



Regulatory Insights

March 2024



Anti-Money Laundering

Status of implementation of Recommendation 15 by FATF members and jurisdictions with materially important VASP activity

On 28 March 2024, the Financial Action Task Force (FATF) published a [report](#) setting out the status of the implementation of Recommendation 15 by FATF members and other jurisdictions with the most materially important Virtual Asset Service Provider (VASP) activity. The report follows a stocktake of current levels of implementation across the global network.

FATF notes that many countries have yet to fully implement the FATF's requirements on virtual assets and VASPs to prevent their misuse for illicit finance. The lack of implementation of these requirements leaves significant loopholes globally, that criminals and terrorists exploit.

Guidance on beneficial ownership and transparency of legal arrangements

Following the February 2023 revisions to FATF Recommendation 25 on beneficial ownership and transparency of legal arrangements, the FATF has on 11 March 2024 [updated](#) its risk-based guidance for this Recommendation. The guidance complements the existing guidance on Recommendation 24 on legal persons and aims to help stakeholders from the public and private sectors to implement the new requirements more effectively.

The guidance helps countries and the private sector understand transparency requirements for legal arrangements. It offers practical advice on assessing money laundering and terrorist financing risks related to trusts and similar setups. It outlines FATF's requirements for obtaining accurate beneficial ownership information and suggests ways to verify it. Emphasising international cooperation, the guidance aims to prevent cross-border misuse of such arrangements. Developed through public consultations and engagement with stakeholders, it adds to efforts to enhance global transparency in beneficial ownership.



Asset Management

AIFMD / UCITS:
amending
Directive
published in
the Official
Journal of the
EU

Legislation
regarding
cross-border
notifications
under the
AIFMD and
UCITS
Directive
published in
the Official
Journal of the
EU

[Directive \(EU\) 2024/927](#) was published on 26 March 2024 in the Official Journal.

This introduces changes to the Level 1 texts of AIFMD and the UCITS Directive in the areas of:

- ☐ delegation arrangements
- ☐ liquidity risk management
- ☐ supervisory reporting
- ☐ the provision of depositary and custody services and
- ☐ loan origination by AIFs.

Please refer to our Insights from *February 2024* for further details.

The Directive's provisions will apply from **16 April 2026**.

Member States must transpose the Directive's provisions into their national law and ESMA will develop a series of level 2 measures and Level 3 guidelines to supplement the new Directive.

On 25 March 2024, the following Delegated Regulations were published in the Official Journal of the EU:

- ☐ [Commission Delegated Regulation \(EU\) 2024/911](#) issued on 15 December 2023. It supplements the UCITS Directive by specifying the information management companies must provide to competent authorities for cross-border activities. It covers articles 17(1) and (2), 18(1) and (2), and 20(1) point (b) of the UCITS Directive, including updates to provided information. It shall become effective from **25 June 2024**.
- ☐ [Commission Implementing Regulation \(EU\) 2024/910](#) issued on 15 December 2023. It sets out implementing technical standards for the UCITS Directive regarding information on cross-border activities. It includes templates for notifications and amends Commission Regulation (EU) No 584/2010. It shall become effective from **14 April 2024**.
- ☐ [Commission Delegated Regulation \(EU\) 2024/912](#) issued on 15 December 2023. It supplements the AIFMD by specifying information AIFMs must provide to competent authorities for cross-border activities. It covers articles 33(2) and 33(3) of the AIFMD, including updates to provided information. It shall become effective from **25 June 2024**.
- ☐ [Commission Implementing Regulation \(EU\) 2024/913](#) issued on 15 December 2023. It lays down implementing technical standards for the AIFMD regarding information on cross-border activities. It includes templates for notifications. It shall become effective from **14 April 2024**.

Banking & Finance

EU Commission adopts Delegated Regulation on RTS on assessments of internal models for market risk under CRR

The EU Commission has adopted a Delegated Regulation ([C\(2024\) 1678 final](#)) containing regulatory technical standards (RTS) on the assessment methodology under which competent authorities verify an institution's compliance with the internal model approach (IMA) under article 325az(8) of the Capital Requirements Regulation (575/2013) (CRR), as amended by the CRR II Regulation ((EU) 2019/876).

The Delegated Regulation will take effect 20 days after being published in the Official Journal of the EU, except for specific parts. Article 18(1)(a), (c)(vii), and 18(2)(b)(v) will apply starting from 1 January 2025, and article 21(1)(b) will apply starting from 1 January 2026.

Basel III monitoring report

The Basel Committee on Banking Supervisions (BCBS) has published its latest [monitoring report](#) setting out the impact of the Basel III framework, based on data as of 30 June 2023. It shows that initial Basel III capital ratios for a sample of the largest global banks were largely stable and above prepandemic levels in the first half of 2023, and that the leverage ratio rose further in Europe after declining in all regions during the pandemic. In the same period, the profit after tax of large internationally active banks increased to a record EUR 279 billion.

EU Commission adopts Implementing Regulation updating the ITS as regards rules on the supervisory reporting of interest rate risk in the banking book

On 15 March 2024, the EU Commission adopted an [Implementing Regulation](#) amending the implementing technical standards(ITS) laid down in Implementing Regulation 2021/451 as regards rules on the supervisory reporting of interest rate risk in the banking book.

The EU Commission Implementing Regulation 2021/451 specifies the uniform reporting formats and templates, the instructions and methodology on how to use those templates, the frequency and dates of reporting, the definitions and the IT solutions for the reporting referred to in article 430(1) to (4) of the Capital Requirements Regulation (CRR).

The CRR has been amended by the CRR II (Regulation 2019/876) and the Capital Requirements Directive (CRD) V introduced certain new prudential requirements into the CRD IV. The Implementing Regulation that has been adopted by the EU Commission updates Implementing Regulation 2021/451 in light of these changes.

The Implementing Regulation will enter into force 20 days following its publication in the Official Journal of the EU. It will apply from 1 September 2024.

Digital Finance & Fintech

ESMA launches the third consultation under MiCA

ESMA published on 25 March 2024 its [third consultation package](#) under the Markets in Crypto-Assets Regulation (MiCA).

In the consultation package, ESMA is seeking input on four sets of proposed rules and guidelines, covering:

- Detection and reporting of suspected market abuse in crypto-assets (RTS).
- Policies and procedures, including the rights of clients, for crypto-asset transfer services (Guidelines).
- Suitability requirements for certain crypto-asset services and format of the periodic statement for portfolio management (Guidelines).
- ICT operational resilience for certain entities under MiCA (Guidelines).

The consultation is opened until **25 June 2024**. ESMA will publish a final report based on the feedback received and will submit the draft technical standards to the EU Commission for endorsement by 30 December 2024 the latest.



Securities & Markets

ESMA provides market participants with guidance on the clearing obligation for trading with 3rd country Pension Schemes

ESMA issued on 27 March 2024 a [public statement](#) on deprioritising supervisory actions linked to the clearing obligation for third-country pension scheme arrangements (TC PSA), pending the finalisation of the review of EMIR.

During this period and in view of the challenges that market participants would face, ESMA expects NCAs not to prioritise supervisory actions in relation to the clearing obligation for derivative transactions conducted with TC PSAs exempted from the clearing obligation under their third-country's national law. Additionally, ESMA recommends that NCAs apply their risk-based supervisory powers in their day-to-day enforcement of applicable legislation in this area in a proportionate manner.

The Council and the European Parliament reached a provisional agreement on 7 February 2024. The political agreement on the EMIR 3 text provides for an exemption regime from the EMIR clearing obligation when the TC PSA is exempted from the clearing obligation under that third country's national law.

Adoption of MiFID 3 and MiFIR 2

On 8 March 2024, [Regulation 2024/791](#), amending Regulation (EU) No 600/2014 (MiFIR), and [Directive 2024/790](#), amending Directive 2014/65/EU (MiFID 2) on markets in financial instruments, were published in the Official Journal of the EU. These amendments aim to enhance data transparency, remove obstacles to the emergence of consolidated tapes, optimise trading obligations, and prohibit receiving payment for order flow.

The Directive came into effect on 28 March 2024. Member States are required to implement the necessary laws, regulations, and administrative provisions to comply with this Directive by 29 September 2025.

EU Commission interpretative notice on MiFIR Amending Regulation - transitional provision

The EU Commission has published a [draft interpretative notice](#) to provide clarity to market participants on the transitional provision of the Markets in Financial Instruments Regulation (MiFIR) review. The revised MiFIR rules, politically agreed in June 2023, which apply from 28 March 2024, with certain elements of the regulation phasing in over the coming years. The new rules cover the limitations regarding "dark trading" (trading without pre-trade transparency), moving from a double to a single volume cap.

The EU is now preparing Commission delegated regulations specifying the new rules, including for the single volume cap. The transitional regime laid down in article 54(3) of MiFIR sets out that the existing EU Commission delegated regulations remain applicable until the new ones enter into force. This means, for instance, that the current double volume cap will remain in place until the new EU Commission delegated regulations covering the single volume cap enter into application.

Securities & Markets (2)

Delegated Regulation supplementing the IFR with regards to RTS specifying the details of the scope and methods for prudential consolidation of an investment firm group	<p>On 13 March 2024, the EU Commission adopted a Delegated Regulation supplementing the Investment Firms Regulation (IFR) with regards to Regulatory Technical Standards (RTS) specifying the details of the scope and methods for prudential consolidation of an investment firm group.</p> <p>The draft technical standards specify the details of the scope of and methods for prudential consolidation of investment firm groups, in particular for calculating the fixed overheads requirement, the permanent minimum capital requirement, the K-factor requirement on the basis of the consolidated situation of the investment firm group, and the method and necessary details to implement Article 7(2) of the IFR. The draft RTS will be reviewed by the Council of the EU and the EU Parliament. If neither object, it will become effective 20 days after being published in the Official Journal of the EU.</p> <p>.</p>
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Sustainable Finance

ESMA consults on rules for external reviewers of EU Green Bonds

ESMA launched on 26 March 2024 a [consultation](#) on draft Regulatory Technical Standards (RTS) related to the registration and supervision of external reviewers under the EU Green Bond Regulation (EuGB).

ESMA's proposals relate to the registration and supervision of entities interested in becoming external reviewers of EU Green Bonds and aim to clarify the criteria used for assessing an application for registration by an external reviewer. In its proposals, ESMA aims to standardise registration requirements and contribute to developing a level playing field through lower entry costs for applicants.

These relate to:

- ☐ senior management and analytical resources;
- ☐ sound and prudent management, including avoidance of conflicts of interest;
- ☐ knowledge and experience of analysts, and
- ☐ the outsourcing of assessment activities, forms, templates, and procedures for the provision of registration information.

The [EuGB entered into force](#) on 21 December 2023 and will apply from 21 December this year.

ESMA will consider the feedback received to this consultation and will submit the draft RTS and ITSs to the EU Commission by **21 December 2024**.

EU Council approves revised Corporate Sustainability Due Diligence Directive (CSDDD)

The Corporate Sustainability Due Diligence Directive (CSDDD) received backing from the EU Council in a vote on 15 March 2024. The vote concludes weeks of negotiations and revisions to the text of the CSDDD after its failure to secure the EU Council's approval at the end of February.

Compromises have been made on the scope of the CSDDD in order to satisfy the concerns of a group of member states led by Germany and Italy, for whom the reach of the originally drafted CSDDD was too broad and burdensome upon businesses. A key difference in the approved text is a higher threshold for which companies will be subject to the CSDDD's requirements: 1,000 employees and a net turnover of €450m compared to the previously envisaged 500 employees with a revenue of €150m. Other changes include a narrower definition of supply chains and a phased introduction according to company size. Whilst some critics have voiced disappointment in the concessions made, the CSDDD in its final form is still a step towards promoting transparency and tackling issues such as human rights abuses and environmental harms in supply chains

The next step is for the EU Parliament to vote on the CSDDD before it becomes law, with most members of the European Parliament expected to vote in favour.

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

ESG environmental, social, and governance

EMIR European Market Infrastructure Regulation

ESAs European Supervisory Authorities (EBA, EIOPA and ESMA)

ESMA European Securities and Markets Authority

EIOPA European Insurance & Occupational Pensions Authority

EU European Union

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

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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