementation of transition plans at company and sector-level; and (vii) implementing a common transition plan template for non-financial undertakings, for use across different areas of EU legislation.

Date of publication: 23/01/2025

## **EBA: Consultation on draft Guidelines on ESG scenario analysis**

Status: Consultation

Deadline for the submission of comments: 16/04/2025

The EBA has launched a consultation on draft Guidelines on ESG scenario analysis. For institutions using the IRB approach for calculating the own funds requirements for credit risk, these Guidelines are intended to specify the way in which ESG risks, and in particular physical and transition risks stemming from climate change, are taken into account in the scenarios used for credit risk internal stress testing. They: (i) specify the different uses institutions should make of scenario analysis and propose a progressive and proportionate approach to incorporating scenario analysis into the institution management system; (ii) provide guidance on what is required before undertaking a scenario analysis and more specifically on the criteria for setting scenarios and identifying the transmission channels for translating climate risks into financial risks; and (iii) specify the distinctive features to be taken into account when conducting a climate stress test in addition to the requirements set out in the Guidelines on institutions' stress testing and the use of scenarios to help define and adjust the institution's strategy and test the robustness of its business model to a range of plausible futures. These Guidelines complement the EBA Guidelines on the management of ESG risks, published earlier this month. The EBA will hold a virtual public hearing on the consultation on 17 March and the deadline for comments is 16 April. The EBA plans for the Guidelines to be finalised by the second half of 2025 and apply from 11 January 2026 to institutions other than small and non-complex institutions (SNCI) and, at the latest, from 11 January 2027 for SNCI.

Date of publication: 16/01/2025

## **EBA: Final report on Guidelines on the management of ESG risks**

Status: Final

The EBA has published its final Guidelines on the management of ESG risks. The Guidelines set out requirements for institutions for the identification, measurement, management and monitoring of ESG risks, including through plans aimed at ensuring their resilience in the short, medium and long term. The Guidelines specify requirements regarding the internal processes and ESG risk management arrangements that institutions should have in place in accordance with the CRD VI. They also specify the content of plans to be prepared by institutions with a view to monitoring and addressing the financial risks stemming from ESG factors, including those arising from the adjustment process towards the objective of achieving climate neutrality in the EU by 2050. The EBA explains that these plans will support the preparedness of institutions for the transition and should be consistent with transition plans prepared or disclosed by institutions under other pieces of EU legislation. The Guidelines will apply from 11 January 2026 except for small and non-complex institutions for which the Guidelines will apply at the latest from 11 January 2027.

Date of publication: 08/01/2025

## **Platform on Sustainable Finance: Draft report on activities and technical screening criteria to be updated or included in the EU taxonomy**

Status: Final

The EU Platform on Sustainable Finance (PSF) has published a draft report on activities and technical screening criteria to be updated or included in the EU taxonomy, with a related call for feedback. The draft report, prepared by the PSF's technical working group (TWG), is a deliverable required under the EU Taxonomy Regulation. The draft report contains preliminary recommendations relating to: (i) the review of the criteria and analysis for the EU Taxonomy Climate Delegated Act; (ii) new activities mandated by the EC; (iii) new activities mandated by the EC but not completed; and (iv) further recommendations for climate change adaptation. The deadline for comments is 5 February. The PSF explains that the aim is to gather feedback and evidence from a wider set of stakeholders, to improve the draft criteria and make them more robust and usable. However, the PSF emphasises that the call for feedback is not an official EC consultation.

Date of publication: 08/01/2025

(ii) International

## **FSB: Report on the assessment of climate-related vulnerabilities – analytical framework and toolkit**

Status: Final

The FSB has published a report containing a framework and analytical toolkit to assess climate-related vulnerabilities. The report introduces an analytical framework that the FSB will use to trace how physical and transition climate risks can be transmitted and amplified by the global financial system. The framework builds on the existing FSB Financial Stability Surveillance Framework and focuses on assessing climate-related vulnerabilities holistically, particularly from a cross-border and cross-sectoral point of view. The accompanying toolkit to the framework comprises three categories of metrics to monitor climate-related vulnerabilities from a forward-looking perspective. These are: (i) proxies to provide early signals on potential drivers of transition and physical risks; (ii) exposure metrics to gauge the extent of direct and indirect exposures in the real economy and the financial system; and (iii) risk metrics to quantify the impacts for financial institutions and the system as a whole. The FSB notes that while these metrics are already used by some FSB members domestically, various methodological and data challenges need to be overcome for them to be used for global monitoring. The FSB notes that the framework and

toolkit are live documents, to be refined as understanding evolves on how climate-related vulnerabilities affect financial stability and as methodological and data issues are resolved. As such the FSB will continue to develop the framework by operationalising the toolkit and conducting in-depth analyses of specific climate vulnerabilities that may have global financial stability implications.

Date of publication: 16/01/2025

## **FSB: Report on the relevance of transition plans for financial stability**

**Status: Final**

The FSB has published a report on the relevance of transition plans for financial stability. The report looks at the role that financial and non-financial firms' transition plans can play for financial stability assessments, in particular as a source of information for monitoring climate-related financial risks and vulnerabilities, and as a tool for helping to address some of those risks. The FSB explains that transition planning and transition plans can help address climate-related financial risks through three channels: (i) they can facilitate firms' strategy setting, which contributes to better risk management; (ii) they can help inform investment decisions; and (iii) they can support authorities' macro-monitoring of transition and physical risks both in the financial system and the real economy. The FSB note that certain conditions need to be met to enable wider use of transition plans for financial stability purposes. These include enhancing the coverage, transparency, credibility, comparability and availability of information in those plans. The FSB concludes by stating that the broader adoption of transition plans and continued efforts towards standardisation, including ongoing and planned work by international organisations and standard-setters, are key to making transition plans practically usable for financial stability and macroprudential purposes.

Date of publication: 14/01/2025

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