



Regulatory Insights

April 2024



Anti-Money Laundering

New EU rules to combat money-laundering adopted

On 24 April 2024, the EU Parliament [announced](#) that it had voted in plenary to adopt three pieces of anti-money laundering legislation, and published the adopted texts of:

- ❑ the proposed Regulation on the prevention of the use of the financial system for the purpose of Money Laundering or Terrorist Financing (“**ML/TF**”) (“**AML Regulation**”)
- ❑ the proposed Regulation establishing the Anti-Money Laundering Authority (“**AMLA**”); and
- ❑ the proposed 6th Money Laundering Directive (“**MLD6**”).

The EU Commission also published a factsheet, an FAQ document, and an article which can be accessed [here](#).

The EU Council must now adopt the legislation formally, after which it will be published in the Official Journal of the EU (“**OJ**”).

•**AML Regulation**: this will enter into force 20 days after publication in the OJ, and apply three years from the date it enters into force, except in relation to Article 3(3)(n) and (o) which will apply five years after entry into force.

•**AMLA**: this will enter into force seven days after publication in the OJ and will apply from 1 July 2025, with the exception of Articles 1, 4, 49, 53-55, 57-66, 68-71, 100, 101 and 107 which will apply from 31 December 2025.

•**MLD6**: this will enter into force 20 days after publication in the OJ. Member States will have 36 months from the date of entry into force to transpose MLD6, with the exception of:

- Article 74 which will apply 12 months after;
- Articles 11, 12, 13 and 15 which will apply 24 months after; and
- Article 18 which will apply 60 months after.

For more information on the above please refer to our regulatory insights of [February 2024](#).

Asset Management

ESMA proposes changes to ELTIF Technical Standards

ESMA has responded on 22 April 2024 to the EU Commission request on amendments to the European long-term investment fund (ELTIF) Technical Standards (RTS). In its [letter](#) ESMA suggests that there should be a limited number of changes to find the right balance between protecting retail investors and contributing to the capital market union objectives.

On the RTS on redemption policy, and specifically on the calibration of the requirements relating to redemptions and liquidity management tools, ESMA acknowledges that there should be an appropriate balance between protection of retail investors and financial stability related objectives and the fact that ELTIFs should make an important contribution to the capital market union objectives. However, in view of the EU Commission's comments, ESMA proposes striking that balance slightly differently from the EU Commission.

Background

On December 2023, ESMA published its final report on the draft technical standards under the revised ELTIF Regulation and submitted it to the EU Commission for adoption. In March 2024, the EU Commission informed ESMA that it intends to adopt the proposed RTS with amendments, and invited ESMA to submit new draft RTS reflecting the amendments provided. The EU Commission encouraged ESMA to consider the individual characteristics of different ELTIFs to build a more proportionate approach about the calibration of the requirements relating to redemptions and liquidity management tools.

The revised ELTIF Regulation states that ESMA shall develop draft Regulatory Technical Standards (RTS) to determine the following:

- the circumstances in which the life of an ELTIF is considered compatible with the life-cycles of each of the individual assets, as well as different features of the redemption policy of the ELTIF;
- the costs disclosure.

Next steps

The EU Commission will now be required to consider the revised RTS proposed by ESMA in its latest letter. The EU Parliament and the Council may object to an RTS adopted by the EU Commission within a period of three months.

The final text of the amendments to the EU Alternative Investment Fund Managers Directive (known as AIFMD II) was published in the Official Journal of the EU on 26 March 2024 and will enter into force on 15 April 2024. EU member states have two years after publication to transpose the rules into national law. This means AIFMD II will apply from 16 April 2026, with some rules subject to a transitional period.

As summarised in our regulatory insights dated [February 2024](#), AIFMD II incorporates material amendments to specific provisions of the AIFMD, and managers should assess how the changes in AIFMD II may impact their business or operations.

AIFMD II entered into force

Asset Management (2)

ESMA agrees with investment restrictions on GBP LDI funds in Ireland and Luxembourg

ESMA has issued on 29 April 2024 its advice to the [Central Bank of Ireland \(CBI\)](#) and the [Commission de Surveillance du Secteur Financier \(CSSF\)](#) on investment restrictions for GBP Liability-Driven Investment (LDI) funds to ensure their resilience.

The advice follows the notification from the CBI and the CSSF of their intention to impose an investment restriction on Alternative Investment Fund Managers (AIFMs) established in Ireland and Luxembourg and managing GBP-denominated AIFs pursuing a LDI funding strategy. These funds are typically set up by defined benefits pension schemes that provide guaranteed returns to future pensioners.

The measure consists in requiring GBP LDI funds to be able to resist a rise in GBP yields of at least 300 basis points (so called “yield buffer”).

ESMA’s analysis concludes that the conditions for taking actions under the Alternative Investment Fund Managers Directive (AIFMD) are met and the measures proposed by the CBI and the CSSF are justified and should contribute to improving the resilience EU GBP LDI. ESMA also encourages both regulators to monitor the evolution of the GBP LDI funds and to assess the necessity to recalibrate the yield buffer.

The measure applies from 29 April 2024. GBP LDI funds established on or after this date must comply with the measure immediately while existing GBP LDI funds have a three-month transitional period to comply. The measure is not limited in duration.

Finally, ESMA also invited other competent authorities of AIFMs managing such funds to adopt similar measures.

Banking & Finance

Core Principles for Banking Supervision - BCBS publishes revised version

The Basel Committee on Banking Supervision (BCBS) has published on 24 April 2024 a [revised version of its core principles](#) for effective banking supervision (Core Principles), which were last updated in 2012.

The revised Core Principles came into effect immediately, and have been incorporated into the consolidated Basel Framework. The revisions seek to, among other things, promote operational resilience and address new and emerging risks, including the digitalisation of finance and climate-related financial risks.

BCBS launches consultation on guidelines for counterparty credit risk management

The Basel Committee on Banking Supervision (BCBS) issued on 30 April 2024 a [consultation paper](#) on guidelines for Counterparty Credit Risk (CCR) management. The proposed guidelines will replace the BCBS 's sound practices for banks' interactions with highly leveraged institutions published in January 1999.

The guidelines include key practices critical to resolving long-standing industry weaknesses in CCR management, including the need to: (i) conduct comprehensive due diligence of counterparties both at initial onboarding and on an ongoing basis; (ii) develop a comprehensive credit risk mitigation strategy to effectively manage counterparty exposures; (iii) measure, control and limit CCR using a wide variety of complementary metrics; and (iv) build a strong CCR governance framework. The guidelines provide a supervisory response to the significant shortcomings that have been identified in banks' management of CCR, including the lessons learned from recent episodes of Non-Bank Financial Intermediary (NBFi) distress.

The guidelines are designed to be broadly applicable to manage banks' CCR exposures to all types of counterparties. However, the greatest potential benefits are expected to be in cases where banks have high-risk exposures to counterparties, including NBFIs. Banks and supervisors are encouraged to take a risk-based and proportional approach in the application of the guidelines, taking into account the degree of CCR generated by banks' lines of business, their trading and financing activities and the complexity of such CCR exposures.

The deadline for responses is 28 August 2024.

EBA final guidelines on the application of the group capital test for investment firm groups

On 11 April 2024, the EBA [published](#) its final guidelines on the application of the group capital test for investment firm groups ("Guidelines").

The Guidelines set out objective thresholds and criteria for competent authorities to consider for the purpose of assessing whether the conditions of the group capital test, as set out in Article 8 of Regulation (EU) 2019/2033 (IFD), have been met. The Guidelines aim to ensure the group capital test is applied consistently across the EU.

The Guidelines include (i) quantitative thresholds, such as the number of undertakings and levels within a group, and (ii) qualitative thresholds, including the need for simple capital ties and a clear ownership structure. The Guidelines also set out a methodology for NCAs to assess the adequacy of the own funds requirement of third-country undertakings of EU groups.

The Guidelines will apply from 1 January 2025.

Digital Finance & Fintech

ESAs to run voluntary dry run exercise to prepare industry for the next stage of DORA implementation

The ESAs announced on 11 April 2024 that they will launch in May the voluntary exercise for the collection of the registers of information of contractual arrangements on the use of ICT third-party service providers by the financial entities. Under the Digital Operation Resilience Act (DORA) and starting from 2025, financial entities will have to maintain registers of information regarding their use of ICT third-party providers. In this dry run exercise, this information will be collected from financial entities through their competent authorities and will serve as preparation for the implementation and reporting of registers of information under DORA.

The ESAs and the competent authorities are introducing this voluntary exercise to help financial entities prepare for establishing their register of information, gathering the relevant information specified in the [ESAs' final draft implementing standards on the registers of information](#) and reporting their registers of information to their respective competent authorities, who will, in turn, provide those to the ESAs.

Financial entities participating in the dry run will receive support from the ESAs to: (1) build their register of information in the format as close as possible to the steady-state reporting from 2025, (2) test the reporting process, (3) address data quality issues, and (4) improve internal processes and quality of their registers of information.

As part of the exercise, the ESAs will provide feedback on data quality to financial entities participating, return cleaned files with their register of information, organise workshops and respond to frequently asked questions.

The ad-hoc data collection is expected to be launched in May 2024 with the financial entities expecting to submit their registers of information to the ESAs through their competent authorities between 1 July and 30 August 2024.

To provide more information regarding the dry run exercise an introductory workshop was held on 30 April 2024.

For more information please refer to the ESAs dedicated [factsheet](#).



ESMA publishes outcome of first year of the DLT Pilot Regime

ESMA on 4 April 2024 published a [letter](#) to the EU Commission, the Parliament, and the Council (ECOFIN) providing an interim update on the DLT Pilot Regime (“Regime”).

The letter provides an update on the status of applications received by NCAs to date, as well as a list of challenges and opportunities identified in the first year of application.

ESMA has opted for this format instead of the report mandated under the DLT Pilot Regime because no DLT market infrastructures have been authorised under the Regime to date, rendering a full report premature. The letter provides recommendations to the EU Commission to enhance the functioning and competitiveness of the Regime.

ESMA will continue to work closely with the NCAs, including by issuing opinions on the DLT market infrastructure applications, and will publish annual updates on the implementation of the DLT Pilot Regime.

More information about the DLT Pilot Regime can be found [here](#).

ESMA follow-up report on improving data quality under EMIR supervision

ESMA has published on 11 April 2024 its [follow-up report](#) to the 2019 peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR.

The report shows that supervisory practices improved significantly following the findings and recommendations of the 2019 peer review.

The five NCAs [CY, DE, FR, IE, NL] included in this follow-up report took specific measures at national level such as:

- rolling out data quality dashboards;
- undertaking more granular data quality checks; and
- increasingly using EMIR data as part of day-to-day supervision.

The NCAs also carried out extensive supervisory work on EMIR data quality under the Union Strategic Supervisory Priority related to data quality that ran from [2020 to 2023](#).

ESMA played an important coordination role developing a framework for the provision of data and follow-up of EMIR data quality issues at EU level.

In its role as supervisor of Trade Repositories (TRs), ESMA also undertook several supervisory actions to ensure the correct provision of access to EMIR data for NCAs and the ERSB/ECB.

CRD VI and CRR III - EU Parliament votes to adopt amending Regulation and Directive

The EU Parliament has [voted](#) on 24 April 2024 to adopt proposed amendments to the Capital Requirements Directive (2013/36/EU) (CRD VI) and the Capital Requirements Regulation (575/2012) (CRR III). The proposals require adoption by the Council of the EU before their publication in the Official Journal of the EU.

The CRR III Regulation will apply (with certain exceptions) from 1 January 2025, while Member States are expected to apply measures implementing the CRD VI Directive 18 months and one day following its entry into force.

Securities & Markets (2)

EMIR 3 implementation

On 24 April 2024, the EMIR 3 trilogue agreement was approved by the EU Parliament. The ratified EMIR Regulation and the Directive can be found [here](#) and [here](#) (together known as "EMIR 3").

The final texts are expected to be announced in the new EU Parliament Plenary in the autumn and to receive subsequent final sign-off from the EU Council. It is anticipated that EMIR 3 will come into effect some time in Q4 of 2024.

EMIR 3 will enter into force on the twentieth day following its publication in the Official Journal of the EU Union, with most provisions expressed to apply from its entry into force, save for certain provisions amending the clearing thresholds, which are expressed to apply from entry into force of related regulatory technical standards.

Upcoming legislative revisions in the EU capital markets

In April 2024 the EU Parliament adopted at first reading three pieces of legislation that are part of a package of proposals known as the "EU Listing Act":

- ❑ A proposed [Regulation](#) to amend the EU Prospectus Regulation, the EU Market Abuse Regulation (EU MAR) and EU Markets in Financial Instruments Regulation (MiFIR);
- ❑ A proposed [Directive](#) on multiple-vote share structures in companies that seek to list their shares on an EU multilateral trading facility (MTF); and
- ❑ A proposed [Directive](#) to amend the MiFID II Directive and repeal the 2001 Listing Directive (also known as the Consolidated Admissions and Reporting Directive, or CARD).

It is anticipated that the proposed Regulation and Directives will be approved in their current form and take effect in the second half of this year. While most amendments to EU MAR and the EU Prospectus Regulation will be immediately enforceable, a few will be phased in over 15 or 18 months. It is important to emphasise that these proposed changes aim to refine rather than fundamentally change existing frameworks.



Sustainable Finance

ESMA consults on possible amendments to the Credit Rating Agencies Regulatory Framework

ESMA launched on 2 April 2024 a [consultation](#) on proposed amendments to Commission Delegated Regulation (EU) No 447/2012 and to Annex I of the Credit Rating Agencies Regulation (CRAR).

The objective of the proposals is to ensure a better incorporation of ESG factors in the credit rating methodologies and subsequent disclosure to the public, as well as to enhance transparency and credibility in the credit rating process.

In particular, the proposed amendments aim to:

- ensure that the relevance of ESG factors within credit rating methodologies is subject to systematic documentation;
- enhance disclosures on the relevance of ESG factors in credit ratings and rating outlooks;
- deliver a more robust and transparent credit rating process through the consistent application of credit rating methodologies.

ESMA will consider the feedback received to this consultation and will submit its technical advice to the EU Commission by December 2024.

EU Parliament adopts Directive postponing adoption of ESRS for certain sectors and third-country undertakings

On 10 April 2024, the EU Parliament approved the proposal for a [directive](#) (“Directive”) to amend Directive 2013/34/EU concerning the adoption timelines for European Sustainability Reporting Standards (ESRS). This amendment postpones the adoption of sector-specific reporting standards for EU companies and general reporting standards for non-EU companies by two years, until 30 June 2026. The EU Council also approved this on 29 April 2024. On 8 May 2024, the Directive was published in the Official Journal of the EU. It will come into effect on 28 May 2024.

These new rules do not impact the reporting deadlines set forth in the [Corporate Sustainability Reporting Directive \(CSRD\)](#). EU companies are still required to report as scheduled according to the general sustainability reporting standards [adopted by the Commission in July 2023](#). The delayed adoption of sector-specific standards for EU companies affects the scope of reporting, as the sector-specific aspect concerning companies’ specific impact on society and the environment within their field of operation will not be mandatory until 2026. Non-EU companies with a turnover exceeding €150 million and their EU branches with a turnover above €40 million will only be subject to general reporting obligations starting in 2028. The adoption of reporting obligations in 2026 still allows them ample time for preparation.

While the Parliament and the Council grant the EU Commission and the European Financial Reporting Advisory Group (EFRAG) flexibility to determine which sectors should be prioritised, they require regular consultation at least once a year and detailed information on plans, prioritisation, and timeline for the development of sustainability reporting standards.

Sustainable Finance

European Parliament adopts CS3D

On 24 April 2024, the EU Parliament [adopted](#) the Corporate Sustainability Due Diligence Directive (“CS3D”).

The Directive mandates firms and their partners in supply, production, and distribution to prevent, mitigate, or end their adverse impact on human rights and the environment. Such impact will include slavery, child labour, labour exploitation, biodiversity loss, pollution, or destruction of natural heritage.

The new rules apply to companies with over 1000 employees and a worldwide turnover higher than EUR 450 million, or those with EU franchising or licensing agreements and a worldwide turnover higher than EUR 80 million with at least EUR 22.5 million from royalties. These firms must, among other things, integrate due diligence, support smaller partners, and align with the Paris Agreement’s 1.5°C limit. Penalties for non-compliance include ‘naming and shaming’ and fines up to 5% of net worldwide turnover. The Commission intends to establish the European Network of Supervisory Authorities to enable exchange of best practices. Companies will be liable for damages caused by breaching their due diligence obligations and will have to fully compensate their victims.

The new rules (except for the communication obligations) will apply to EU companies, and non-EU companies reaching the same turnover thresholds in the EU, on a staggered basis from 2027 for the largest companies, to 2029 for the smallest companies.

The Directive must now be adopted by the EU Council before it can be published in the Official Journal. Member states will have two years to transpose the new rules into their national laws.

EU Parliament adopts proposed regulation on ESG ratings

On 25 April 2024, the EU Parliament voted in plenary to adopt the [proposed Regulation](#) on the transparency and integrity of environmental, social and governance (“ESG”) rating activities which reflects the provisional agreement that was reached in February 2024.

The rules will add more transparency and structure around how ESG ratings are undertaken and communicated:

- ❑ separate E, S and G ratings shall be provided rather than an aggregate rating. E ratings should include information on whether that rating takes into account alignment with the Paris Agreement or other international agreements; and S and G factors should also provide information on what account the rating takes of relevant international agreements;
- ❑ the rating agency should explicitly disclose whether the delivered rating assesses how the rated entity affects and is affected by E, S, and G factors, which will encourage ESG raters to address the materiality impact entity on the environmental and society – known as the double materiality approach; and
- ❑ an ESG rating provider established in the EU as a small undertaking or small group will only be subject to some of the provisions for its first three years in existence.

The regulation will apply 18 months after its entry into force.

Glossary

AIF Alternative Investment Fund (EU)

AIFMD Directive 2011/61/EU on Alternative Investment Fund Managers

AIFMs Alternative Investment Fund Managers

AML Anti-Money Laundering

CSRD Corporate Sustainability Reporting Directive

CySEC Cyprus Securities and Exchange Commission

CP Consultation Paper

EBA European Banking Authority

ECB European Central Bank

EIOPA European Insurance & Occupational Pensions Authority

ESG environmental, social, and governance

EMIR European Market Infrastructure Regulation

ESAs European Supervisory Authorities (EBA, EIOPA and ESMA)

ESMA European Securities and Markets Authority

ESRB European Systemic Risk Board EU European Union

ICT Information and Communication Technology

MiCA Regulation of the European Parliament and of the Council on markets in crypto-assets

MiFID Markets in Financial Instruments Directive

NCA National Competent Authority

RTS Regulatory Technical Standards

SFDR Sustainable Finance Disclosure Directive

OECD Organisation for Economic Co-operation and Development

OJ Official Journal

UCITS Directive directive 2009/65/EC on Undertakings for Collective investments in Transferable Securities

UCITS Undertakings for Collective investments in Transferable Securities (EU)



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