Managing divergence

Evolving Asset Management Regulation report

September 2023 | kpmg.com/**eamr2023**

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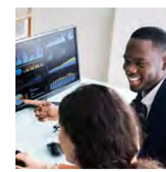

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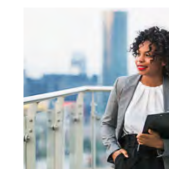

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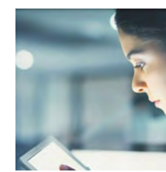
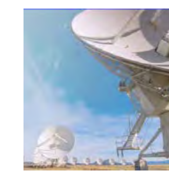
KPMG's EMA Regulatory Insight Centre provides pragmatic and insightful intelligence on regulatory developments. It supports and enables clients to anticipate and manage the impact of regulatory change.



Regulatory Horizon tool

This report is powered by KPMG technology and specialists in real time, providing broad-ranging information to inform your regulatory change management process. The tool covers a live feed of over 170 sources globally across over 70 broad themes and specific regulations.



Regulatory Barometer

The KPMG Regulatory Barometer helps clients identify the key areas of pressure across the evolving European regulatory landscape and measures the impact of the likely change.

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Foreword

Andrew Weir
Global Head of
Asset management

The asset management industry is truly international, with services and products delivered across borders, languages, cultures, and time zones. The essential role of the industry – bringing together investors with enterprises in need of funding and supporting the savings of ageing populations – is in ever higher demand, as government and bank funding continues to be constrained.

Asset managers are seeking to achieve the best possible returns for investors against a backdrop of changing investor demands and uncertain markets. The combination of impacts of climate change, geopolitical and social tensions, and shifting trade dynamics are creating a volatile environment for policymakers and industry alike. Technological innovation is bringing benefits to firms and their clients, but also giving rise to different and increased risks, such as the frequency and impact of cyber-attacks.

Policymakers expect the industry to make a substantial contribution to the mitigation and management of climate change and environmental risks, and to support social projects, but they are also concerned about the increasing size of the industry and the potential for its investment activities to amplify risk in the capital markets. In addition to the ongoing focus on liquidity management of open-ended funds, asset managers investing in private, real and crypto assets are coming under increased scrutiny.

In this year's report, I am particularly struck not only by the sheer volume of new rules and guidance, but also how regulators are tackling common priorities with quite different approaches, resulting in different outcomes for both firms and investors. Given the cross-border nature of the asset management industry, effective management of regulatory divergence is only going to become more important over time.

To respond effectively to these challenges, asset managers need robust and flexible business models, with strong governance, intelligent risk management frameworks, state-of-the art technology, good oversight of service providers and appropriate distribution strategies. Firms need to manage their own costs and ensure that the costs and charges borne by investors are transparent and justifiable.

Report scope and methodology

This 13th edition of KPMG's annual flagship Evolving Asset Management Regulation Report brings together a broad-ranging picture of regulatory priorities, developments and proposals impacting the asset management industry around the world.

Drawing on the KPMG Regulatory Horizon tool, we considered over 11,000 publications by regulators from over 30 jurisdictions. With the insights and knowledge of KPMG specialists around the world, we have identified seven common regulatory themes, challenges that impact all types and aspects of asset management businesses, and market opportunities.

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Executive summary

There are many external challenges facing the asset management industry, including demands for sustainable finance, volatility in capital markets, technological innovation, and cyber threats. Firms must also navigate further rafts of new rules, increasing regulatory divergence and greater supervisory scrutiny. Firms need to adopt resilient and dynamic business models if they are to be successful.

Regulators around the world are focusing on common themes in a fast-changing world. However, a lack of global standards and national nuances mean that they are implementing detailed rules and guidance in different ways. Increasing regulatory divergence is causing complexity and challenges for cross-border asset managers in terms of how they manage and market their products.

Regulators are responding to both global and regional priorities. Some are introducing fundamentally **new regulatory frameworks** for the industry or are undertaking major reviews of existing ones.

There are new rules and substantial amendments to existing requirements relating to **sustainable finance**. Preventing "greenwashing" is a common priority among policymakers, but they are seeking to address this concern in diverse ways. More broadly, there are efforts to make firms take account of sustainability risks throughout their business, including investment processes and remuneration policies. Initiatives relating to enhanced reporting aim to capture more firms and products in the capital market ecosystem, and to increase the flow of information from companies to stakeholders, including asset managers.

The increasingly vital role asset managers play in the financial system and funding the real economy means that **systemic risk** continues to be an important regulatory priority. Most regulatory initiatives relate to tightening up liquidity management in open-ended investment funds and the use of leverage more generally, but regulators are exploring potential risks and vulnerabilities in other areas, such as private markets and crypto-assets.

> **Global issues in financial services are best addressed at global level**
>
> **Jean-Paul Servais**, IOSCO Board Chair and Financial Services and Markets Authority (FSMA) Chairman, June 2023

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Managing wider risks to enhance the **resilience of business models** remains important, and there are new requirements relating to protecting against cyber threats, enhancing operational resilience, and overseeing outsourced activities. The adequacy of asset managers' financial resources is also under review in some jurisdictions.

Technological innovation continues at pace and regulators are balancing facilitation of developments with the need for proper risk mitigation. Artificial intelligence and the use of distributed ledger technology are key areas of regulatory attention. Firms need to consider both the potential benefits and the risks of new technologies.

The bar has been raised when it comes to **protecting and educating investors**. New conduct frameworks have been introduced, costs and charges are under significant scrutiny, and efforts are being made to bring disclosure and distribution arrangements into line with technological developments.

Firms' **governance** arrangements remain a regulatory priority. This year, the focus is on culture, the fitness and probity of individuals, and there being sufficient "substance" in regulated firms. Preventing financial crime, promoting clean markets, and devoting sufficient rigor to the stewardship of investments continue to be seen by regulators as facets of good governance.

Finally, in response to the ongoing need to rebuild economies and increase market share, jurisdictions continue to compete and offer **more choice** to firms and investors. Some jurisdictions are opening their capital markets further to foreign investors, re-assessing their fund frameworks, and launching new (or revising existing) fund vehicles to bolster investment.

Key actions for CEOs

- **Deliver sustainable finance:** Review the firm's overall strategy, embed sustainability factors into the investment process, ensure names and disclosures correctly reflect product offerings, and prepare to meet expanding disclosure requirements.
- **Mitigate systemic risk:** Review investment risk management arrangements, particularly relating to the liquidity management of open-ended funds, and stress testing. Control the use of leverage and adopt asset valuation best practices, especially for private, real and crypto-assets.
- **Double-down on resilience:** Review the risk management framework and controls in the light of challenges and opportunities. Identify and manage operational and information security-related risks, including third-party oversight arrangements. Maintain adequate financial resources.
- **Embrace innovation:** Explore potential uses of tokenization and artificial intelligence to drive efficiencies and new business, within the guardrails of the evolving regulatory framework.
- **Protect investors:** Align the firm's strategy, culture, and purpose with clients' best interests.
- **Project good governance:** Evaluate the success of the firm's culture, leadership and governance model, and make changes where needed. Encourage a "speak-up" culture, ensure the composition of boards provides sufficient knowledge, expertise, experience, and challenge, adopt a flexible business model, and deter financial crime.
- **Seize opportunities:** Factor opening markets and new and evolving fund vehicles into the business and product strategy.

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01 Evolving frameworks and priorities

Priorities set by global and regional regulatory bodies are mirrored in the policy and supervisory priorities of national regulators but are being addressed differently in each jurisdiction.

For some national regulators, the volume of work needed to implement global recommendations and regional requirements, including the provision of practical guidance, is leaving little spare capacity to pursue national and local objectives. On the other hand, some jurisdictions are introducing new regulatory frameworks for asset managers and funds or are undertaking wide-ranging reviews of existing frameworks.

The pursuit of regulatory co-operation is a common theme. The FSB[1] is supporting global co-operation on financial stability, IOSCO[2] is promoting regulatory co-operation, ESMA[3] continues its work on supervisory convergence among EU national regulators, and a stream of new bilateral regulatory co-operation agreements have been announced. Many of the recent agreements have been between jurisdictions in Asia, or with an Asian jurisdiction as one of the counterparts. Also notable are the number of agreements that have a particular focus on fintech and digital innovation (see Chapter 5).

Regulators' priorities

The FSB's 2023 work program reflects its global and cross-sectoral approach to financial stability policy. It highlights global challenges that affect the overall financial system, including digitalization, climate change, and the consequences of shifts in the macroeconomic and interest rate environment. Four of the six priorities are directly relevant to asset management:

- Enhancing the resilience of non-bank financial intermediation (NBFI), while preserving its benefits
- Harnessing the benefits of digital innovation while containing its risks
- Addressing financial risks from climate change
- Cyber and operational resilience

IOSCO's 2023/24 work program closely mirrors the FSB's priorities:

- Strengthening financial resilience, by addressing vulnerabilities in the NBFI sector and doing work on private markets, which have shown unprecedented growth
- Supporting market effectiveness, including strong market infrastructure and resilient trading activities
- Protecting investors, with follow-up work to its report on retail market conduct issues
- Addressing new risks in sustainability and fintech, via climate-related corporate reporting and regulation of crypto-asset activities

1. Financial Stability Board
2. International Organization of Securities Commissions
3. European Securities and Markets Authority

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National regulators' decisions on their policy and supervisory priorities are based on these global agendas, EU-level initiatives, and national priorities reflecting government policy or concerns arising from supervisory activity.

It is rare for regulators to seek input from the public on their agenda setting. Ontario in Canada may be the exception – for example, the regulator's invitation: "Have your say on FSRA's proposed priorities".

Of those jurisdictions covered in this report that have publicized their priorities, the range of topics directly relevant to asset management is wide. While the themes are similar, there is little commonality in the detail. Unsurprisingly, sustainable finance is mentioned by nearly all, but with different specifics. Matters such as reporting by corporates, specific disclosures for regulated firms or investment funds, and fund labels, naming and marketing documents all feature in regulatory agendas. However, regulators' approaches are wide-ranging: from general monitoring of developments and expressions of greenwashing concerns, to issuing of guidance or prescriptive rules, and pro-active supervision and examinations.

The broad subject of digitalization receives numerous mentions, with some simply monitoring developments, some seeking to facilitate innovation, and some issuing warnings to firms about the need for appropriate controls. Efforts to counter cyber threats, fraud and money laundering are also common themes, along with governance, controls, operational resilience, and conduct in retail and wholesale markets. Beyond these topics, there is a long tail of issues, each mentioned by only one or a very small number of regulators. Details on all these topics are provided in the following chapters.

As regards the practical impacts for regulated firms, a survey of KPMG specialists revealed notably different regulatory approaches between regions in relation to the big policy areas: sustainability and digitalization. However, the practical impact on firms most cited across all jurisdictions around the globe was a focus on firms' governance, controls, and risk management.

The regulators are also impacted by the themes highlighted above. They are seeking to improve the knowledge and expertise of staff, make greater use of technology, and deepen communications with consumers and other stakeholders. A few regulators have competitiveness of their national industry and growth of national capital markets as top priorities.

> **Reflect, reset and refocus**
>
> **Julia Leung**, Chief Executive Officer, SFC, Hong Kong (SAR), China, June 2023

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New regulatory frameworks

Some national regulators are introducing new regulatory frameworks for asset and fund managers, while others are undertaking wide-ranging reviews of existing frameworks, including in **Brazil**, **China**, the **EU**, the **UK**, **Ireland,** and **Switzerland**. Also, the Monetary Authority of **Singapore** has revised its guidelines for fund management companies (see Chapter 7), including where the fund is to be terminated or the fund management company is to cease.

The new Self-Regulatory Organization of **Canada** and Canadian Investor Protection Fund officially launched in January 2023. The aim is to deliver value to investors, foster innovation and competitiveness, and remove regulatory duplication and complexity. The long-awaited merger of two sets of guidance into one is now expected to take place.

The regulation of family offices is under review in several jurisdictions. **Poland** has introduced the Family Foundation Act, and new laws in the **Cayman Islands** have been delayed but are still on the table.

On a supervisory note, the new risk-based approach adopted by the regulator in the **Isle of Man** is already being felt by some designated "lower risk" firms, which no longer have a dedicated supervisory contact. And in **Germany**, the regulator is making increasing use of its powers to require audit firms to focus on specific areas as part of their annual external audits of regulated firms – fund liquidity risk management is one example.

Some detail

See Chapters 3 to 8 for more detail.

Brazil

The new fund regulation regime (Resolution CVM[4] 175) brings major change for the Brazilian funds industry. It was due to become effective in April 2023, but industry asked for a six-month postponement, given the need for system changes and tax issues with share classes. Key changes include:

- Limited liability of service providers
- Fund share classes
- An insolvency regime for funds when net assets become negative
- Co-responsibility between managers and administrators (now called "essential service providers")
- Liquidity rules (gates and side pockets)
- More disclosure on remuneration of administrators, managers and distributors (maximum remuneration), and on rebates
- Retail funds permitted to invest up to 100 percent of assets offshore through UCITS[5]

The regulator also published detailed annexes for different types of funds, including general investment funds, funds invested in private and real assets, and exchange-traded funds.

4. Comissão de Valores Mobiliários
5. Undertaking for collective investment in transferable securities

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China

In July 2023, the State Council issued new, wide-ranging national rules for the private fund industry, which became effective from 1 September 2023. The rules set out a new approach to supervising private funds and their managers, measures to control risk and protect investors, and enforcement measures. Highlights of the rules include:

- Clarification of the scope of application
- Specification of obligations and requirements of private fund managers and custodians
- Regulation of fundraising and investment operations
- Strengthening supervision and management as well as legal liability

The China Securities Regulatory Commission (CSRC) will promote the implementation of the regulation, draw up related measures and rules, and further refine the regulatory requirements, to better leverage the positive role of private investment funds in satisfying financing demands. Earlier in May 2023, the Asset Management Association of China (AMAC) released draft guidelines for private securities investment funds, aiming to enhance the soundness and long term development of the industry.

In June 2023, the CSRC published draft regulations on investment advisory business for public securities investment funds. The proposals set out a definition of the fund investment advisory business, procedures, and certain requirements regarding investment concentration and firms' fiduciary duty. Further rules regarding market access for such funds may follow.

EU

The 2011 AIFMD[6] framework, which captures both private funds and non-UCITS retail funds, managed or marketed within/into the EU, has been reviewed and is to be expanded. The UCITS Directive will also be subject to parallel amendments where relevant (for example, on delegation). Key elements subject to change are:

- Governance of the fund management company
- Delegation of key functions, including portfolio management
- Remuneration policies to be consistent with long-term risks, including sustainability
- Assessment of inappropriate or undue levels of costs
- Liquidity management tools, stress testing and regulatory reporting
- Leverage reporting
- Regulation of loan-originating and private credit funds
- Effective removal of the depositary passport

6. EU Alternative Investment Fund Managers Directive

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UK

A wide-ranging review of the future of UK asset management regulation explored potential changes to a broad range of existing requirements, the potential to streamline some rules, and areas where technology could be used to improve customer experience and efficiency. A further consultation is expected. The regulator recognizes that firms operate internationally and will reform only where the benefits are clear, and rules will be "effective and proportionate". However, firms are concerned about potentially onerous implementation projects and divergence from EU rules. Key proposals include:

- Harmonizing the rules for all types of fund and portfolio managers
- Clarifying expectations of portfolio managers in the context of "host" fund management companies
- Adjusting the threshold and exemption for small AIF managers
- Clarifying expectations on due diligence of investments
- Extending requirements for fund managers on liquidity management and reporting
- Redrawing the boundaries of UCITS and non-UCITS retail funds, and reviewing rules on diversification of investments
- Clarifying rules on fund depositaries' resources and knowledge, and oversight of fund liquidity management and pricing
- Promoting technology in fund operations, including tokenization of fund units and portfolio assets, and investment in crypto-assets
- Improving investor information and engagement through technology

Ireland

The Department of Finance is reviewing the asset management and funds services sector in Ireland. A final "Funds Sector 2030" report, with recommendations, will be presented to the Minister by summer 2024. The review will look holistically at the unregulated and regulated asset management and funds servicing sector in Ireland and consider international comparisons. It will focus on:

- Simplification and harmonization of the tax regime for funds and other investment products
- The findings of the IMF[7] Financial System Assessment of Ireland conducted in 2022
- The government's goals for the sector, and how the sector assists in meeting wider government policy objectives in areas such as pensions, long-term savings, and investment in domestic enterprises and infrastructure
- The effect of the Dublin International Financial Sector on employment and economic activity across the jurisdiction, and how the funds sector has evolved since the late 1980s
- The relationship and links with the EU's Capital Markets Union policy, and the evolving regulatory regime within the EU and beyond
- Relevant peer reviews of other EU jurisdictions
- How the sector can develop Ireland's capital markets and support access by small and medium-sized enterprises to financing

7. International Monetary Fund

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Switzerland

Revision of the Collective Investment Schemes Act and its Ordinance is expected to be completed in the first quarter of 2024 and will create new opportunities, and more flexibility and legal certainty in managed products. Essential elements being discussed include:

- The introduction of a new fund category, not subject to approval and supervision of the regulator: the Limited Qualified Investment Fund (L-QIF), which will enable firms to launch innovative products for qualified investors faster and at lower cost
- Explicit requirements on liquidity and appropriate liquidity risk management of funds
- New and extended disclosure requirements for exchange-traded funds
- Extension of permissible fund expenses
- Potential information obligations in the event of investment violations
- Authorization requirements for "side pockets"
- Differentiation between collective investment schemes and structured products by means of labeling

Poland

The intention of the new Family Foundations Act is to allow the accumulation of family wealth, to allow capital to be retained in Poland for successive generations and to increase the potential for domestic investment. The regime could become an alternative to the use of closed-ended, dedicated funds in Poland.

Family foundations will be allowed to invest in various companies and financial instruments, including fund units. In contrast to investment funds, family foundations will not be supervised by the financial regulator and will not be obliged to comply with liquidity requirements or investment restrictions.

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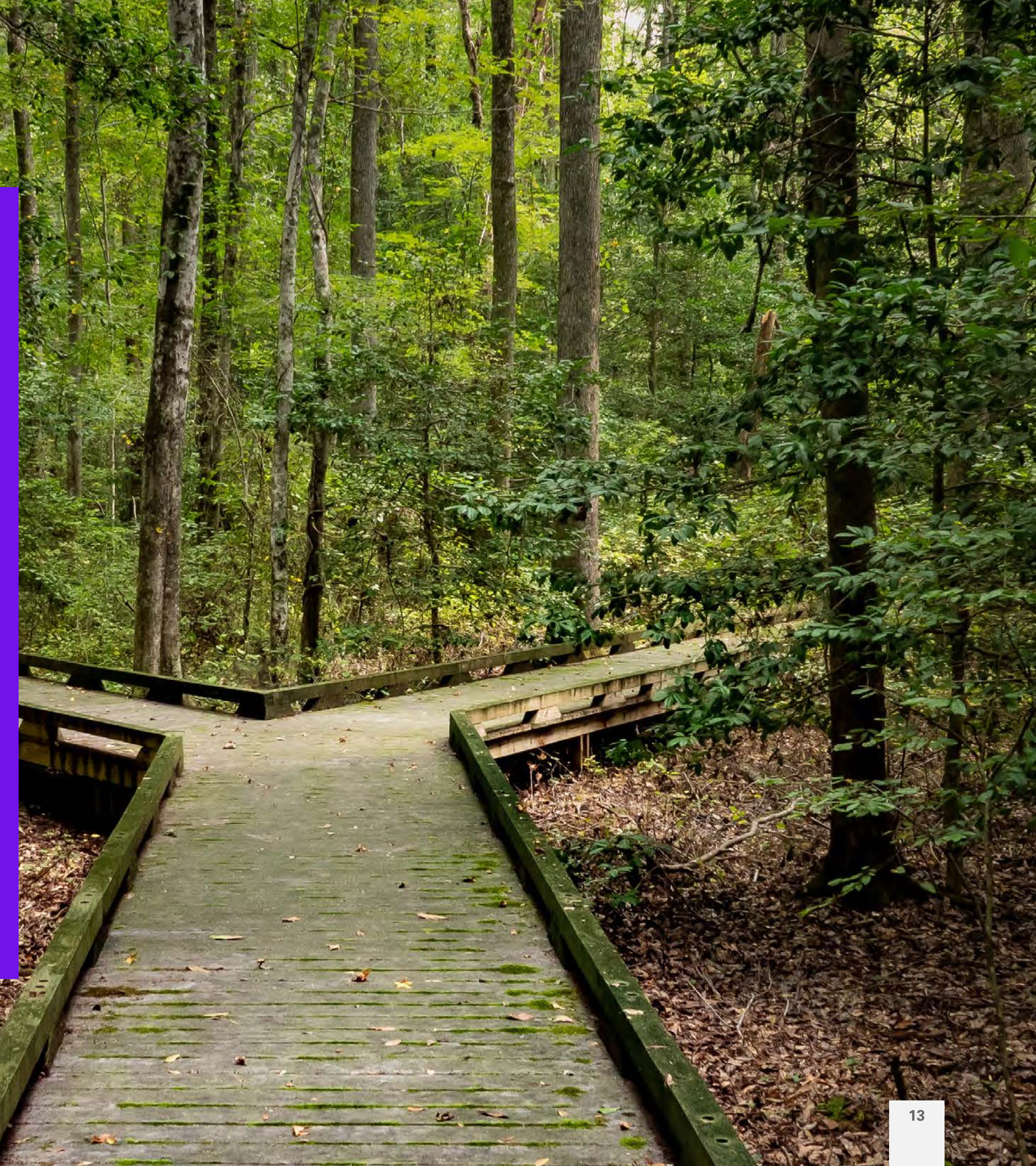
02 Sustainable finance: a top priority

The pace of regulatory change in sustainable finance continues to be rapid – not just through the introduction of new requirements but also via substantial amendments and clarifications to existing regimes.

Amidst calls for global collaboration, jurisdictions and regions are acting separately and are adopting different approaches. Regulatory divergence is causing issues for cross-border asset managers in terms of navigating different rules, particularly where regulations can have an extra-territorial impact.



The themes highlighted in last year's report remain relevant. Concerns about "greenwashing" have increased, but regulators' approaches to prevention differ. These range from enhanced disclosures by firms and funds, the introduction of sustainable labels, and restrictions on specific fund names and marketing terms, to broad anti-greenwashing rules, or questioning of individual firms and funds about their underlying investment processes. Taxonomies (dictionaries of sustainable activities) have been completed in some jurisdictions, but others believe that broad environmental objectives are preferable to detailed definitions, and some regulators are supervising firms with reference only to high-level international frameworks.

Other important debates continue, such as how sustainable investing fits with a firm's fiduciary duty. But there is also an increasing focus on the integration of sustainability into asset managers' businesses, and on stewardship and engagement. Wider initiatives to enhance corporate reporting and to regulate other market participants, such as data and ratings providers, should improve the flow of information to asset managers to fill data gaps.

In addition to the continuing focus on climate, there is an increasing emphasis on nature and biodiversity. The Taskforce on Nature-related Financial Disclosures (TNFD) plans to publish its final recommendations in September 2023.

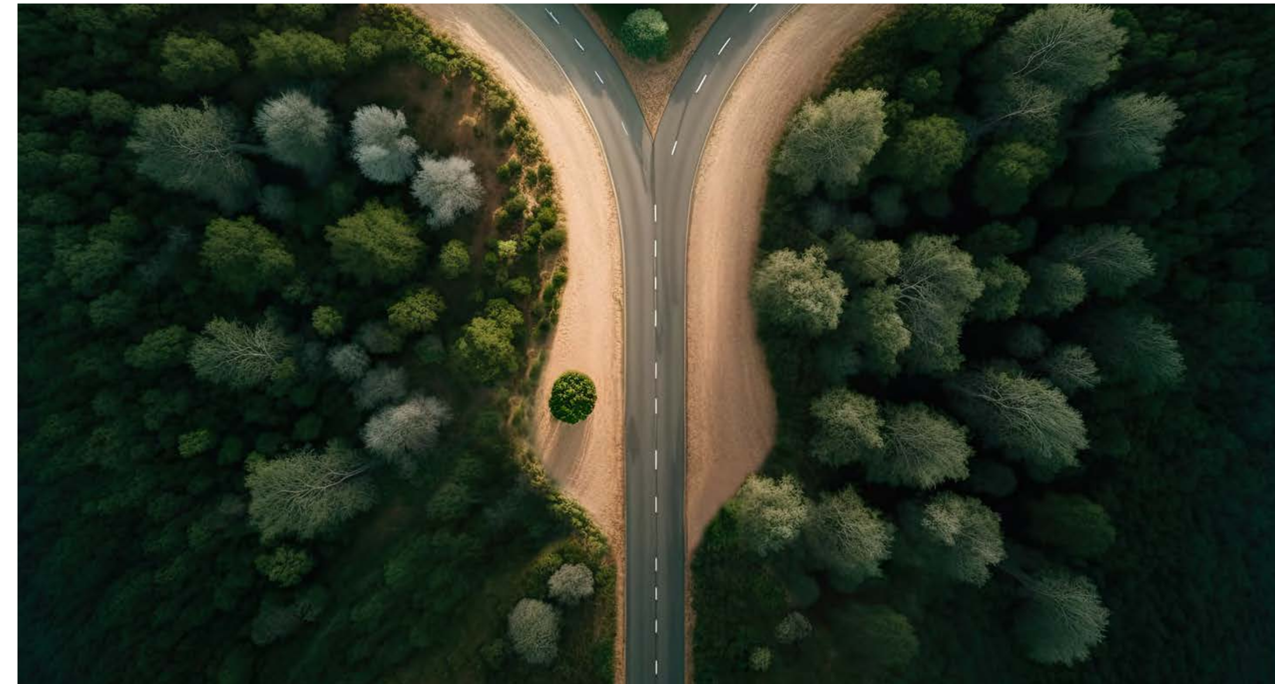
Calls for global collaboration, but actions differ

IOSCO[1] and the FSB[2] continue to grapple with common issues at the international level. In the meantime, jurisdictions are at different stages of their regulatory journeys.

The EU has published a package of measures to build on and strengthen the foundations of its existing and detailed sustainable finance framework, to encourage and facilitate much-needed additional financial flows into sustainable investments. South Africa has stated that sustainable finance is a strategic priority, which will eventually lead to a roadmap. Canada is closely following the divergence of developments in the US and the EU to plot a middle path. Switzerland does not adopt EU standards but relies on a framework based on industry self-regulation standards.

Some cross-border collaboration is evident, such as through the green finance taskforce that has been established between the Monetary Authority of Singapore and the People's Bank of China to facilitate greater public/private sector collaboration.

> **Act now, Act fast, Act together**
>
> **Ravi Menon**, Managing Director, Monetary Authority of Singapore, November 2022



1. International Organization of Securities Commissions
2. Financial Stability Board

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Across the world, jurisdictions are establishing local working groups to tackle the practical realities of specific topics. For example, the Japanese Financial Services Agency (JFSA) has established a working group to discuss measures for expanding impact investment that contributes to solving social and environmental issues and creating new businesses. The Singapore and UK regulators have established external advisory panels to guide their policy initiatives, and Singapore has created an "impact hub" to increase collaborate between sustainable start-ups and other stakeholders.

Diverging rules and extra-territorial impacts

Regulatory divergence is particularly pronounced in the context of sustainable finance, especially relating to ESG.[3] Although there is convergence around corporate reporting on environmental issues for companies in general, a stark contrast is emerging on financial services regulation between the EU and the rest of the world (for example, EU requirements to embed sustainability into the investment process – see below). This is likely to reduce the scalability of asset managers' business models and make it more difficult for firms to run the same investment strategies in multiple jurisdictions. Also, due to differing ESG disclosure requirements, a single fund product is unlikely to comply with rules across different regions and jurisdictions.

The EU, the UK and the US are pressing ahead with the most detailed requirements for asset managers and funds. Although the regulators all have the same goal of mitigating greenwashing, their scope and approach are fundamentally different. While the ESG disclosures proposed by the US SEC[4] are rules-based, the EU's approach is more principles-based (and is subject to frequent revisions). Adding to the complexity, some US states have proposed their own anti-ESG legislation. The UK's proposed Sustainability Disclosure Requirements (SDR) do not align closely with either set of requirements, especially the proposed product labelling requirements.

The EU Sustainable Finance Disclosure Regulation (SFDR) is having extra-territorial impacts, given that fund managers marketing into the EU are in scope. And some investors outside the EU are stating a preference for products that meet the descriptions in SFDR Articles 8[5] and 9.[6] Regulators in jurisdictions such as Singapore and Guernsey have stated that SFDR compliance would achieve at least partial compliance with local requirements.

Expectations regarding firms' fiduciary duties are also evolving. The US Department of Labor published a final regulation to clarify that fiduciaries may consider climate change and other ESG factors when they make investment decisions and when they exercise shareholder rights. And the UK government committed to providing further information and clarity for pension trustees on their fiduciary duty in the context of the net zero transition, via review of its stewardship guidance.

3. Environmental, social, governance
4. Securities and Exchange Commission
5. Products that promote ESG characteristics
6. Products that have a sustainable investment objective

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Preventing greenwashing

Greenwashing – false or misleading claims that a service or product is environmentally friendly – remains regulators' key concern and is being expressed in a variety of new rules and disclosure requirements.

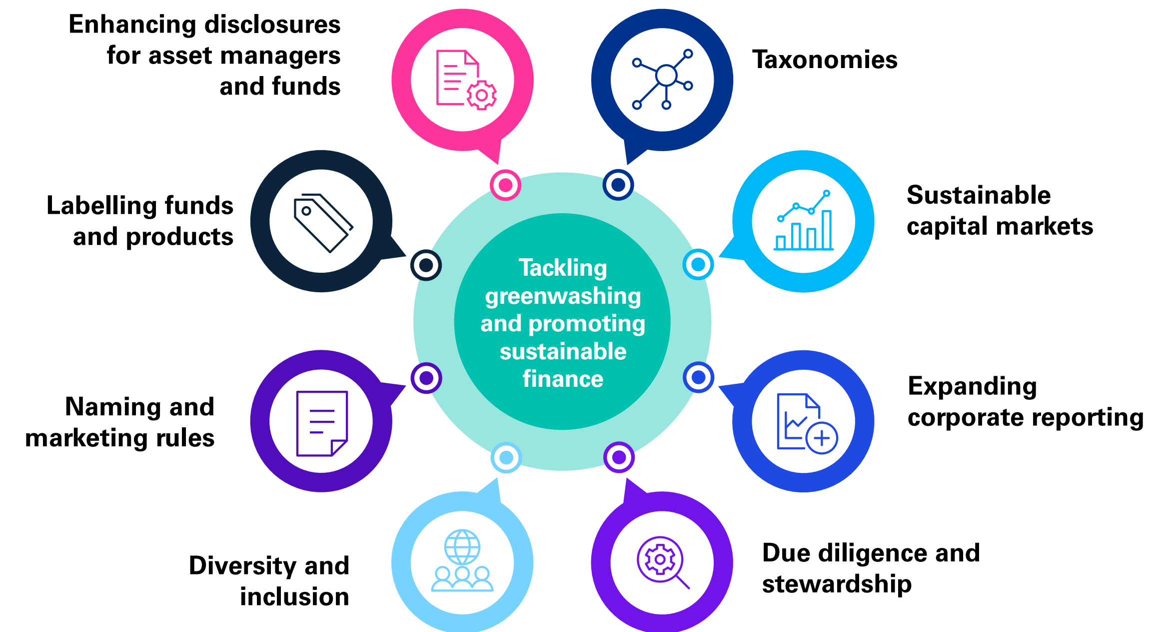
Some jurisdictions are defining greenwashing for the first time. In May 2023, the EU European Supervisory Authorities (ESAs) set out their common understanding of greenwashing: "a practice where sustainability-related statements, declarations, actions, or communications do not clearly and fairly reflect the underlying sustainability profile of an entity, a financial product, or financial services." The ESAs will publish final reports in 2024 with recommendations for mitigating greenwashing.

While some regulators have introduced detailed disclosure requirements to prevent greenwashing (see below), others are relying on supervision based on existing rules and recently issued guidelines. For example, the **Australian** Securities & Investments Commission (ASIC) summarized its key enforcement activities following publication of its "how to avoid greenwashing" information sheet. Some firms then adjusted down their own claims – not unlike how **EU** fund managers have recently downgraded the categorization of some funds under SFDR. Similarly, in **Canada**, there has been a heavy supervisory focus on disclosures against existing general disclosure rules, but with many of the regulators' comments focused on ESG disclosures.

The **Guernsey** regulator has issued guidance to counter the risk of greenwashing. Explicit claims or statements that indicate that a fund or its underlying assets are environmentally sustainable investments should not be misleading. Disclosures aligned to SFDR would be deemed compliant with this guidance. The AFM[7] in the **Netherlands** consulted on guidelines for financial institutions and pension providers making sustainability claims. The proposed guidance included three principles – claims should be accurate, representative, and up to date; specific and substantiated; and understandable, appropriate and easy to find.

Other regulators are bringing forward rules specifically aimed at preventing greenwashing.

Efforts to tackle greenwashing and promote sustainable finance



For example, the **UK** Financial Conduct Authority (FCA) has proposed a general "anti-greenwashing rule" for all UK regulated firms, requiring them to ensure that the naming and marketing of financial products and services is clear, fair and not misleading, and consistent with the sustainability profile of the product or service. **Brazil** has also introduced a new regulation requiring ESG funds to comply with several governance requirements, including controls, policies, and procedures to prevent greenwashing.

7. Autoriteit Financiële Markten

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Polar stances on taxonomies

Jurisdictions are taking fundamentally different approaches when it comes to the notion of a "taxonomy" (a dictionary of sustainable activities). Views vary on whether they are needed, and whether prescription or high-level principles work best. In some cases, the slowing development or absence of taxonomies means that firms need to create their own sustainability frameworks or rely on evolving industry practice.

Jurisdictions such as **Japan** and **Canada** do not have environmental taxonomies and instead require firms to follow existing rules that require disclosures to be clear, fair and not misleading. Where this is the case, asset managers are operating without consistent standards on what can be defined as sustainable.

At the other end of the spectrum, the **EU** has completed its detailed environmental taxonomy. Having added certain nuclear and natural gas activities to climate change-related aspects of the taxonomy (effective January 2023), it has added technical screening criteria for the remaining environmental objectives relating to water and marine resources, recycling and re-use, pollution prevention, and biodiversity and ecosystems. Proposals for a social taxonomy appear to have been abandoned. The Platform on Sustainable Finance, an EU advisory group noted that the "minimum standards" criteria on human rights, bribery/corruption, taxation, and fair competition can be achieved through existing or proposed EU regulation.

The **French** AMF[8] would like the taxonomy to be amended by adding a complementary macro-economic view and classifying economic activities into three categories: already sustainable, contribute to an orderly transition plan, and must be stopped. Meanwhile in the **UK**, the government plans to consult on a green taxonomy in Q3 2023, considering lessons learned from other jurisdictions, with two years of voluntary disclosures before the introduction of mandatory obligations.

8. Autorité des Marchés Financiers

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Enhancing disclosures

Regulators continue to mandate sustainability-related disclosures for asset managers and their products, but jurisdictions are at different stages. Some are providing clarifications and consulting on changes to existing regimes, or expanding the scope of existing requirements to cover broader sustainability topics. Others are introducing disclosure requirements for the first time.

In Q4 2023, the **US** SEC is expected to publish its final requirements for funds and advisers to provide more specific disclosures based on the ESG strategies they pursue (aligned with "integration", "ESG-focused" or "impact" categories). Meanwhile, the SEC's supervisory focus is on whether funds are operating in the manner set out in their disclosures, whether ESG products are appropriately labeled, and whether recommendations for retail investors are made in investors' best interests.

In **Hong Kong (SAR), China**, new rules on climate-related disclosures became effective in November 2022, requiring fund managers to take climate-related risks into consideration in their investment and risk management processes and to make appropriate entity-level disclosures. In a similar manner, the **UK** FCA required larger UK asset managers to publish climate-related TCFD-aligned disclosures at entity- and product-level for the first time by mid-2023. Smaller asset managers have an additional year to comply.

The FCA is expanding these disclosures to capture wider aspects of sustainability. Its proposed SDR would introduce pre-contractual and ongoing sustainability entity- and product-level reporting requirements for asset managers. Originally due in June 2023, the FCA has delayed publication of its final rules until Q4 2023, given significant feedback from industry.

The **EU** SFDR continues to evolve. Notable publications and amendments since last year's report include:

- More detailed "Level 2" entity- and product-level disclosures
- Proposed amendments to broaden disclosures and address known issues
- Revisions to product-level disclosure templates to reflect the inclusion of certain nuclear and gas activities in the EU taxonomy
- Clarifications on certain aspects of the regulation – including on the definition of a sustainable investment – which allow more flexibility for firms

Commission de Surveillance du Secteur Financier

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The SFDR is due to be reviewed by the European Commission later in 2023. In the meantime, EU member states have set out their own proposals. The **French** AMF believes that the flexible nature of the SFDR has created a gap between disclosures and investors' expectations, and fueled greenwashing. It therefore proposed to introduce minimum environmental standards for Article 8 or 9 products. This could include clarifying the vague definition of a sustainable investment, a requirement for Article 9 funds to have a minimum proportion of taxonomy-aligned investments, and the adoption of a binding ESG approach for Article 8 and 9 funds.

EU regulators have been supervising firms' compliance with the SFDR; including:

- The ESAs reviewed SFDR entity-level disclosures by firms with less than 500 employees.
- The **Maltese** regulator carried out further analysis of firms' website disclosures.
- The **Luxembourg** CSSF[9] undertook a data collection exercise on information contained in pre-contractual disclosure documents and issued a guide for firms. It also published observations from its supervisory work on SFDR and broader ESG requirements. The observations touched on disclosures (such as on the fund's characteristics or name), organizational arrangements (for example, on delegation and risk management), and monitoring investment portfolio compliance.
- A report by the Central Bank of **Ireland** (CBI) focused on how firms have complied with the SFDR and EU Taxonomy disclosure requirements and outlined potential greenwashing risks.
- The AFM in the **Netherlands** found that disclosures on the integration of sustainability risks in the investment decision-making process and remuneration policies could be made more specific, that many fund managers had reclassified their funds from Article 9 down to Article 8, and that reported taxonomy alignment was very low, due to a lack of reliable data.
- The **Swedish** regulator reviewed Article 9 funds and found room for improvement in terms of the information provided to investors.
- The **Spanish** regulator reviewed the websites of fund managers managing funds with ESG characteristics and their annual reports.

To ensure supervisory convergence across the EU, ESMA will commence a common supervisory action on sustainability-related disclosures and the integration of sustainability risks.

The position in **Germany** is unique, in that the periodic reports for Article 8 and 9 funds are included in funds' annual statements and are therefore subject to audit requirements. This brings the benefit of additional assurance over the included disclosures but adds to operational costs and concerns about data gaps.

Since January 2023, the Monetary Authority of **Singapore** (MAS) has required retail funds that use or include ESG factors, or represent an ESG-focused scheme, to meet specific disclosure and reporting guidelines. The MAS confirmed that an EU fund with SFDR Article 8 or 9 status is deemed to have complied with the disclosure requirements, but the fund should still comply with some other local requirements.

The Securities and Exchange Board of **India** has established an advisory committee on ESG matters. One aspect of the group's work will be to enhance disclosures that are specific to ESG mutual funds with a focus on mitigating risks of mis-selling and greenwashing. There is a longer-term plan to prescribe ESG disclosures for all mutual funds.

9. Commission de Surveillance du Secteur Financier

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Labelling funds and products

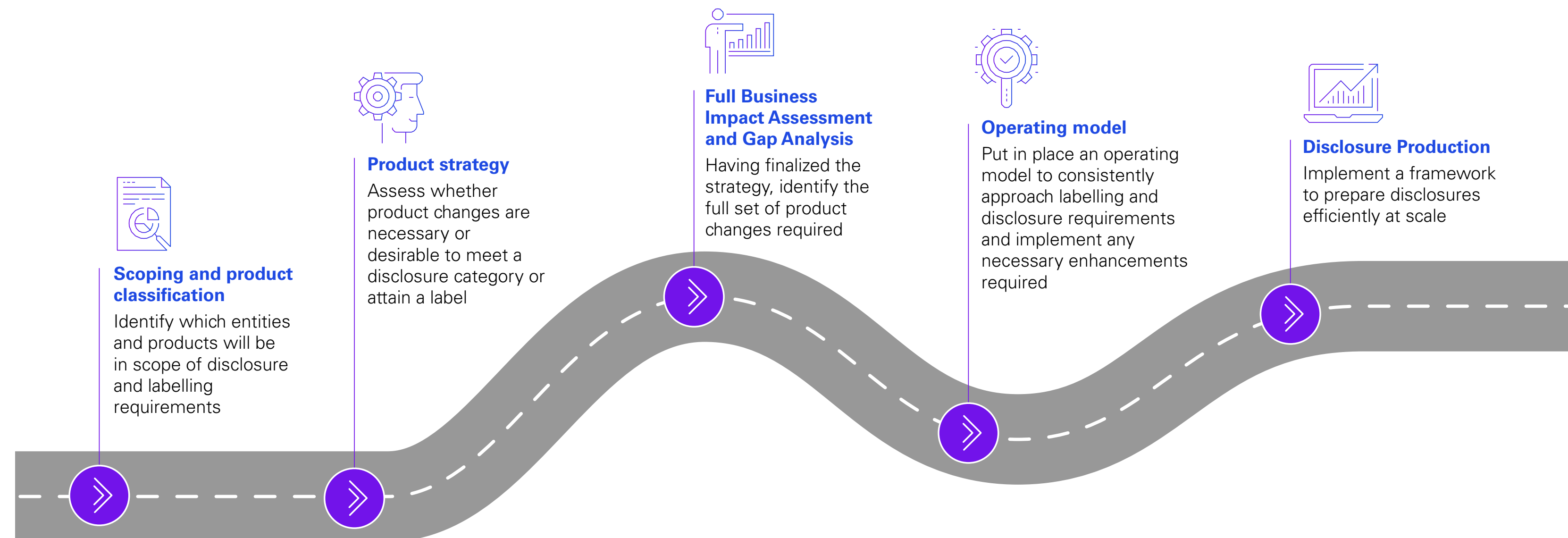
The debate continues whether ESG funds should meet specific criteria under mandatory ESG labelling regimes, to aid consumer understanding. Regulators are taking differing stances.

The EU SFDR is widely interpreted as a labelling regime, even though the policy intention was for it to be purely a disclosure regime. Some member states would like to pivot towards a labelling regime with minimum standards. The European Commission had previously indicated that it would propose an "Ecolabel" regime for green products (including requiring at least 50 percent of the underlying investments to be taxonomy-aligned), but progress has stalled. In the meantime, asset managers should take note of an ESMA[10] research paper, which underlines the challenges in developing a functional labelling framework. It remains to be seen how a potential Ecolabel would fit with ESMA's proposed naming criteria (see below) or the SFDR.

> **Adding a simple label to a complex product can result in the product's content falling short of what investors expect**
>
> **Mark Branson,** President, BaFin, November 2022

> **A credible European labelling regime with robust common criteria would provide more clarity on the investment options for investors to decide if and how to contribute to financing the transition**
>
> **Natasha Cazenave,** Executive Director, ESMA, May 2023

Practical preparations for disclosure and labelling requirements



10. European Securities and Markets Authority

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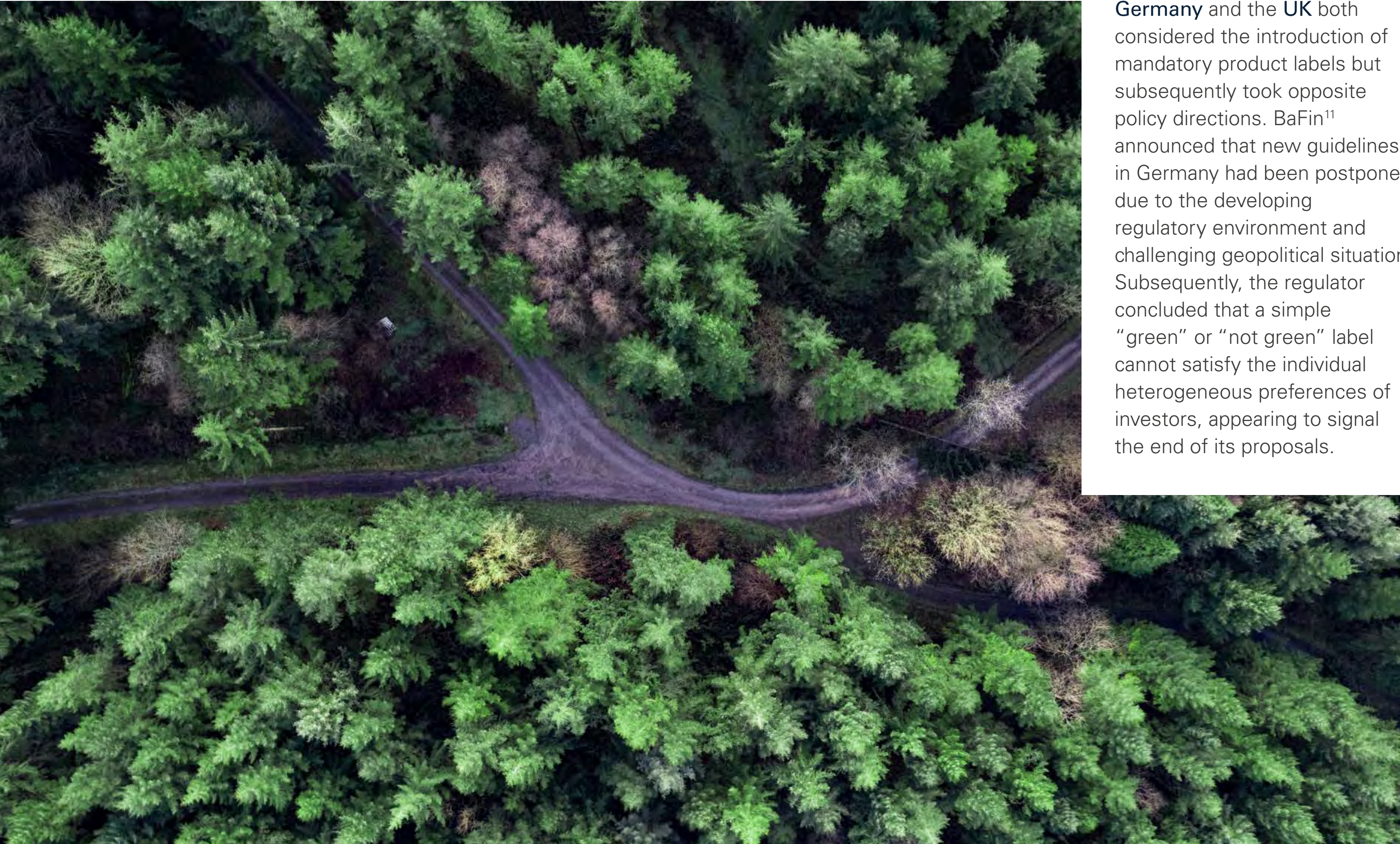

Germany and the **UK** both considered the introduction of mandatory product labels but subsequently took opposite policy directions. BaFin[11] announced that new guidelines in Germany had been postponed due to the developing regulatory environment and challenging geopolitical situation. Subsequently, the regulator concluded that a simple "green" or "not green" label cannot satisfy the individual heterogeneous preferences of investors, appearing to signal the end of its proposals.

The UK, on the other hand, intends to introduce prescribed labels from mid-2024: "Sustainable Focus", "Sustainable Improvers" and "Sustainable Impact". However, it has delayed final rules while it considers substantial industry feedback on its consultation. If firms decide they do not want to use the labels or cannot meet the prescriptive requirements, they will not be able to use certain ESG terms in fund names and marketing material (see below). Although the FCA has sought to align its regime with others, such as SFDR, where possible, there are substantive areas of divergence to manage.

The **US** SEC has stated that ESG will be a supervisory priority for 2023 and it will assess whether ESG products are appropriately labelled.

The **Guernsey** FSC[12] launched its Natural Capital Fund (NCF) regime in September 2022 (a natural capital and biodiversity investment fund vehicle). Focused on preserving natural capital and contributing to conserving and restoring ecosystems, an NCF is required to set targets that are aligned with its objectives, and to put in place appropriate governance arrangements to monitor progress and make related disclosures. In 2023, the framework was revised to reflect goals derived from COP15.[13]

11. Bundesanstalt für Finanzdienstleistungsaufsicht
12. Financial Services Commission
13. UN Biodiversity Conference (COP 15)

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Naming and marketing rules

Some regulators have also introduced or are introducing restrictions on fund names and references to sustainability in funds' marketing materials.

In Q4 2023, the **US** SEC is expected to publish final amendments to its fund "names rule". The existing rule requires funds to adopt a policy to invest at least 80 percent of assets in line with the investment focus suggested by the fund's name. The amendments would extend the rule to capture terms suggesting that funds focus on specific characteristics, including names that indicate a fund's investments incorporate one or more ESG factors.

Japan published guidelines on fund names for investment trusts, defining specific checks for supervisors. Where trusts do not fall under an ESG category, supervisors will review whether the trust's name excludes ESG-related terms. Other checks would include ensuring that certain information is captured within disclosures about the objective of the fund – such as details about how key ESG factors are considered. **Singapore**'s 2022 circular required retail funds using ESG-related or similar terms in their name to reflect an ESG focus in their investment portfolio or strategy "in a substantial manner".

ESMA has consulted on guidelines regarding the use of ESG or sustainability-related terms in **EU** fund names. The guidelines would introduce quantitative criteria for fund names – if a fund has any ESG-related words in its name, at least 80 percent of investments will need to meet ESG characteristics or sustainable investment objectives. If a fund has the word "sustainable" in its name, at least 50 percent of investments within the above 80 percent of investments will need to be sustainable investments.

Some EU member states have already implemented their own requirements. For example, **France** requires consistency between what is said in marketing material and the actual investment management of the fund (by imposing minimum standards on products that hold themselves out as having ESG characteristics), including rules on fund names.

The **UK** FCA's labelling proposals would codify its existing guiding principles and prohibit the use of specific terms in product disclosures and marketing material where a label is not used (for example, ESG, environmental, sustainable). The proposed restrictions would go as far as capturing "any other terms" that imply sustainability characteristics. Significant work would be needed to remove these terms from fund documentation, or to uplift products to ensure they are eligible to use one of the labels.

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> **Integrating ESG risks into the risk management process… is of vital importance for all financial undertakings. As supervisors, we expect financial institutions to concern themselves with sustainability risks at management board level.**
>
> **Dr Thorsten Pötzsch,** Chief Executive Director of Securities Supervision, BaFin, October 2022

Sustainability in the investment process

Regulators are evaluating how asset managers are incorporating climate-related risk. The FSB found that "a more consistent global approach to addressing climate-related risks will help both to better assess and mitigate financial vulnerabilities and to reduce the risk of harmful market fragmentation." Specifically for the asset management sector, the FSB found that there is less coverage from regulators when it comes to using climate scenario analysis and stress tests tools compared to banking and insurance.

The FSB also reviewed how firms consider climate-related risk in remuneration frameworks. It found climate-related metrics are usually included in remuneration frameworks as non-financial rather than financial measures, and that they are often part of wider ESG metrics that cover several other issues, such as diversity and inclusion. The **EU** AIFMD[14] review has led to fund managers needing to ensure that their remuneration policies are consistent with long-term risks, including ESG.

The **European** Banking Authority published a report for supervisors on how to incorporate ESG risks in the supervision of investment firms, including asset managers. This covered guidance on the main elements of the supervisory review and evaluation process, including business model analysis, internal governance and risk management, and risks to capital and liquidity.

National regulators have published perspectives on how to best tackle physical and transition risks stemming from climate change (for example, the **UAE** DFSA[15]). In **Hong Kong (SAR), China**, the SFC[16] stated that its focus is on climate-resilient investment products.

As noted above, new SFC requirements mean that fund managers should take climate-related risks into consideration in their investment and risk management processes.

The **Jersey** regulator is expected to publish a consultation around the integration of ESG-related risks into corporate governance requirements of regulated firms. This could see greater consideration for ESG topics in boardrooms and, potentially, further integration into companies' annual returns.

Some regulators are beginning fundamentally to re-think the role of asset managers in the context of supporting sustainable finance. The **EU** already requires firms to consider sustainability factors and risks throughout their business, and has now finalized supporting guidelines on product governance and the suitability assessment (see Chapter 6).

14. EU Alternative Investment Fund Managers Directive
15. Dubai Financial Services Authority
16. Securities & Futures Commission of Hong Kong

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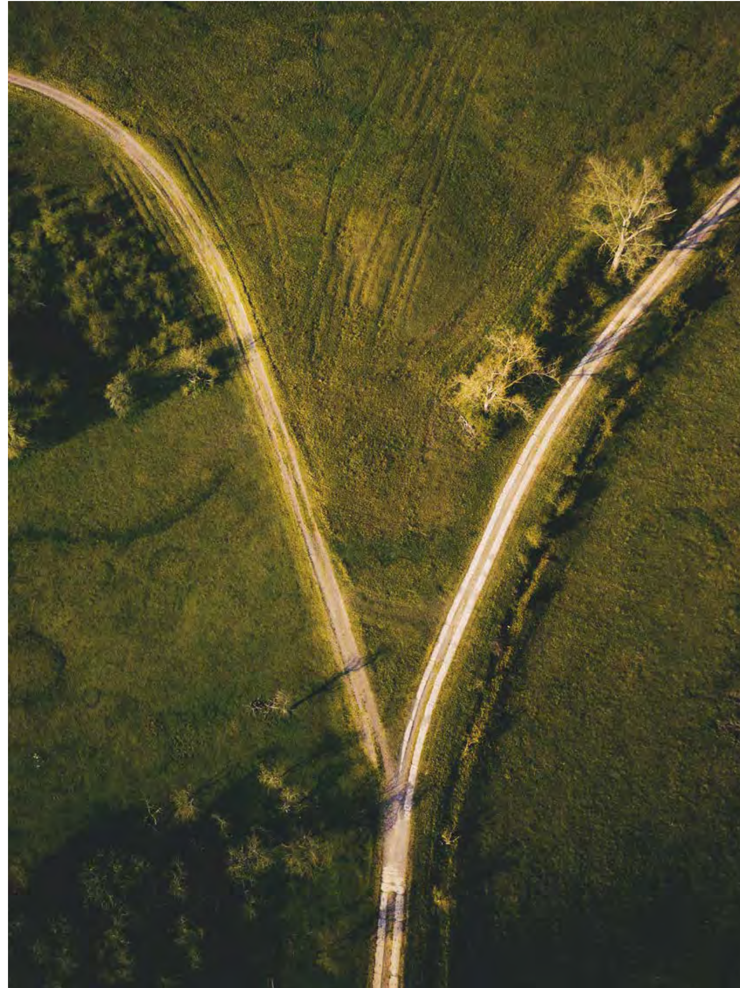
One of the **Luxembourg** CSSF's supervisory priorities is to focus on the organizational arrangements of asset managers, including how they integrate sustainability risks in their activities – notably around human resources and governance, investment decision or advice processes, remuneration, risk management processes and policies, and management of conflicts of interest. A data collection exercise launched in February 2023 gathered information in this area. Similarly, in the **UK**, the FCA is considering how sustainability-related considerations should be embedded throughout regulated firms' objectives, strategies, culture, governance, operations, decision-making processes, incentives and senior managers' responsibilities. And in the **Netherlands**, the AFM is focused on ensuring that firms have adequate control and integration of sustainability risks in business operations.

In **Saudi Arabia**, ahead of regulatory activity in this area, the approach of the sovereign wealth fund is influencing the way in which asset managers are addressing sustainability risks.

Around the world, asset managers are taking a wide range of approaches to ESG governance in practice. Typically, firms have created dedicated internal ESG forums – split between corporate sustainability and sustainable investing –and updated terms of reference for some existing forums.



Due diligence & stewardship

Proposed **EU** requirements on corporate sustainability due diligence would require certain companies to identify and prevent, end, or mitigate the actual and potential impacts of their activities on the environment and on human rights abuses – including on the activities of subsidiaries and other entities in their value chain. The exact extent to which asset managers and their funds would be captured by the proposals is yet to be finalized. Industry has noted that the SFDR already imposes due diligence obligations on asset managers.

In the **UK**, there is a particular focus on stewardship. The FCA's SDR proposals include increased focus on engagement. A separate review of the UK's corporate governance code is looking to include ESG requirements.

Corporate reporting

Asset managers have struggled to produce their own disclosures because of a lack of standardized, consistent and readily available data and information from investee companies. However, public and private companies of all types are increasingly subject to disclosure requirements within their annual reports. Some asset managers may themselves be captured directly by these requirements.

As noted in last year's report, many jurisdictions require companies to produce TCFD-aligned disclosures. The FSB's TCFD status report found that over 60 percent of surveyed asset managers and over 75 percent of surveyed asset owners currently report climate-related information to their respective clients and beneficiaries. Jurisdictions have taken different approaches to date.

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For example:

- The **EU** Corporate Sustainability Reporting Directive (CSRD) builds on existing requirements and will require many more companies to report against new EU standards, with phased implementation between 2025 and 2029. Asset managers have voiced concern that the implementation timeline will lead to continued data gaps.
- **Australia** has consulted on internationally-aligned requirements for companies to disclose climate-related financial risks and opportunities. The consultation covered the coverage, scope, frequency, format, timing and international alignment of the proposed requirements.
- The JFSA introduced new corporate reporting requirements for **Japanese** listed companies with year-ends after March 2023. It added a new disclosure section on sustainability-related information, and new requirements related to human capital and diversity.
- The SFC supported a consultation issued by the Stock Exchange of Hong Kong on proposed climate-related reporting requirements for listed companies in **Hong Kong (SAR), China**.
- In addition to a TCFD application guide for **Malaysian** financial institutions issued by the regulators, Bursa Malaysia proposed TCFD disclosure requirements for all listed companies by the end of 2026.
- The US **SEC** is expected to publish its final rules on climate disclosures for public companies in Q4 2023.
- The **Saudi Arabian** regulator has issued ESG disclosure guidelines for listed companies.
- The **Canadian** securities regulators, having previously proposed TCFD-aligned climate-related disclosure requirements, stated that they are "actively considering international developments".
- The **UK** FCA reviewed TCFD-aligned disclosures made by premium-listed companies. It was "encouraged" by the overall improvement in disclosures but reminded firms of its expectations.

Separately, the MAS and **Singapore** Exchange launched a digital disclosure portal for companies to report ESG data in a structured and efficient manner, and for investors to access the data. The MAS considers that FinTech can be a key enabler in addressing ESG data challenges. It plans to consider the ISSB[17] standards before imposing corporate reporting requirements.

Notably, in June 2023, the ISSB published its first two standards which will become effective starting January 2024. Individual jurisdictions are considering their approach to adopting and applying the standards. The ISSB also consulted on its work plan, and on a methodology to integrate the Sustainability Accounting Standards Board (SASB) standards into its wider reporting framework. More than half of FSB jurisdictions stated that they already had, or were putting in place, structures and processes to bring the ISSB standards into local requirements.

In July 2023, IOSCO endorsed the final ISSB standards and encouraged its members to apply or adopt them. It plans to review how jurisdictions are using them. IOSCO also welcomed progress by audit standard setters, which aim to have standards available before the end of 2024.

17. International Sustainability Standards Board

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Sustainability in capital markets

A wider range of firms and financial instruments in the ESG ecosystem are under scrutiny and are being brought within the regulatory perimeter.

ESG data and ratings providers are a particular focus. As the use of ESG data and ratings has grown in financial services, so has regulators' concern around issues such as data quality, transparency of methodologies and conflicts of interest. **Japan** has developed a principles-based code of conduct for ESG data and ratings providers, and **Singapore** and the **UK** are considering similar codes. However, a UK code may eventually be overtaken by regulation of ESG ratings providers. The **EU** has also proposed rules for ESG rating providers, with some similarities to the UK proposals.

Also under supervisory scrutiny is the way in which asset managers consume these data and ratings. In **Hong Kong (SAR), China,** the SFC plans to review how fund managers use ESG ratings and data providers – this will result in guidance for the industry. More broadly, the **French** AMF completed a thematic review of the internal processes of fund managers with non-financial commitment in their funds. It found that firms had put in place human and technical resources to define, review, manage and monitor non-financial contractual commitments. However, the sampled firms remained dependent on external ESG data providers.

In some jurisdictions, the provision of benchmarks is already a regulated activity. For example, in the **EU** and the **UK** there are specific requirements around named categories of indices. In March 2023, the UK regulator wrote to benchmark administrators and highlighted significant issues in its review of ESG-related benchmarks, finding the overall standard of disclosure "poor".

Other regulators are focusing on green and social bonds. Further to the guidelines mentioned above, in **Saudi Arabia** there is increasing issuance of green Sukuk (a Shariah-compliant product). In the **UAE**, the DFSA set out guidelines on disclosures for ESG bonds and Sukuk, and the UAE Securities and Commodities Authority issued a resolution to regulate sustainability-linked green bonds and Sukuk. The **EU**'s European Green Bond Regulation requires all proceeds of green bonds to be invested in economic activities that are aligned with the EU Taxonomy, for those sectors that are covered by it. And more broadly, in **Japan**, the JFSA established a Working Group on Social Bonds, which published examples of social indicators (building on social bond guidelines).

Finally, the regulation of carbon markets is likely to increase, given the fundamental need to reduce gross carbon emissions and facilitate the transition to net zero. For example, IOSCO has consulted on recommendations on how to establish compliance and voluntary carbon markets.

Actions for firms:

- Evaluate the firm's **product range and governance framework** in the context of new regulation.
- Harness the benefits of a **technology-driven approach** to capture the high volume of regulatory change, implement new rules, and identify areas of commonality and divergence.
- Carry out a **product scoping and classification exercise** against relevant disclosure and labelling requirements.
- Implement a **common framework** across the firm to define which products qualify as "sustainable", against either a taxonomy or, in the absence of regulation, a best-practice model.
- Embed **sustainability considerations** across governance structures, the investment function, product governance, remuneration arrangements, compliance, and marketing.
- Review the **approach to stewardship** and assess whether appropriate technology for monitoring and reporting engagement is in place.

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03 Mitigating systemic risk

Asset managers continue to play an increasingly important role in financial markets and funding the real economy. According to the FSB,[1] recent growth in non-banks' share of global financial assets has been driven by investment funds. Therefore, policymakers continue to focus on the asset management industry and potential financial stability risks. The FSB and IOSCO[2] share a priority to enhance the resilience of non-banks, along with concerns about general market volatility and cyber threats (see Chapter 4).

Liquidity management in open-ended funds (OEFs) is under the spotlight. Money market fund (MMF) reforms are more advanced but slowing, with regulators now taking stock of progress. A few regulators have remaining concerns about exchange-traded funds (ETFs), and a recent area of focus in Europe has been liability-driven investment strategies. Use of leverage, investments in private and real assets, and asset valuation also feature on regulatory agendas.

1. Financial Stability Board
2. International Organization of Securities Commissions

Liquidity management in OEFs

Significant analysis and evaluation work has been completed by regulators on liquidity management in OEFs, since the 2020 "dash for cash" episode. Although there continues to be a difference of opinion between central banks and securities regulators on the extent of vulnerabilities in OEFs, they have both pushed ahead with parallel policy proposals to tighten up liquidity management practices.

IOSCO reviewed the implementation of its 2018 recommendations and found a "high degree of implementation" among jurisdictions. However, it also identified certain "gaps and shortcomings". This work fed into the FSB's review of the effectiveness of its 2017 recommendations. Both bodies then published specific proposals in July 2023, which will be followed by final reports at the end of 2023.

IOSCO consulted on guidance to support greater and more consistent use of liquidity management tools (LMTs), including a list of relevant LMTs (of which at least one should be used), how dilution adjustments should be calculated (including explicit and implicit transaction costs, as well as estimated market impact), and governance and disclosure frameworks. The FSB proposed detailed amendments to its recommendations, including changes to reduce structural liquidity mismatch in funds by grouping funds into categories with associated requirements (e.g. a fund investing mainly in illiquid assets would need to have a redemption frequency less than daily), and to increase the availability and use of LMTs. There is also a wider focus on promoting system-wide stress testing and closing data gaps.

The International Monetary Fund (IMF) also published recommendations, including the need for further guidance to ensure that LMTs are used and calibrated appropriately, and for tighter monitoring by supervisors. The IMF believes that OEFs that offer daily redemptions while holding illiquid assets can "amplify the effects of adverse shocks by raising the likelihood of investor runs and asset fire sales".

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Many national regulators have pushed ahead with their own policies and supervisory work, underlining the significant, worldwide focus in this area. Examples include:

- The **US** SEC[3] proposed changes to prepare OEFs better for stressed conditions and to prevent exiting investors diluting fund value for remaining investors: requiring OEFs to implement swing pricing; introducing a "hard close" to mitigate operational issues; improving funds' classification of liquidity by establishing new minimum standards; limiting the extent of investment in more illiquid securities; and increasing the frequency of public disclosures.
- The **Swedish** regulator is introducing new rules on swing pricing. With permission from the regulator, funds may implement swing pricing provided the fund manager has appropriate systems and controls, and it is in investors' best interests.
- **Brazil**'s new fund regime introduced LMTs such as gates and side pockets, as well as creating an insolvency regime for funds when net assets become negative.
- The **UK** FCA[4] completed a supervisory review and noted the need for improvements across fund managers' governance frameworks and structures, liquidity stress testing, unit redemption process and use of LMTs. It invited views on amendments to rules on liquidity stress testing and clarification of the rules on certain LMTs, and is also considering whether additional liquidity reporting or public disclosure for UK retail funds are necessary.
- The Monetary Authority of **Singapore** (MAS) will be sharing good practices to help asset managers strengthen their risk management and compliance capabilities, including observations on liquidity risk management practices.
- The **EU** review of the AIFMD[5] framework includes a requirement for fund managers to choose at least two LMTs in addition to fund suspension, and for firms to notify supervisors when they activate an LMT.

3. Securities and Exchange Commission
4. Financial Conduct Authority
5. EU Alternative Investment Fund Managers Directive

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- Although new LMTs were made available to German fund managers in spring 2020, a survey by the regulator found most fund managers had not introduced any new LMTs as of May 2022. The regulator will therefore continue to monitor developments and has designated LMTs as a special area of focus. There is a sense that swing pricing is becoming more popular in the industry.
- The French AMF[6] clarified its requirements in autumn 2022, signaling a clear policy goal to increase the availability of LMTs in funds, by providing more guidance, increasing disclosure requirements where funds do not use LMTs, and aligning its approach to different LMTs where possible.
- The Cyprus regulator published new guidance focused on due diligence of investments (e.g. their liquidity profile), presumptions of liquidity at the pre-investment stage, ongoing monitoring of liquidity risk, the use of data, and governance and control mechanisms.
- In the Netherlands, fund liquidity management is a supervisory focus for the AFM[7], which is increasing its monitoring.
- The Central Bank of Ireland (CBI) invited views on a macroprudential framework for funds, describing this as "the missing ingredient" in the regulatory toolkit. A July 2023 paper identified potential systemic risks posed by the funds sector and covered the objectives of the macroprudential framework, principles to underpin its design, tools to achieve macroprudential objectives and a range of practical issues to be tackled. The CBI had already published a framework for property funds, which must now have a minimum liquidity timeframe of 12 months and a leverage limit of 60 percent total debt to total assets.

On the topic of system-wide oversight, the Bank of England launched its first system-wide exploratory scenario to understand the behavior of UK banks and non-banks in stressed market conditions. The exercise will gather data from asset managers, including pension schemes, hedge funds and OEFs. The Canadian securities administrators published the results of their first annual systemic risk survey of firms - respondents were most concerned about rising interest rates, household debt, the housing market, the geopolitical environment, and cyber vulnerabilities.

Supervisors have conducted hypothetical stress tests. For example, the Luxembourg regulator simulated redemption shocks to funds with over EUR 1.1 trillion of assets. It found that 83 percent of funds could meet redemption shocks within two days and 96 percent within five days. Similarly, the Swedish regulator developed a stress testing tool to analyze funds' resilience. It found that some bond funds could experience liquidity problems in stressed market conditions.

IOSCO's proposed guidance on liquidity management tools for fund managers

Overall framework
Have appropriate internal systems, procedures and controls to integrate LMTs into everyday liquidity risk management

Types of LMT
Use at least one LMT for each fund (from swing pricing, valuation at bid or ask, dual pricing, anti-dilution levy, or subscription/redemption fee)

Calibration of liquidity costs
Capture explicit and implicit costs of subscriptions/redemptions and market impact of asset purchases/sales

Activation thresholds
Thresholds for activating LMTs should be appropriate and 'sufficiently prudent' so as not to result in material dilution to remaining investors

Governance
Have appropriate governance arrangements, including clear-decision making processes for using LMTs

Disclosure to investors
Publish clear disclosures of the objectives and operation of LMTs to improve awareness and investment decision-making

6. Autorité des Marchés Financiers
7. Autoriteit Financiële Markten

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Money Market Funds

MMF reform has continued. Later in 2023, the FSB and IOSCO will take stock of the policy measures adopted by jurisdictions in response to the FSB's 2021 recommendations. The findings are expected to be published by the end of the year.

Japan has already revised its framework to improve the resilience of MMFs. In the US, the SEC also adopted amendments to its rules. These changes will increase the minimum liquidity requirements for MMFs, remove the ability for MMFs to temporarily suspend redemptions via gating, and allow certain MMFs to impose liquidity fees when they have daily redemptions that exceed 5 percent of net assets.

In Europe, the **UK** is considering feedback to a 2022 discussion paper before further consultation and in the **EU**, the European Commission finalized a report. It found that the regulatory framework for MMFs has worked as intended but there are shortcomings to be assessed further. Potential changes could involve decoupling the activation of LMTs from liquidity thresholds.

ESMA[8] has been particularly active. It issued reports, updated its annual stress testing guidelines, and consulted on a review of the methodology of the stress test scenarios. It considered introducing a new climate risk scenario for the first time but decided against it at this stage.

> **The vulnerabilities that surfaced during the pandemic, have demonstrated that legislative changes to enhance the resilience of the MMF sector are needed sooner rather than later.**
>
> **Verena Ross,** Chair, ESMA, March 2023

Exchange-Traded Funds

ETFs continue to attract the attention of some regulators given their growth. The IMF recognized that vulnerabilities in ETFs are different to other OEFs but referenced evidence that ETFs can increase volatility in markets and amplify the sensitivity of cross-border capital flows to global financial conditions.

IOSCO concluded that its 2013 principles remain relevant and there are no major gaps, but it published good practices intended to support the principles and highlight issues for consideration by regulators, fund managers and trading venues.

Poland continues to work on amendment of its ETF regime, to help develop capital markets and protect investors. The proposed rules would simplify the process to create Polish ETFs, allow them to be UCITS,[9] and disapply the general prospectus regulations.

8. European Securities and Markets Authority
9. Undertaking for collective investment in transferable securities

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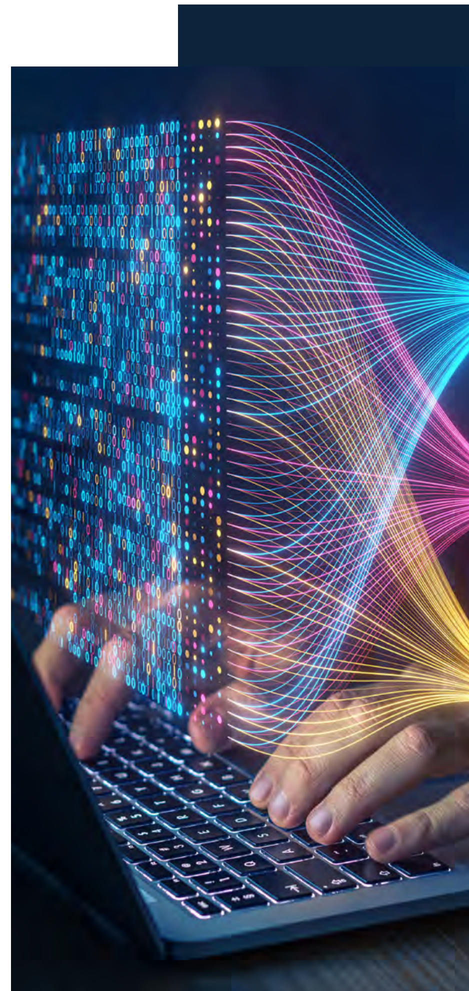
Controlling leverage

IOSCO found that average leverage levels in funds had not changed, but with some variations, including declines in leverage levels in hedge funds.

The **EU** regulators called for vigilance in the face of mounting risks and specifically noted the need to monitor liquidity risks arising from investments in leveraged funds and the use of interest rate derivatives. The CBI was the first EU national regulator to use a power under AIFMD to impose leverage limits where there could be potential risks to financial stability. As noted above, in November 2022, it imposed a 60 percent leverage limit on certain **Irish** real estate funds, with a five-year transitional period for existing funds. The authorities in the **Netherlands** will focus on the use of leverage in funds and the possibility of imposing leverage limits when systemic risks arise.

The **EU**'s AIFMD review has introduced the definition of a loan-originating fund (i.e. funds that provide credit) and the amount of risk they should retain, as well as a leverage cap designed to mitigate potential financial stability risks.



Liability-Driven Investment

Volatility in the **UK** gilt market in September 2022 and associated challenges for LDI managers added to scrutiny of the non-bank sector. In response, regulators set new expectations and laid out follow-up supervisory and policy work. The Bank of England said that the root cause was simple – and had been seen in other contexts – poorly managed leverage.

In November 2022, the **UK** FCA published a statement to recap its expectations on risk management and required asset managers to take appropriate action to factor market conditions into their risk management practices. The CBI and CSSF[10] published identical letters to **Irish** and **Luxembourg** LDI fund managers, asking them to maintain the current level of resilience and the reduced risk profile of GBP LDI funds. Managers wishing to reduce funds' yield buffers needed to notify them and provide a justification. Meanwhile, the Bank of England judged that the size of the yield shock to which LDI funds should be resilient should be at least 250 basis points.

In April 2023, the FCA and the UK pensions regulator issued further guidance, observations, and recommendations. Notably, the FCA stated that other types of firms that may face similar types of risk should also consider the findings and lessons learned. In a similar vein, the Financial Stability Committee in the **Netherlands** recommended that the regulators conduct risk-based follow-up work on a previous investigation to identify liquidity challenges that could arise in exception times of stress, with the aim of developing good practices.

10. Commission de Surveillance du Secteur Financier

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Asset valuation

Following concerns about inconsistency in the valuation quality and approach around the world, IOSCO and the International Valuation Standards Council signed a statement of co-operation to explore how best to promote high-quality valuation practices.

In June 2023, the Securities and Exchange Board of **India** wrote to alternative investment fund (AIF) managers to promote a standardized approach to the valuation of investment portfolios. It reminded firms of the relevant regulations, set out the responsibilities of the fund manager, provided more detail on the criteria for independent valuers, and clarified reporting requirements to performance benchmarking agencies.

ESMA required **EU** national regulators to review supervision of the asset valuation rules for EU UCITS and AIFs. It found room for improvement in four areas and noted the importance of "paying close attention to potential valuation issues arising from less liquid assets", specifically private equity and real estate assets. ESMA will facilitate further discussions among EU supervisors, particularly regarding stressed market conditions. The AFM in the **Netherlands** reminded real estate fund managers of the importance of good valuation procedures and issued guidelines to tighten valuation procedures.

The MAS plans to share good practices on asset valuation and investment due diligence with **Singapore** firms. The **US** SEC also plans to focus on valuation, following the introduction of new rules in 2021. It is assessing firms' and funds' compliance with the requirements for determining fair value, and reviewing whether aspects of firms' approaches have been appropriately adjusted, including valuation methodologies, compliance policies and procedures, and oversight and governance.

> **The renewed regulatory interest in this area comes from the unprecedented growth of private finance, its increasing role in funding the real economy, and its increasing interconnectivity with regulated public markets.**
>
> **Jean-Paul Servais,** IOSCO Board Chair and Chair of the Financial Services and Markets Authority, May 2023

Private assets

IOSCO identified private finance as a new priority. It has asked regulators to explore whether behaviors in these markets could have impacts or negative spillovers on public markets, particularly as the economic environment adjusts to higher inflation and rising interest rates. It will assess emerging risks and vulnerabilities in the sector, and undertake follow-up work.

The **US** SEC has already adopted changes to enhance private funds' reporting obligations. Amendments to Form PF should better enable US authorities to assess systemic risk and bolster the SEC's oversight of private fund advisers and its investor protection efforts. Alternative managers must report events that could indicate significant stress at a fund or investor harm. Large private equity advisors would also need to report information on "claw backs" on an annual basis, and additional information on their strategies and borrowings.

In **Saudi Arabia**, the CMA[11] issued instructions in 2022 around direct financing investment funds, which set out specific conditions for establishing such funds, investment limitations and additional duties, particularly around credit sanctioning and monitoring. Amongst other changes in **China** (see Chapter 8), wide-ranging new rules have been issued for the private fund industry, which seek to mitigate potential risks arising from the industry.

11. Capital Market Authority

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Market infrastructure, data and liquidity

The availability and cost of market data is a common challenge across jurisdictions. The **Canadian** securities regulators are considering reforms in two stages. In the short-term, they have consulted on changes to address fragmented information about orders and trades in equity securities. Longer-term options might be an overhaul of the regulatory regime for accessing consolidated real-time market data.

There are similar considerations in Europe, where in both the **EU** and the **UK** there are measures to support the emergence of "consolidated tapes". The tapes will collate market data from all trading platforms and publish the information as close as possible to real time, helping investors to access price and volume information. The commercial model of the tapes was strongly debated in the EU and industry has voiced concerns about the practical usability of the compromise arrangement reached. Meanwhile, the UK FCA proposed a consolidated tape first for bonds, followed by equities. The FCA found that the market could more effectively allow competition and innovation, to reduce concentration and complexity around how data are sold. It is investigating further.

The structure of bond markets is also under scrutiny. Responses to IOSCO's review of drivers of liquidity in corporate bond markets during the pandemic supported work to increase liquidity in these markets. The FSB has suggested ways to enhance the resilience of liquidity supply in times of stress, such as by using central clearing for government bond cash and repo transactions, and the use of all-to-all trading platforms.

As some jurisdictions such as the **US** and **Canada** move towards T+1 settlement, there will be implications for international asset managers as they will need to support both T+1 and T+2 cycles. For example, there may need to be changes in operational flows for asset managers that need to settle an FX trade (usually settled T+2) to fund a securities trade settling in T+1. This challenge is heightened for less liquid currencies and investors in Asia Pacific time zones.

The relationship between index providers and asset managers is once more under the spotlight. IOSCO published a survey to gather information on the nature of the interaction between these parties, and on their governance and processes during exceptional market events and shocks.

Markets in crypto-assets are seen as a potential area of systemic risk. We comment on the regulation of such assets in Chapter 5.

> **I strongly believe that we need to further advance work to increase the efficiency of our markets.**
>
> **Verena Ross,** ESMA Chair, June 2023

Actions for firms:

- Tighten up governance arrangements around the use of **liquidity management** tools for open-ended investment funds, and the fair treatment of all investors.
- Evaluate the effectiveness of the **stress testing process** by reconsidering the scenarios used and whether they incorporate all plausible external and operational events.
- For **ETF managers**, review and implement IOSCO's good practices – for example, around the effectiveness of due diligence on authorized participants and market makers.
- Review **asset valuation** policies and procedures, ensuring they clearly describe roles and responsibilities, distinguish between normal and stressed market conditions, and include a mechanism to identify and remediate valuation errors.
- Consider preparedness for new **reporting obligations** and revise systems, roles and responsibilities as needed.
- Re-assess **due diligence arrangements** over index and data providers, and ensure that each party's roles and responsibilities are clear.

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04 Resilient business models

The way in which asset managers manage risks is a constant theme for regulators, not least within the context of financial stability. Regulators are acutely aware of the threat of any type of disruption to firms and their customers, particularly in times of stress.

Greater reliance on third-party suppliers raises concerns around remaining substance in asset management firms and their oversight of the suppliers (see Chapter 7), but also about the resilience of those third parties. Cyber threats are highlighted as a key risk and technology-led business transformation and recognition of the global interconnectedness of the financial system have led to increased focus on the resilience of end-to-end business operations. And the adequacy of asset managers' financial resources and broader risk and control frameworks is also under review.

End-to-end resilience

The **Australian** Prudential Regulatory Authority released a new draft cross-industry prudential standard (CPS 230) on operational risk management, which underpins the more general risk management standard (CP220) and replaces several existing standards, including those on business continuity management and outsourcing. The key themes of the new standard are that firms should be prepared for risk events, be resilient, and protect the entity and the community. Areas of focus are operating model, critical operations, material service providers, business continuity, incident management and controls management.

In the light of financial infrastructure concerns linked to possible civil unrest, pandemics, climate events etc., the prudential authority in **South Africa** has issued guidance for banks and insurers on operational resilience. It will impact asset managers that are part of such groups, but stand-alone asset managers also regard this as a very important topic.

Regulators around the globe are emphasizing the need for firms to evidence strong third-party risk management and oversight, to improve and maintain their operational resilience. The Financial Stability Board (FSB) consulted on a toolkit for financial authorities and financial institutions to enhance risk management and oversight of third parties. The aim is to reduce supervisory and regulatory fragmentation across jurisdictions, facilitate stakeholder coordination, and strengthen third-party risk management and the resilience of the financial system. The toolkit's primary focus is on critical services, given the potential impact of their disruption on financial institutions' critical operations and financial stability. It comprises:

- A list of common terms and definitions to improve clarity and consistency, and to improve communication among relevant stakeholders
- Tools to help firms identify critical services and manage potential risks throughout the lifecycle of a third-party service relationship
- Tools for supervising how firms manage third-party risks, and for identifying, monitoring and managing systemic third-party dependencies and potential systemic risks

The **UK** regulators consulted on managing the risks associated with critical third-party providers and subsequently requested further information on the costs and benefits of introducing a regulatory regime for them. The UK government would be able to designate certain third parties as "critical", with the regulators then setting and monitoring minimum resilience standards.

Similarly, to complement the incoming Digital Operational Resilience Act (DORA), which takes effect from January 2025, **EU** regulators consulted on criteria for critical ICT[1] third-party service providers. They also sought views on draft standards to implement a consistent framework across ICT risk management, incident reporting, and third-party risk management. DORA will set uniform requirements for the security of network and information systems of financial services firms (including asset managers) and of critical third parties. In parallel, the Luxembourg regulator introduced a new template for reporting critical ICT providers (following previous guidance to harmonize the framework governing outsourcing arrangements).

1. Information communication technology

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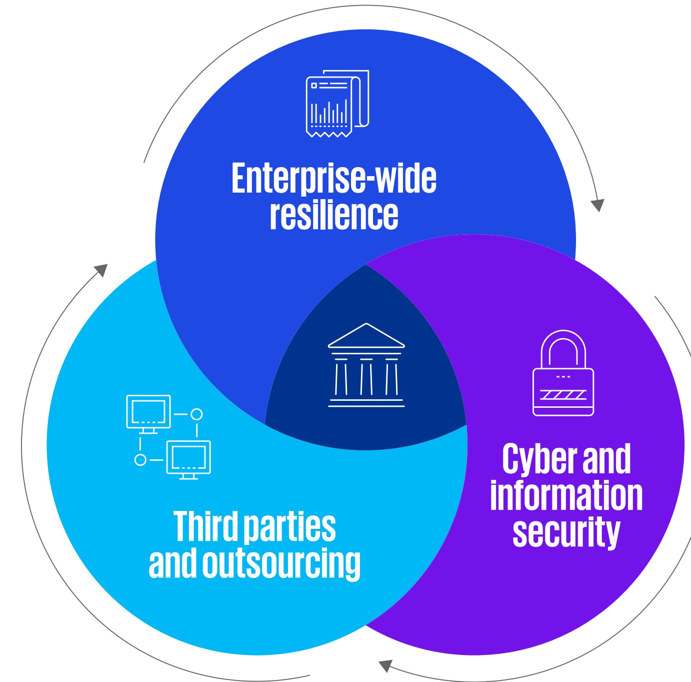
The **US** SEC[2] has proposed to require registered investment advisers (RIAs) to satisfy specific due diligence and ongoing monitoring over certain third parties. The rule would apply to advisers that outsource certain "covered functions," which include those that are necessary for providing advisory services in compliance with the Federal securities laws and that if not performed, or performed negligently, would result in material negative impact to clients. Additionally, the proposal would require RIAs to conduct due diligence and monitoring for all third-party recordkeepers and to obtain reasonable assurances that the recordkeepers will meet certain standards.

The CSSF[3] clarified its expectations of **Luxembourg** administrators and requirements around the delegation of activities such as fund accounting and the calculation of the fund's NAV[4]. Administrators must perform controls, checks and validation in accordance with the CSSF's circular. Where firms rely on systems outside Luxembourg, the local administrator must keep a secure, daily backup of all accounting and registrar positions within the European Economic Area.

Some jurisdictions have introduced new rules or guidance for banking groups, which will impact bank-owned asset managers but not others. For instance, changes to outsourcing regulations in **Poland**, intended to simplify procedures and harmonize them with the EU-level guidelines on outsourcing arrangements, include liberalization of the outsourcing chain, which is currently limited to one level of sub-outsourcing. Another fundamental reform is the introduction of notifications (instead of the need to obtain regulatory authorization) for the outsourcing of activities performed outside the EEA.

Core components of resilience



2. Securities and Exchange Commission
3. Commission de Surveillance du Secteur Financier
4. Net asset value

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Managing cyber risk

With links to discussions on financial stability (see Chapter 3), increased use of technology (see Chapter 5) and oversight of activities outsourced to third parties, regulators are introducing specific rules and guidance for the management of cyber risk by firms. The FSB noted the importance of timely and accurate reporting on cyber incidents, particularly in the context of financial stability. It set out 16 recommendations to address practical challenges associated with the collection of information about cyber incidents, including setting appropriate and consistent thresholds for reporting.

Other efforts to promote information sharing are also underway. In the **UAE**, the Dubai regulator launched a cyber threat intelligence platform to help firms mitigate cyber risk, and authorities across the UAE hosted the second edition of their cyber risk supervisory college to discuss best practice and areas for collaboration. And the **US** Treasury and **Singapore** MAS conducted joint exercises to strengthen cross-border cyber incident co-ordination and management.

The **US** SEC re-opened the comment period on proposed new rules on cyber risk management and privacy for asset managers and funds. The rules cover several areas, including safeguarding of customer information, notifying customers of data breaches, contracts with third parties and record keeping. Firms would be required to establish, maintain, and enforce written policies and procedures that are reasonably designed to address their cybersecurity risks, and to file incidents promptly with the regulator.

The SEC Division of Examination has included information security and operational resiliency as one of its 2023 priorities. It is reviewing RIAs' practices to prevent interruptions to safeguard customer records and information. This includes cybersecurity issues associated with the use of third-party vendors, firms' visibility into the security and integrity of third-party products and services, and monitoring for firms' unauthorized use of third-party providers.

Information and ICT security are top of the agenda for other regulators. As well as covering aspects of operational resilience and third-party oversight (see above), the European Supervisory Authorities' consultations will contribute to **EU** efforts to prevent and mitigate cyber threats.

The Dubai Financial Services Authority, UAE, reviewed firms' cyber security arrangement against its guidelines, and issued a consultation paper on cyber risk management requirements and proposals relating to the regulator's role in supporting innovation in financial services. The review found that firms had made progress in building tangible cyber resilience capabilities but were still lacking in key areas. The regulator believes that continued supervisory effort is needed to encourage the appropriate outcomes. It proposes to convert existing guidelines into rules and supporting guidance.

As part of its ongoing focus on cyber resilience, the MAS has established a new FS Cloud Resilience Forum, for **Asia Pacific** financial regulators and cloud service providers to exchange views on appropriate public cloud risk management practices for the financial sector. The first meeting of the Forum noted that information sharing between regulators and providers will be critical, in addition to firms maintaining high standards of operational resilience.

Given a recent incident in **Canada**, when a local service provider lost fund unitholder data, Canadian fund managers expect to see some targeted supervisory activity on cyber security by the securities regulators.

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The Autoriteit Financiële Markten (AFM) in the Netherlands shared findings and best practices about the reporting of incidents by firms to the regulator. Based on a deep-dive review, it identified possible causes for the failure of firms to notify incidents:

- Firms' policies, procedures and measures are not always adequate
- There is room for improvement in traceability of decision-making
- Firms sometimes focus too much on operational incidents (e.g. IT issues over inappropriate staff behavior)
- Several firms rely heavily on the judgement of their staff

Managing other risks

Some regulators are concerned about other areas of risk management.

The Central Bank of **Ireland** (CBI) issued a "Dear CEO" letter to firms, highlighting its findings from a targeted review of control frameworks and risk appetite statements (RAS) in investment firms, including asset managers. The CBI had noted that firms must acknowledge the heightened risk environment, and ensure that changes to their risk identification and risk management processes are aligned with their risk appetite and with the best interest of consumers. The regulator found good practices (e.g. relating to updated risk compliance control functions and risk management frameworks). However, it also identified notable deficiencies, and required firms to conduct gap analyses and hold Board discussions on:

- Governance and risk management frameworks, and RAS design
- Board oversight of compliance and risk matters
- Application of the RAS in managing material risks
- Reporting of risk appetite to the Risk Committee and Board
- Communication of risk appetite throughout the firm

New rules for the private fund management industry in **China** include provisions that if a company involves major potential risks, it may be subject to additional filing and disclosure requirements.

In the **US**, if a mutual fund relies on the SEC's derivatives rule, the SEC Division of Examination will, among other things, assess whether firms have adopted and implemented policies and procedures to manage the fund's derivatives risks and to prevent violations of the rule. It will also review firms' implementation of derivatives risk management programs, board oversight, and whether disclosures concerning the fund's use of derivatives are incomplete, inaccurate or potentially misleading.

In the area of investment risk, the **UK** FCA's[5] consultation on the future regulation of asset management (see Chapter 1) includes proposals to clarify its expectations on due diligence of investments by portfolio managers. In its supervisory work, it found investment due diligence practices (including credit assessment) appeared inconsistent, and there have been some cases where material risks appeared to have been overlooked and consumers had suffered losses as a result. The regulator proposed to replace or reinforce the current high-level rules with clearer standards that would apply to all types of portfolio managers.

5. Financial Conduct Authority

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Maintaining adequate financial resources

Regulators in a few jurisdictions have been updating the rules on capital adequacy for the industry. In some cases, the amendments are purely technical, but in other cases the new requirements could have a significant impact on some entities.

The CMA[6] in **Saudi Arabia** revised its prudential rules for asset managers in April 2023 with key updates around capital adequacy in terms of methodology and reporting. In **Australia** the current financial resource requirements on the managed funds industry are to continue with no substantive amendments. However, in respect of superannuation schemes the regulator is actively considering changes to the structure and calculation of the operational risk reserve held within the fund (although at this stage no formal change to the law has been made). Additionally, where a Commonwealth penalty is levied against a superannuation trustee or its directors, the law now provides that the penalty cannot be paid out of the fund assets. This has led superannuation trustees to consider what level of capital reserves need to be held on the corporate account of the superannuation trustee entity (outside fund assets) to guard against any penalty risk.

Under the prudential requirements set out in the **EU** Investment Firms Directive and Regulation, national regulators have discretion in some areas to apply stronger requirements. **Sweden** has introduced changes to its laws to implement the new EU rules, including reference to "very large investment firms", but there are currently no such firms in Sweden.

The CBI has decided to require all **Irish** MiFID[7] investment firms (which includes asset managers) to review their own risks and ensure they have adequate capital and liquidity, regardless of their size. The regulator believes that all firms should undertake a regular exercise to assess and maintain the adequacy of the quantity, quality and distribution of internal capital held, proportionate to the nature, scale and complexity of the firm. Firms that pose less risk and/or have simple business models may establish a simpler, more appropriate internal capital and liquid assets assessment process, but they must comply with a minimum liquidity requirement.

The CBI is also concerned that **Irish** fund management companies that perform the MiFID activity of portfolio management for other clients should hold sufficient capital to reflect these additional activities. It therefore consulted on the introduction of requirements that are in line with the capital requirements for MiFID investment firms.

The **UK** FCA conducted a multi-firm review of implementation of the UK equivalent of the EU rules. The regulator provided feedback on areas for improvement, including the need for greater clarity on the allocation of capital between group and individual firms, better justifying key assumptions (including linking capital/liquidity to the risk management process), and strengthening wind-down plans. It also noted that weak systems and controls continue to lead to inaccurate or incomplete regulatory reporting.

Actions for firms:

- Identify and manage all potential **operational risks** through effective controls, monitoring and remediation as needed.
- Review **oversight arrangements** over third-party providers, including policies and procedures, formal agreements, and robust monitoring arrangements.
- Review **information security arrangements** to ensure there are clear policies and procedures in place to address cyber-related risks, as well as recovery and incident response plans.
- Assess whether **sufficient capital and liquidity** is held, having reviewed all potential risks to the business, and whether wind-down plans are complete and practical.

6. Capital Market Authority
7. EU Markets in Financial Instruments Directive

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05 Digital innovation: benefits and risks

Regulators are seeking to understand the impacts of technology for the industry. They want to facilitate innovation, but are also focused on identifying and mitigating risks.

Both FinTech and BigTech receive multiple references in recent regulatory outputs, along with artificial intelligence (AI) and machine learning (ML). Distributed ledger technology (DLT) underpins crypto-assets but is also being put to good use in market infrastructure initiatives, including fund unit tokenization and settlement. Regulators are cognizant of the greater use by investors of social media and online platforms, but recognize the risks as well as the potential benefits.

Digital transformation

Regulators are collaborating with industry and technology providers to gain a better understanding of the opportunities from and the risks of digital transformation in the industry, to firms and investors.

In **Saudi Arabia**, the Capital Market Authority (CMA) held a forum in December 2022 to discuss digital transformation in the industry and its role in bringing increased foreign investment to the domestic capital markets. The CMA's FinTech lab is in its sixth year, and there is a push to encourage greater innovation in the fund management industry.

The **UK** FCA[1] has created a permanent Digital Sandbox service to support a broader range of innovators, and established an Innovation Advisory Group, which is a regular forum for the FinTech and RegTech sector and the FCA to discuss issues and opportunities. The FCA's consultation on the future regulation of the UK asset management industry includes consideration of areas where technology could be used to improve customer experience and efficiency. However, the FCA also sought views on the potential harms (as well as the benefits) that may arise from Big Tech firms' entry and expansion into retail financial services sectors. It noted that Big Techs' entry could "benefit many consumers", but also that their entry to the market may not be sequential or predictable, and there is a risk that competition could be harmed in the long term.

The Monetary Authority of **Singapore** looks to its fintech collaborations to address five core issues:

- Instant remittance: cross-border payments to flow seamlessly
- Atomic settlement: the simultaneous exchange of two assets in real time
- Programmable money: discouraging retail investment in cryptocurrencies but facilitating other forms
- Tokenised assets: using a software program to represent the ownership rights over any item of value as a digital token or asset
- Trusted sustainability data: FinTech could be a key enabler in resolving data challenges

1. Financial Conduct Authority

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Moves to regulate electronic contracts

The Asset Management Association of China issued measures to regulate and promote the practice of electronic contracts in the private fund industry. The industry had been dominated by paper contracts, which are inefficient and prone to tampering. The measures cover custodians performing investment supervision functions, fund distribution agencies implementing the investor suitability requirements, and fund unit registration agencies registering the ownership of fund units. They are expected to facilitate the use of technology in supervision, and promote development of the private fund industry.

Providers of electronic transactions and trust services in the UAE are also subject to new measures. A new law, which came into force in June 2023, aims to increase certainty and protect users by regulating electronic documents and digital signatures.

Regulating crypto-assets

A few jurisdictions had already permitted certain types of funds to invest in crypto-assets (see Chapter 8), but market events in the early part of 2023 caused regulatory concern and reflection, and many regulators increased their monitoring activities and investor protection safeguards (see Chapter 6).

The FSB has finalized a framework for the international regulation of crypto-asset activities, to promote a consistent and comprehensive approach to overseeing crypto-asset activities and markets, and global "stablecoin" arrangements. Its starting point is that where the risks and activities are the same, crypto and "traditional" activities should be subject to equivalent regulation. Following feedback, the FSB strengthened the recommendations around safeguarding client assets and managing conflicts of interest. In May 2023, IOSCO also consulted on policy recommendations for activities performed by crypto-asset service providers.

The movement to regulate crypto-assets continues at national level with regulators at different stages of implementing frameworks. Notably, the EU Market in Crypto-assets Regulation (MiCA) will start to apply in July 2024.

DLT put to good use

Regulators recognize that DLT has many uses beyond crypto-assets. Its benefits can include greater efficiency, faster transaction speed and lower overall costs in capital markets operations. DLT has been used to tokenize traditional financial instruments such as bonds, and pilot programs are now exploring the potential of tokenizing assets such as real estate. Regulators are exploring whether existing regulation needs to be amended to support the use of DLT through sandboxes and pilot regimes.

> **We should separate the technology from its use case. Distributed ledger technology itself has many applications and potential benefits beyond cryptocurrencies**
>
> **Tuang Lee,** IOSCO Fintech Task Force Chair and Assistant Managing Director of Capital Markets, MAS, November 2022

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The new **EU** DLT Pilot Regulation, which applied from March 2023, provides a legal framework for the trading and settlement of transactions on DLT of assets that qualify as MiFID[2] financial instruments - tokenized securities. Certain types of DLT trading and settlement systems will benefit from exemptions from the obligations applied under other EU laws that are deemed too restrictive in a DLT context.

Meanwhile, the **UK** government is consulting on its proposed approach for a Digital Securities Sandbox, which will enable firms to set up and operate financial market infrastructure, under a framework temporarily modified to accommodate digital asset technology. The activities will relate to existing security classes, which could be either digitally native issuances or digital representations of existing securities.

While several stock exchanges over the past years have established procedures for a digital asset offering, **Switzerland**'s SIX Digital Exchange was the first regulated financial market infrastructure to offer a fully integrated end-to-end trading, settlement and custody service for digital assets. It further enables the tokenization of existing securities and non-bankable assets.

Luxembourg has also led innovation in this area, with initiatives using DLT for fund settlement mentioned in previous editions of this report. Recent developments enabled by Luxembourg's legal framework, which covers the full DLT/tokenization value chain, include:

- A digital bond listed on the Luxembourg Stock Exchange issued by the European Investment Bank (EIB) – the first euro-denominated digital bond to use private DLT
- A sterling-denominated all-digital bond issued subsequently by the EIB and held on a platform that uses private DLT to serve as legal proof to determine who holds the securities, and a public DLT to provide anonymous tracing of the chain of ownership
- A decentralized finance lending platform tokenized USD 100 million of bonds using a recognized security token standard
- A range of other initiatives, such as cryptocurrency services, use of non-fungible tokens to invest in prestigious wine, and tokenization of gold, other commodities and real estate

Elsewhere, the MAS is working with industry in **Singapore** to explore the potential of DLT, and to facilitate the tokenization of financial and real economy assets. In **Hong Kong (SAR), China**, fund tokenization is not presently allowed, but the regulator is open to discussions. And the UK regulator has consulted on the tokenization of portfolio assets and fund units.

2. EU Markets in Financial Instruments Directive

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Increasing use of AI and ML

The use of AI and ML in finance is under scrutiny from regulators. They see potential in the automation and personalization that AI can offer to financial services but are closely monitoring potential risks. Further to IOSCO's September 2021 guidance on the regulation and supervision of the use of such technologies by market intermediaries and asset managers, various regional and national regulators have issued reports and are collaborating with technology providers.

In February 2023, ESMA[3] issued a report on the use of AI in EU securities markets, which noted that an increasing number of managers leverage AI in investment strategies, risk management and compliance, but only a few have developed a fully AI-based investment process and publicly promote their use of AI. The report identified that a key risk with increased uptake of such technologies is the concentration of systems and models among a few big players.

The report also noted that many of the issues associated with financial institutions' use of AI are similar to those posed by traditional models, but the scale at which AI can be used, the speed at which AI systems operate and the complexity of the underlying models may pose challenges to firms and supervisors. Therefore, many regulators are in the early stages of developing AI-specific governance principles or guidance for firms.

The Central Bank of Luxembourg and the CSSF[4] reported in May 2023 on a survey conducted during the period October 2021 to January 2022. They found the overall level of adoption of AI in the Luxembourg financial sector to be limited at that time (only 30 percent of surveyed institutions used AI technologies, with ML being the main technology used), but that investments in the technologies were expected to grow. The authorities found that firms were aware of the specific risks related to this technology and referred to the recommendations in the 2018 CSSF white paper, while waiting for harmonized EU rules on AI.

Regulators expect firms that use AI and ML to have:

- Appropriate governance, controls and oversight frameworks over the development, testing, use and performance monitoring of AI and ML
- Staff with adequate knowledge, skills and experience to implement, oversee, and challenge the outcomes of the AI and ML
- Robust, consistent and clearly defined development and testing processes to enable firms to identify potential issues prior to full deployment of AI and ML
- Appropriate transparency and disclosures to their investors, regulators and other relevant stakeholders

3. European Securities and Markets Authority
4. Commission de Surveillance du Secteur Financier

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A new **EU** AI regulation has entered the final negotiation stage between the co-legislators. It takes a prescriptive approach, including prohibited practices, various governance, organizational and transparency requirements, and additional obligations for "high-risk" AI systems. The UK regulators, on the other hand, have consulted on a principles-based approach. Their paper outlined the potential benefits and risks related to the use of AI, described how the current regulatory framework applies to AI, asked whether additional clarification of existing regulation may be helpful, and asked how regulatory policy could best support further safe and responsible AI adoption

In the US, the SEC[5] proposed new rules that would impact investment advisers where they use certain technologies (including predictive data analytics) when engaging or communicating with investors. Advisers would need to identify and mitigate potential conflicts of interest between the firm and its investors and have written policies and procedures to facilitate compliance with the rules.

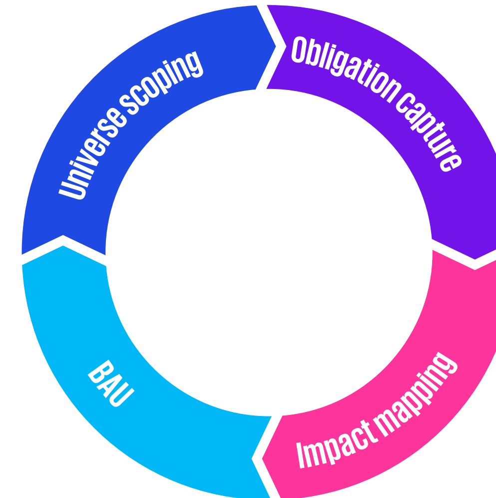
In **Singapore**, the MAS is taking yet another approach. In May 2023, it launched the Financial Sector Artificial Intelligence and Data Analytics (AIDA) Talent Development Programme, to increase the supply of talent and to build deep AI capabilities in the financial sector. It is a collaboration between financial institutions and training institutes.

Meanwhile, firms are taking different approaches to the use of new "chat" technologies in the workplace. There is a concern that client data could be compromised, leading to a loss of client confidentiality. Some asset managers are taking a cautious approach until the full impact of using such tools is known.

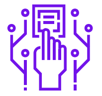
Digitalizing the approach to regulatory change

Global Regulatory Universe
Identify all your legal entities, their regulators, and applicable laws, rules, and guidance.

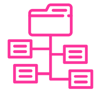
Business as Usual
Achieve compliance via policy enhancements, system changes, revised governance arrangements and training.



Obligation capture
Perform detailed analysis of the requirements, and identify obligations and their impact on the business.



Policy, functional area, control, and ownership mapping
Map obligations to policies, controls and risks – perform gap analysis.



5. Securities and Exchange Commission

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Digital distribution

Regulators around the globe have been monitoring digital developments in the retail markets. **Hong Kong (SAR), China** found a significant increase in sales via online platforms, a poll in Ontario, Canada found that the majority of Ontarians are turning to the Internet, word of mouth or social media to inform investment decisions, and the regulator in **Brazil** has detected some "influencers" who may be disseminating investment recommendations without fully complying with regulations. These findings are in stark contrast to the continued regulatory focus on fund information documents and financial advisers (see Chapter 6).

In October 2022, IOSCO issued regulatory measures to address increasing risks and challenges from the digitalization of retail marketing and distribution. The measures included policy and enforcement toolkits. IOSCO noted that the rapidly evolving environment demonstrates the need for an increased regulatory focus on digital marketing and offerings and for efficient collaboration, on both a domestic and cross-border level, to promote a high level of investor protection at a global scale.

To address conduct risks and other issues associated with the use of digital media, the MAS consulted until June 2023 on proposals to enhance safeguards for proper conduct of digital prospecting and marketing activities of all financial products in **Singapore**, including on clarity and legibility. The proposals include additional requirements to address risks from misleading non-product advertisements ("NPAs") and anonymous advertisements. NPAs will be subject to similar approval processes and vetting controls as product advertisements, and firms'/representatives' identities will have to be disclosed in anonymous advertisements.

In addition, the MAS suggested amending existing advertising regulations to require firms to oversee and control activities conducted by digital "lead generation" firms, such as monitoring their activities, and conducting and ensuring proper data handling. It also proposed to require firms to provide a script setting out key information to be conveyed by introducers when prospecting customers and to prohibit the appointment of individuals solely engaged in introducing activities.

Other national regulators have announced, or are proposing to set out, enhanced rules on digital promotions as part of wider regulatory investor protection initiatives – see Chapter 6.

The **US** SEC Division of Examination is focusing on registered investment advisers that are using emerging financial technologies or employing new practices, including technological and on-line solutions to meet the demands of compliance and marketing and to service investor accounts. This includes the offer, sale or recommendation of, or advice regarding trading in, crypto or crypto-related assets. The SEC is examining whether firms met and followed standards of care when making recommendations, referrals or providing investment advice, and whether they routinely reviewed, updated and enhanced their compliance, disclosure and risk management practices. And in terms of new rules, the SEC has proposed modernizing an exemption for smaller advisers that operate exclusively through the internet. The change would require such firms to have in place an operational, interactive website at all times to provide advice to all of their clients.

In its policy response to the Quality Advice Review in **Australia**, the government says its consultation will test how the proposals might operate under different advice models, including digital advice models, and across sectors. The government also announced its intention to standardize the consumer consent requirements to classify a consumer as a wholesale or sophisticated client.

5. Securities and Exchange Commission

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Regulators move to digital

Regulators continue to increase their own use of technology. For example, ESMA's five-year data strategy includes scaling up its data capabilities and using new data-driven technologies, such as AI and ML. It has established a data intelligence and technology department, intends to strengthen its co-operation with **EU** national regulators on the use of data in supervision, and will develop an integrated reporting system for investment funds. It will also propose proofs of concept on the use of modern technologies to detect greenwashing practices.

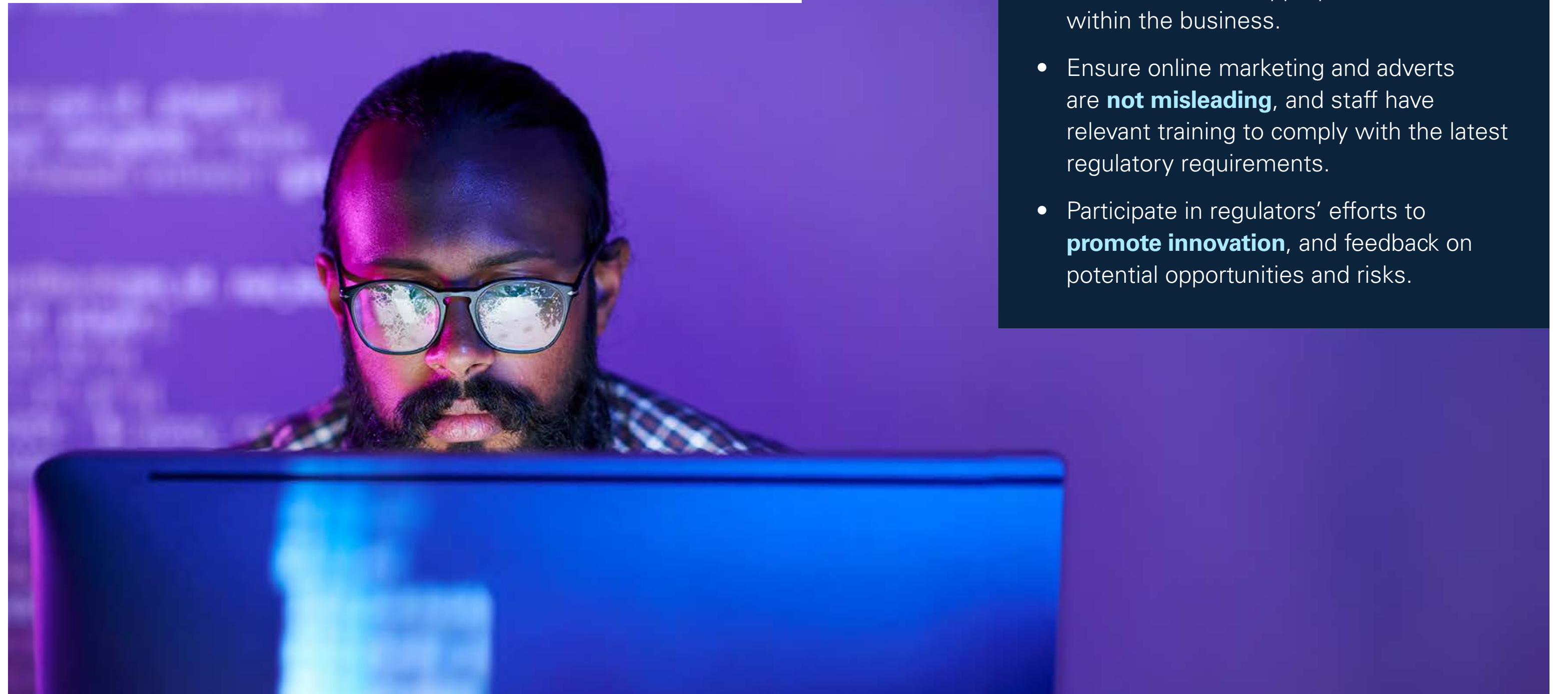
In **Singapore**, the MAS intends to use data analytics to assist its supervision by:

- Identifying funds where redemptions are expected to persist or whose proceeds are unlikely to be fully paid within the redemption period
- Identifying adverse data points from financial statements and audit reports via text analytics
- Collecting more granular fund data to enable a deeper understanding of individual retail funds managed in Singapore
- Enhancing its market scanning competencies, including the use of social media feeds to uncover emerging issues that may not be observable from conventional regulatory data

The MAS has also partnered with Google Cloud to explore technology opportunities to advance the development and use of responsible generative AI applications within MAS, as well as cultivate technologists with deep AI skillsets.

More generally, the trend in regulators permitting electronic-only applications and filings continues. Recent examples include new online forms introduced in Ireland and Luxembourg.

> **…our digital transformation programmes are centred on driving efficiencies, better outcomes, and reducing regulatory burden for firms.**
>
> **Jessica Rusu,** FCA Chief Data, Information and Intelligence Officer, April 2023



Actions for firms:

- Explore the possibilities of **tokenizing assets and fund units** within the guardrails of the existing regulatory framework.
- Track regulatory developments on **AI and ML**, and consider appropriate use cases within the business.
- Ensure online marketing and adverts are **not misleading**, and staff have relevant training to comply with the latest regulatory requirements.
- Participate in regulators' efforts to **promote innovation**, and feedback on potential opportunities and risks.

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06

Protecting and educating investors

There has been a notable increase in regulatory efforts to prevent harm to retail investors. New regulatory initiatives have been proposed or implemented to address retail market conduct issues.

Alongside traditional themes such as product governance, there is a significant focus on value for money and transparency, which is consistently reflected in new fair value considerations and disclosure requirements. And in addition to focusing on the distribution chain, disclosures and marketing materials, regulators are stepping up efforts to educate investors and protect them from scams.

Authorities are tackling investor protection issues from a variety of angles. As well as new regulation and supervisory activities (in some cases, taking advice from consumer advisory panels), there are efforts to increase investors' awareness and financial literacy. Some regulators are also reconsidering the role of compensation regimes and safety nets for when things go wrong. And the role of fund depositaries in the oversight ecosystem is also being reconsidered.

Addressing retail market conduct issues

In March 2023, an IOSCO[1] report highlighted risks from an increasingly online environment, noting the need for regulators to use technology to disrupt online marketing channels and to identify misconduct. The Australian regulator, ASIC[2] co-chaired the IOSCO task force and noted that the findings would inform its own strategic priorities on retail investor harms.

Regulators have finalized or proposed entirely new retail investor protection frameworks. The most notable is the UK's "Consumer Duty". Across all sectors, the Financial Conduct Authority (FCA) introduced:

- A new principle requiring firms "to act to deliver good outcomes" for retail customers
- Cross-cutting rules requiring firms to act in good faith, avoid causing foreseeable harm, and enabling and supporting retail customers to pursue their financial objectives
- Specific rules regarding product governance and value for money (see below), consumer understanding and consumer support.

Firms must capture evidence of good outcomes. Asset managers devoted significant time and resources to implementing the Duty in the run-up to the end-July deadline, but all are expecting further activity will be required to address residual gaps and fully embed the requirements.

> **The Duty will require all firms, whether designing, selling or advising on products and services, to put their customers' needs first.**
>
> **Sheldon Mills,** Executive Director, FCA, September 2022

1. International Organization of Securities Commissions
2. Australian Securities and Investments Commission

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Similarly, the EU set out wide-ranging proposals to modernize its retail investment framework, to increase trust, transparency, and investor participation. The proposals would introduce new product governance and value for money requirements, simplified disclosures, and new training and competence standards for financial advisers.

Likewise, the Monetary Authority of Singapore (MAS) consulted on revised guidelines regarding boards and senior management's responsibilities for delivering fair outcomes for customers. The changes would widen the scope of the existing guidelines to include all products and services offered by firms and incorporate principles and guidance on the fair treatment of customers. The MAS also published new guidelines for fund management companies to establish clear policies and procedures to handle complaints and feedback, to identify the senior manager responsible for handling complaints, and to communicate the documented escalation and review process to all employees.

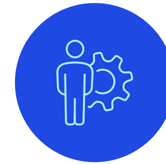
The JFSA[3] introduced new provisions on customer-oriented business conduct, which require impacted Japanese firms to be sincere and fair in the performance of their services, taking into account customers' and beneficiaries' best interests.

The Central Bank of Ireland (CBI) commenced a review of its consumer protection code to ensure it remains fit for purpose in the rapidly changing landscape. The review focused on availability and choice for the consumer and ensuring that firms act in consumers' best interests (on which the CBI may develop specific guidance). The CBI also enhanced its client assets regulation and issued specific guidance on when client assets are transferred as part of a transfer of business.

In South Africa, the Conduct of Financial Institutions Bill (COFI) is still awaited and is unlikely to be passed before end-2023. The bill aims to build a consistent, strong and effective market conduct legislative framework for all financial services firms. In the absence of new requirements, some regulators such as ASIC in Australia have focused on culture and conduct from a supervisory perspective.

More broadly, the US Securities and Exchange Commission (SEC) adopted new rules to enhance the regulation of private fund advisers. Amongst the new requirements, these firms will need to provide investors with quarterly statements, obtain and share an annual financial statement audit of each private fund they advise, and to comply with new investor protection requirements.

The four sets of new rules under the UK Consumer Duty



Products and Services

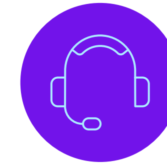
Products and services are designed to meet the needs of consumers, and sold to those whose needs they meet.

Price and Value

The price of products and services represents fair value for consumers.

Consumer Understanding

Communications are understandable and enable consumers to make effective, timely and informed decisions.



Consumer Support

Support enables customers to realise the benefits of products and services without facing barriers.

Enhanced product governance

The way in which products are manufactured, designed and reviewed is under scrutiny in many jurisdictions. This is being reflected in both new rules and a supervisory focus.

The EU has enhanced its 2018 product governance guidelines to require firms to specify any sustainability-related objectives of a product. ESMA[4] adjusted the requirements on "target market" identification, distribution strategy and the periodic review of products, and updated its guidelines on remuneration policies and requirements, and the consideration of conflicts of interest. The proposed EU retail investment strategy would further enhance existing requirements around the product approval and review process.

3. Japanese Financial Services Agency
4. European Securities and Markets Authority

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The **UK** FCA's Consumer Duty requires wealth managers to implement formal product governance requirements for the first time, around product design, periodic review, adequate assessment of target market, and product testing and scenario analysis. Fund managers were already subject to such requirements.

In **India**, SEBI[5] introduced a new limit for all mutual funds, specifying that they may not invest more than 10 percent of the fund's value in debt instruments issued by a single issuer, to ensure consistency with existing requirements for passively managed funds. It also introduced restrictions for AIFs that operate a "priority distribution model" (where certain investors have priority receiving distributions from the fund, which means other investors share a greater burden of any losses), while SEBI considers its position.

ASIC demanded that **Australian** firms "lift their game" when it comes to compliance with its design and distribution obligations (DDO). The DDO review found that target markets were poorly defined (e.g. defined too broadly or used unsuitable investor risk profiles) and that product governance arrangements were inadequate or unclear. ASIC stated that "closer scrutiny of DDO is coming".

Product governance is also a significant focus area in **Japan**. The JFSA encouraged asset management companies to check whether investment trusts are being managed as planned and are reaching the target market, and whether products represent value for money. A particular focus is on the effectiveness of product governance arrangements, for example whether poorly performing investment trusts are routinely identified.

The **French** AMF[6] has identified issues relating to private equity funds with a specified lifetime, where the lifetime has been regularly exceeded by a significant number of funds. It therefore consulted on proposals to enhance protection for investors – for example, by strengthening the regulatory framework of liquidation options.

5. Securities and Exchange Board of India
6. Autorité des Marchés Financiers

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Costs, charges, and value

Various new rules have been introduced that focus on value for investors and aim to increase transparency. For example, new rules in **Brazil** will require greater disclosures on the remuneration of administrators, managers and distributors, as well further disclosures on rebates.

The **Canadian** regulators finalized changes to enhance cost reporting disclosures by investment funds and segregated mandates. Firms will need to report annually to clients on the ongoing cost of owning funds, as a percentage for each fund and as an aggregate amount, which is likely to require substantial implementation efforts. A committee was established to help industry implement the requirements (through guidance) by end-2025. In Ontario specifically, the regulator also proposed eliminating deferred sales charges (paid if customers withdraw their money before the period specific in the contract) on new segregated fund contracts and restricting their use on existing ones.

The **French** AMF has updated its policy on the disclosure of management fees in the prospectus, to include more guidance on the how firms should specify fees and present certain expenses. For actively managed funds, it noted that firms must have policies and procedures to ensure they can assess the long-term relationship between fees and performance against the benchmark. For passive funds, the AMF stated that there must be policies and procedure to compare fees with comparable funds.

The **UK** Consumer Duty requires all firms to undertake a fair value assessment on their products (whether the amount paid is reasonable relative to the benefits). Even before the rules entered into force, the FCA reviewed firms' approaches. Although it found that firms were "making substantial efforts", it questioned the effectiveness of some firms' frameworks. Managers of UK retail funds can continue to comply with rules introduced in 2019, so the new rules have had the greatest impact on wealth managers. Although the Duty technically only applies to UK firms and certain firms in the FCA's temporary permission regimes (resulting from "Brexit"), the rules created challenges for EU fund managers distributing funds into the UK, with UK distributors asking them about the price and value of their products. Separately, the government is consulting on a framework for value for money in defined contribution pension schemes (which includes investment performance).

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There are new rules are on the horizon. The **EU**'s proposed retail investment strategy would require firms to implement a structured pricing process and to compare their products against cost and performance benchmarks that would be maintained by the EU authorities. Fund managers would also need to assess the eligibility of costs they charge, prevent "undue costs" being charged to investors, and reimburse investors as required. Under the AIFMD[7] review, ESMA will have the power to carry out a study and develop standards, with criteria for the assessment of undue costs.

Proposals for an EU ban on commissions paid from distributors to manufacturers were debated at length, but only a ban on execution-only commissions is now on the table. Before publication of the Commission's proposals, some regulators, such as in **Sweden**, had proposed to examine conflicts of interest in fund distribution, while others had strongly opposed any form of ban. Although only a limited ban is now being debated, there has been strong opposition from EU industry.

In **Australia**, APRA[8] continues to publish a heatmap to provide insights on pension schemes' investment returns, fees and costs, and sustainability of member outcomes. Amidst concerns about some of the performance benchmarks used, APRA consulted on technical changes for products where performance histories need to be combined and published an information paper outlining its methodology for combining performance histories of certain products.

Value for money is a supervisory focus in other jurisdictions.

Traditionally in **Japan**, almost half the investment management fee is split equally between the management company and distributor. The JFSA expects reasonable explanations to be given to customers regarding the services corresponding to the distributor's share.

The **UK** FCA reviewed fund managers' compliance with its 2019 value for money rules. Its follow-up review noted that firms have made significant improvements but there is more work to be done by some firms (for example, greater challenge in the assessment process from independent directors, and the need for more detailed cost allocation models).

Following ESMA's publication of a common supervisory action on costs and fees in May 2022, several **EU** national regulators published details of their specific findings. ESMA also completed a follow-up review of guidelines for UCITS[9] and found cases where costs relating to efficient portfolio management are significantly higher than in other funds. ESMA also issued a statement to highlight retail investor protection concerns in the context of securities lending and reminded firms of the existing requirements – for example, that revenues from securities lending should directly accrue to the retail client, net of a normal compensation for the firm's services. Some regulators, for example in **Luxembourg**, specifically require AIF managers (as well as UCITS managers) to review their pricing process.

7. EU Alternative Investment Fund Managers Directive
8. Australian Prudential Regulation Authority
9. Undertakings for the Collective Investment in Transferable Securities

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Various other monitoring exercises and studies are underway. ESMA published its fifth annual report on costs and performance of EU products, finding that costs incurred by investors is declining slowly compared to previous years. The **Swedish** regulator will publish the median fee for popular fund categories every quarter to help contextualize charges for investors. Meanwhile in **India**, SEBI kicked-off a study of regulatory expectations for fees and expense compared with market practices and will consider whether new policy measures are needed.

Protecting and educating investors: areas of regulatory focus

Distribution and advice

The way in which products reach the end investor remains under regulatory scrutiny, and existing regulatory frameworks are being amended (for updates from a digital perspective, see Chapter 5).

As part of its new regulatory regime, the **Brazilian** CVM[10] updated its requirements to end exclusive relationships between distributors and manufacturers. Previously, distributors were able to work with only one manufacturer. The changes also enable distributors to recommend investments to their clients (observing the suitability rules) and provide flexibility around who can be a distributor (permitting companies as well as individuals). Companies need to appoint a director to be responsible for distribution services, and all remuneration arrangements need to be disclosed quarterly to investors.

The **Canadian** securities regulators announced they would review the distribution of funds through a principal distributor. The first phase of the work involved surveying fund managers and distributors about the scope of their arrangements and better understanding sales practices and distribution structures. The JFSA encouraged more **Japanese** firms to offer digital platforms, so that distribution of products with low fees can become widespread.

10. Comissão de Valores Mobiliários

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Having identified concerns around issues such as pressure selling, the MAS proposed enhanced safeguards in **Singapore** regarding prospecting activities at public places and telemarketing. Its five measures included turning the guidelines into legislation, requiring a more transparent approach, and allowing customers more time to consider their purchases. Other measures, such as a prohibition on gifts to entice customers, are also under consideration. Separately, the MAS consulted on safeguards of digital prospecting and marketing – see Chapter 5 for details.

In **Australia**, the Quality of Advice review (QAR) has been completed and 22 recommendations were delivered to the Australian government for consideration. One of the key questions was around whether regulation could have impacted the accessibility and affordability of advice. In June 2023, the government responded to the review across three themes: removing regulatory "red tape" that adds to the cost of advice without benefitting customers, expanding access to retirement income advice and exploring new channels for advice. It plans to consult later in 2023.

Similarly, the **UK** FCA consulted on efforts to make financial advice more accessible to the mass market and to address the "advice gap". The proposals would allow firms to provide individuals with more straightforward financial needs with greater access to simplified advice on mainstream investments. A review of the boundary between advice and guidance is planned for late 2023, and the suitability of advice remains a key priority.

In the **EU**, ESMA published a supervisory briefing on understanding the definition of advice under MiFID (for example, on what constitutes investment advice). Separately, ESMA published revised guidelines regarding the EU suitability assessment, covering the role of "sustainability preferences" – how firms should help clients understand the concept, the information firms need to collect, and how to identify products that meet the client's preferences. Subsequently, ESMA consulted on the integration of sustainability preferences into the suitability assessment and product governance arrangements, to understand better how the market has evolved and how firms apply the rules. Similarly, the AFM in the **Netherlands** will review how advisers and asset managers ask their clients about their sustainability preferences.

The **US** SEC plans to focus on the fiduciary standard for investment advisers, and to inspect recommendations made regarding products, disclosures to investors, the process for making "best interest" evaluations and factors that are considered in the light of the investor's investment profile (such as investment goals and account characteristics).

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Marketing and disclosures

There are ongoing questions for regulators and firms about the information to be provided to investors, and in what format. The **Brazil** CVM found that 75 percent of people invested based on information from digital channels and "influencers", while the **French** AMF found that some investors see fund documentation as off-putting and not easily readable – with problems relating to the "excessive density of information". Several regulators are considering amending rules to simplify and digitalize disclosures, to increase their usefulness for the end investor (see more on digital innovation in Chapter 5).

The **US** SEC introduced new rules to require fund managers to send "concise and visually engaging" reports to their investors, including information such as expenses, performance, and portfolio holdings. As well as modernizing shareholder reports, the advertising rules were changed to ensure that fees and expenses presented in adverts are consistent with the prospectus and are not misleading. SEBI wishes to increase transparency in **Indian** AIFs. It noted that distribution and placement fees are prohibited in some instances, and where they are permitted, they should be disclosed at the time of customer onboarding. And the **Chinese** regulators issued new specifications for standardized and structured digital disclosures by public investment funds, to enhance disclosures and their comparability.

The **EU**'s retail investment strategy includes simplification of disclosures, for delivery in electronic format by default, and a standardized presentation of costs and charges. Meanwhile, the **UK** will repeal the EU disclosure regime for retail products, and the FCA will deliver a new tailored regime for the UK market (including UK UCITS), which will be guided by the principles of proportionality, clarity and choice. In parallel, the FCA consulted on improving investor engagement through technology, and on how documents such as the prospectus could be redesigned to engage investors' attention and interest. Aspects of financial promotion rules are being reviewed – for example, the FCA has consulted on updating its guidance to reflect the use of social media – and there are new advertising rules for crypto-assets.

Canada has proposed an "access-based" model for delivery of fund financial statements and performance reports. This would increase their online availability and accessibility, while allowing investors the option to request documents in other media.

Switzerland considers the harmonized EU product disclosure document (PRIIP KID)[11] to be equivalent to its own regulated document (FinSA KID)[12] but is working on new requirements concerning sustainable disclosures and the disclosure of risks and equity capital for securities firms. Meanwhile, **Poland** has removed closed-ended AIFs from the scope of its prospectus requirements for listed companies.

In addition to rules, new guidance on disclosures is being issued. The **Spanish** regulator issued technical guidance for certain fixed income funds to improve investor warnings and clarify the criteria for calculating certain disclosures. The CBI updated its guidance on marketing requirements for **Irish** funds, providing updated information on the format and content of marketing materials, and on its approach to verification. And in **Belgium**, FAQs were published to clarify the advertising rules, as well as procedures for obtaining regulatory approval before issuing marketing communications.

There is also ongoing supervisory work on existing disclosure frameworks.

- ASIC reviewed **Australian** firms' marketing arrangements and noted some firms "must do more to meaningfully oversee the way in which their funds are marketed to investors".
- ESMA and national regulators are reviewing whether marketing communications and advertisements in the **EU** are fair, clear, and not misleading, with a particular focus on digital distribution channels. ESMA will also collect information on possible greenwashing practices.
- While the **UK** has chosen to retain the existing UCITS disclosure regime, from January 2023 EU funds have needed to comply instead with the requirements for retail AIFs.
- The **Swedish** regulator completed a review of fund managers' compliance with the new regime and found errors as well as differing practice where firms refer investors to historical performance scenarios. It expected fund managers to remediate errors as quickly as possible.
- In the **Netherlands**, the AFM[13] found that execution-only investors receive inadequate information before investing. It reminded firms of the need to comply with pre- and post-trade transparency requirements.
- The **US** SEC plans to focus on compliance with the new marketing rule. It will review whether firms are substantively compliant with the requirements (including whether they can substantiate their statements in adverts, for instance), and whether necessary policies and procedures are in place.

11. Packaged Retail and Insurance-based Investment Product – Key information document
12. Financial Services Act - Key information document
13. Autoriteit Financiële Markten

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Depositaries and fund service providers

In some jurisdictions, funds are required to have licensed depositary entities, which act independently from the fund management company (FMC). They are required to safeguard fund assets (custody) and oversee the activities of the FMC and the fund (an additional layer of investor protection). Changes in the regulation or supervisory expectations of depositaries can have a significant impact on the way in which funds are operated and monitored.

Hong Kong (SAR), China is to introduce a new "Type 13" regulated activity covering fund depositary services with effect from October 2024. In addition to requirements on minimum capital, professional indemnity insurance, conduct of business and fund operations, individuals involved in the custody of a fund (or in overseeing the activities of a sub-custodian) will need to be licensed.

The review of the EU AIFMD deleted the temporary provision (already time-expired) that permitted depositaries to be domiciled in a different member state to the fund domicile (a depositary "passport"). The widely-held view among policymakers is that, while the FMC can operate from a different member state to the fund's domicile (the "managing" passport), it is essential on investor protection grounds for the depositary to be in the same jurisdiction as the fund.

National regulators in the EU include depositaries in their inspection programs from time to time. For example, the French AMF undertook a series of thematic inspections on depositaries' organization, governance and controls, their due diligence when onboarding a fund management company and ongoing monitoring, and compliance with conflicts of interest and independence requirements of depositaries. The AMF found a range of good and poor practices, and called on depositaries to strengthen their mechanisms for interacting with and monitoring FMCs, including in relation to non-financial contractual commitments.

The UK review of future asset management regulation includes proposals to clarify rules on fund depositaries' resources and knowledge, and oversight of fund liquidity management and pricing. The FCA is also considering a "Direct2Fund" model that would allow investors to transact directly with the fund when buying and selling units (the common practice around Europe and elsewhere), rather than requiring the fund manager to buy and sell units through its own book.

Some regulators are increasingly focused on the key role played by fund administrators and how these entities should be regulated. The new fund regime in Brazil includes rules on the limited liability of fund service providers, and defines the co-responsibility of fund managers and administrators (which are called "essential" service providers).

Regulators warn and educate investors

There has been a marked increase in the volume of messages to the public on regulators' websites around the world.

Many of these messages advise consumers to beware of impersonation scams, unregulated products and services, fraudulent activity and online (cyber) risks. Some regulators offer tips on how to spot scams in general or specific types of scams, some target their advice to specific sections of the public (such as the elderly), some offer advice for victims of financial crime, and some are strengthening their Ombudsman arrangements. IOSCO has called for greater international collaboration and cooperation to combat cross-border scams, greenwashing, misconduct and fraud.

Regulators recognize the link between educated consumers and being resilient to scams. A report by the European Supervisory Authorities (ESAs) highlighted the fact that a lack of financial literacy and unfamiliarity with digital technologies can increasingly lead to financial vulnerability and exclusion of consumers. More specifically, without appropriate digital financial skills and the ability to ensure their cybersecurity, consumers are more at risk of becoming victims of scams and fraud.

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Regulators are also noticeably more active in drawing consumers' and investors' attention to forms of financial risk. Many are highlighting the risks in buying virtual assets of any sort, and some are commenting on other risks. For example, the ESAs have drawn consumers' attention to how rises in inflation and interest rates might affect their finances. IOSCO has issued sound education practices for securities regulators to consider in a crisis situation, to support investor protection.

There is an increase in regulatory activity relating to investor education more generally. To mention just a handful of initiatives:

- Investor education events and initiatives were held across **China** as part of World Investor Week, and each investor education entity was assessed.
- In response to a drive in **South Africa** for the regulator to educate the population, a new Consumer Advisory Panel has been established.
- The **Canadian** regulators published an investor education activity report and held a financial literacy month, and the British Columbia Securities Commission launched a redesigned investor education website, InvestRight.
- In the **Netherlands**, the regulator wants to prevent consumers from being nudged in the direction of products or services that are not primarily in their interest.
- The **Swedish** regulator issued a practical guide entitled "How do I talk to my children about money?"
- In **Japan**, an organization will be established to provide a wide range of financial and economic education from a user-centered perspective.
- The **Australian** government launched a national financial capability strategy, to help consumers adapt to the evolving financial and digital landscape and contribute to individuals' financial resilience.

> **Financial and investor education is needed all around the world. Investors in developed and emerging markets alike can benefit from increased levels of financial literacy to take informed investment decisions.**
>
> **Pasquale Munafò,** Chair, IOSCO Committee on Retail Investors and Senior Finance Professional, CONSOB[14], October 2022

Actions for firms:

- Review the firm's evolving **strategy, culture and purpose** to ensure it remains aligned with acting in customers' best interests.
- Review **governance structures and MI** that is used to consider customer outcomes, and whether good or poor customer outcomes are being evidenced.
- Check whether a **target market** for products has been defined with sufficient granularity, and whether products are being distributed to that market.
- Ensure **disclosures** on costs and charges are understandable and consistent with new regulatory requirements.
- Challenge whether products are demonstrably meeting clients' needs and providing **value for money.**
- Review **arrangements with distributors**, and whether distributor due diligence is formalized and underpinned by adequate policies and procedures.
- Ensure systems and controls are keeping pace with technology developments efficiently to deliver accurate **electronic disclosures**.

14. Commissione Nazionale per le Società e la Borsa

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07 Defining good governance

The way in which firms are governed is a constant priority for regulators, with current concerns including firms' culture, diversity and inclusion, and the probity/integrity of senior management. Outsourcing of key functions, such as portfolio and investment risk management, concerns around substance in the delegating firm and its ability to oversee the third parties to which it delegates are also core themes.

Controls to deter financial crime are being strengthened due to global regulatory pressure. And as part of firms' investment processes, many regulators are emphasizing the need for good conduct in wholesale markets, and proper due diligence and stewardship of investments.

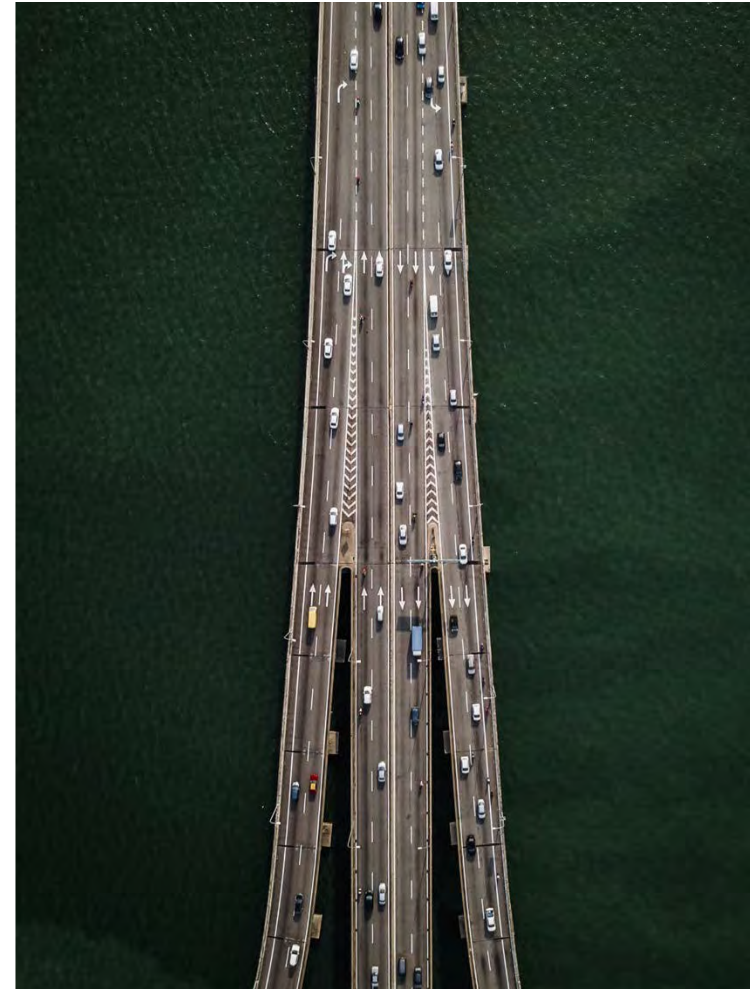
Need for dynamic business models

Firms recognize the need continuously to review and challenge their operating model, to enable them to navigate uncertainties, respond to new market opportunities, comply with existing and evolving rules, and protect investors' assets. Cost rationalization and optimization are front of mind, but also widening product offerings to cater for changing investor preferences (including sustainability) and new markets.

These factors call for business models to be flexible and robust, and for firms to adopt appropriate growth and resilience strategies. A survey by KPMG in **Luxembourg** of fund management companies found 97 percent of firms surveyed were in the process of operation model transformation, with product innovation at the core. For example, many firms are expanding their existing licenses to cover alternative assets and are increasing their footprints vis-à-vis their groups by establishing EMEA product and distribution hubs. In relation to sustainable investments, though, operational models are widely disparate.

Pension reform often creates opportunities for asset managers but can also lead to increased regulatory scrutiny and adverse impacts. In the **Netherlands**, a new pension act entered into force in July 2023, with a focus on protection of pension scheme members. The transition to a new pension system in the coming years is expected to have a substantial impact on the sector (UK reforms in 2015, for example, continue to have an impact). Asset managers will play a key role in this system change, and the regulator is devoting extra attention to whether firms' business operations are sound and well-controlled during the transition phase.

Meanwhile, in **Australia**, structural changes around superannuation funds are leading them to consider internalizing investment management. At the same time, the funds are facing margin pressure due to amendments related to super funds' obligations under the "Your Future, Your Super" performance benchmarking regulatory requirements. Fund trustees need to look to the best financial interest of their members, including reviewing their costs and comparing them with prescribed benchmarks (see more in Chapter 6).



Culture matters

The **UK** FCA[1] expects senior leaders to develop and nurture healthy cultures in the firms they lead. It describes cultures that are "purposeful" where:

- Sound controls and good governance are in place
- Employees feel psychologically safe to speak up and challenge
- Remuneration does not encourage irresponsible behavior that can ultimately damage the business, and harm investors and wider markets

The FCA notes that the new Consumer Duty will encourage firms to analyze their culture and how that affects their conduct (see Chapter 6). The regulator has also conducted surveys on firms' whistleblowing arrangements and set out actions it will take, including improving the use of whistleblowers' information across the FCA.

1. Financial Conduct Authority

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In March 2023, ASIC[2] published a report to help **Australian** firms improve their arrangements for handling whistle-blower disclosures, and ensure they are effective and encourage people to speak up. It found that firms received useful reports and tip-offs about issues in the workplace where the firms' whistleblowing programs were thoughtful and where arrangements for protecting whistle-blowers were well-publicised within the firms. As a result, those entities had greater opportunity to identify and address these concerns and issues at an early stage.

A focus on diversity and inclusion

The CBI noted that, given diversity is interconnected with risk, resilience, and financial performance, it will continue to highlight to **Irish** firms that this as an area of great importance.

The **South African** regulator has published its final strategy for promoting transformation in financial services, including asset managers. The goal is to promote the development of an innovative, inclusive, and sustainable financial sector to address the legacy of apartheid.

The **UK** regulators plan to consult jointly on improving diversity and inclusion in regulated firms, including asset managers. The FCA has cautioned that firms that do not embrace diversity of thought will struggle to serve the needs of a diverse customer base and manage risks effectively. It also published findings of a review and encouraged further action by industry.

2. Australian Securities and Investments Commission

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Governance structures

In Europe, the regulatory spotlight is on both "self-managed" funds – where one corporate entity is both the investment company (the fund) and the fund management company (FMC) – and "host" FMCs (companies which offer to act as the FMCs for funds initiated by third-party portfolio managers).

The Central Bank of **Ireland** (CBI) published a "Dear Chair" letter in December 2022 with observations on a survey conducted in June of 2022 on the organization of FMCs. The survey noted a decrease of 90 percent in the total number of self-managed funds and a significant increase in host FMCs. The CBI also noted an increased number of FMCs with a dedicated CEO, increased board diversity, the near doubling of directors' time commitments to fulfill their duties, and more robust organizational structures with greater numbers of designated persons and support staff. The CBI concluded that much progress had been made but that there was still work to be done by firms, including maintaining regulatory compliance as the operations of FMCs grow.

CySEC[3] has enhanced its scrutiny of host FMCs in **Cyprus** due to concerns that they may not have sufficient control over the investment activities for which they are responsible. The regulator has observed that the promoters/directors of some funds are, despite the appointment of the FMC, overly involved in the day-to-day operations of the fund.

The **EU**'s review of the AIFMD[4] framework and parallel UCITS rules has resulted in a requirement for all UCITS[5] FMCs, and any AIF managers that market AIFs to retail investors, to appoint at least one non-executive directive to their governing bodies. Also, remuneration policies will have to be consistent with long-term risks, including sustainability. The review of the future regulation of the **UK** asset management industry includes proposals to clarify the regulator's expectations of portfolio managers in the context of host FMCs, but also to adjust the threshold and exemption for small AIF managers, taking some outside the full scope of UK AIFMD.

A working group was established by the **Indian** regulator, SEBI[6] in 2022 to review the role and eligibility of sponsors of mutual funds, with the aim of facilitating growth and innovation. In March 2023, SEBI announced that private equity funds can now sponsor mutual fund management companies and that, if they comply with certain conditions, FMCs can be self-sponsoring.

The ingredients of good governance

Framework

A coherent governance framework should ensure there is robust and risk-based oversight across three lines of defence.

Responsibilities

The organisational structure should be well defined and transparent with consistent clear lines of responsibility and reporting.

Policies & procedures

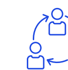
Documentation should ensure compliance with all regulatory requirements and promote consistency in internal operations and decision-making.

Management information

MI should enable governing bodies to identify, manage, and risks, and facilitate robust challenge. Good decision making and judgements should be evidenced.

Risk identification & mitigation

Risks should be comprehensively identified, recorded, prioritised, and monitored in appropriate governance fora.



Culture

The business strategy and purpose should be aligned to delivering good outcomes for investors. A "speak-up" culture should be promoted, as well as a focus on diversity and inclusion.

3. Cyprus Securities and Exchange Commission
4. EU Alternative Investment Fund Managers Directive
5. Undertaking for collective investment in transferable securities
6. Securities and Exchange Board of India

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Fitness, probity and competence

Some regulators are reviewing and enhancing their requirements on senior individuals in firms.

Ireland is expanding existing regimes. Following enhanced enforcement powers granted to the CBI in March 2022, the regulator consulted on new regulations and guidance to implement the Individual Accountability Framework (IAF), which includes the following key elements:

- The Senior Executive Accountability Regime (SEAR) will require in-scope firms to set out clearly and fully where responsibility and decision-making lie within the firm's senior management.
- Common (basic) conduct standards will apply to all individuals in regulated firms. Senior executives will have additional conduct standards related to running the part of the business for which they are responsible.
- Enhancements to the current Fitness & Probity Regime will include clarifying firms' obligations to certify proactively that individuals carrying out certain specified functions are fit and proper.
- Amendments to the Administrative Sanctions Procedure include the CBI's ability to take enforcement action directly against individuals for breaches of their obligations, rather than only for their participation in breaches committed by a firm.

Asset managers and FMCs must comply with the new conduct rules and the enhanced Fitness & Probity Regime from end 2023. SEAR is not initially targeted at asset managers, but it will apply if they are part of banking groups.

> **The Individual Accountability Framework will help… to explain and to understand how the firm is being run, how it is implementing its business model, and managing its risks.**
>
> **Gerry Cross,** Director of Financial Regulation, Policy and Risk, Central Bank of Ireland, June 2023

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With an eye on international competitiveness, the **UK** authorities are undertaking a fundamental review of the Senior Managers and Certification Regime, which has applied to asset managers since 2019. The high-level questions in the call for evidence were:

- Whether the regime is delivering against its original aims
- Whether there are areas of the regime that are perceived as a deterrent to firms or individuals locating in the UK
- The impact of the regime on UK competitiveness and how it compares with regimes in other countries
- Specific aspects of the regime and how any concerns could be addressed (for example, regarding the process and time taken to authorize senior managers)
- Whether the scope of the regime is correct, and whether low-risk activities or firms could be removed from scope

In **Australia**, a law is before its parliament to implement the Financial Accountability Regime (FAR) which extends and strengthens the BEAR regime (Banking Executive Accountability Regime) imposed on APRA[7]-related entities such as banks. FAR will extend to other non-APRA related entities and to directors and senior executives of those entities, to strengthen and increase individual and entity level accountability across financial services, including in relation to non-financial conduct risk. APRA has issued draft rules for consultation in anticipation of the Bill.

Some jurisdictions have already amended their rules. New guidelines from the Monetary Authority of **Singapore** (MAS) require firms to perform adequate due diligence to assess the fitness and propriety of their representatives and employees, which should include reference checks with previous employers to verify the individual's credentials, work experience and any disciplinary record. The guidelines also require the CEO, senior management and directors responsible for oversight of an FMC's investment activities collectively to have relevant experience in all the asset classes, markets and investment strategies that the FMC will invest in, and be able to manage properly the associated risks.

New rules for the private fund management industry in **China** include strengthened requirements on the company's legal representatives and senior management personnel in charge of investment management, including track record. And **Saudi Arabia** has approved new qualifications based on international practices. The aim is to enable regulated firms to meet investors' expectations, raise the quality of securities businesses, develop the performance of various activities and expand the types of national professionals.

7. Australian Prudential Regulation Authority

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Continued focus on substance and controls

In addition to good governance, regulators are concerned that firms should have sufficient substance, adequate resources, and good controls, but the drivers of these concerns differ between jurisdictions.

Under the **EU**'s AIFMD review (and parallel UCITS rules), a key issue of debate was what rules should apply to the delegation of investment management functions, which comprise portfolio management and management of investment risk. Opinion was split over how much information firms should have to provide on their delegation arrangements and what role ESMA[8] should play in reviewing them. The final rules require fund managers to report the amount and percentage of delegated assets under management.

Meanwhile, European national regulators are emphasizing the need for firms to have substance. The **Netherlands** was one of the jurisdictions that benefitted from interest in investment firms establishing there as part of their Brexit relocation strategies. The regulator is therefore focused on substance requirements in the new Dutch entities, especially where they delegate key functions to entities in other jurisdictions.

In the light of practices that CySEC has observed that are not always aligned with AIFMD key principles, the regulator has reminded FMCs in **Cyprus** that each AIF must have a single management company (AIFM), and of the principles governing the delegation of functions and the "letter box entity" concept. As noted above, it has directed some comments at host AIFMs, including that they should review their internal practices in line with ESMA guidelines and enhance their control frameworks to oversee properly the activities of the funds under management.

Outsourcing rules in **Ireland** came into effect at the start of 2023, along with a regulatory register. Intragroup outsourcing is treated the same as third-party outsourcing, and the rules do not differentiate between outsourcing and delegation of key functions.

The **Japanese** regulator has encouraged asset management companies to enhance their in-house investment management capabilities – for example, by hiring necessary expertise to manage global assets. Also, for funds invested in third-party funds or in-house funds of funds, there have been cases where the investment manager has been found to have conducted insufficient due diligence of the investee funds' characteristics and has failed to manage and administer the investments appropriately.

Elsewhere, there is a supervisory focus on the managers of private funds. The **US** SEC[9] Division of Examination is focusing on compliance and controls of registered investment advisers to private funds, across a range of areas. It is especially focusing on private funds with specific risk characteristics, such as funds that are highly leveraged or hold hard to value assets.

In March 2023, following a series of inspections during 2022, the MAS issued its observations and expectations of licensed venture capital FMCs (VCFMCs) in **Singapore**, some of which also apply to other types of FMCs. The MAS reminded VCFMCs to ensure that their core business remains focused on managing venture capital funds, and where incidental activities are carried out, that all potential conflicts of interest are fully mitigated. For smaller FMCs, where employees may have responsibilities that span across multiple functions, necessary processes to ensure mitigation of conflicts should be implemented.

The MAS also reminded firms to complete customer due diligence prior to onboarding, to maintain documentation evidencing investors satisfied the definition of "accredited investor", and to make the requisite disclosures that the firm is not subject to certain requirements. Although VCFMCs are not subject to the conduct of business requirements applicable to other types of FMCs, the regulator encouraged all firms to consider formalizing policies and procedures in key areas of their operations, and to review them periodically to mitigate operational risk.

8. European Securities and Markets Authority
9. Securities and Exchange Commission

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Deterring financial crime

Concerns about substance in the context of anti-money laundering (AML) and countering terrorist financing (CTF) are a priority for several jurisdictions. As noted in last year's report, FATF[10] reviews and being placed under increased monitoring (the "grey" list) continue to be a driver for regulatory enhancements in some jurisdictions (see also Chapter 8).

Various jurisdictions are strengthening their general AML/CTF laws – such as **Japan** and **Switzerland**. The latter is currently working on a new law concerning the transparency of legal entities and the identification of beneficial owners. Depending on its final design, its implementation could result in far-reaching obligations for firms. Other countries are considering the specificities of investment funds. The **Luxembourg** regulator conducts an annual AML survey and holds regular conferences to enable firms to be fully up-to-speed with their obligations.

From end January 2023, the scope of activities and operations subject to **Jersey**'s legislation were aligned more closely to the FATF standards. All previous scope and registration exemptions were removed. While most Jersey funds were already in scope, or administered by a regulated service provider within scope, funds may now need to register under the new law.

German AML/CTF requirements are increasing. Coupled with the speed at which technologies are evolving, this is creating further challenges for both regulated entities and the regulator, BaFin,[11] which has significantly boosted its resources in this area. AML/CTF functions are often outsourced, as is the role of AML officers. BaFin observes that these functions may not be as effective when outsourced. It expects closer monitoring of external service providers and prevention systems to keep up with business developments.

The MAS set out key observations from an industry-wide survey of **Singapore** variable capital companies (VCCs) and a series of thematic reviews of how selected firms implemented AML/CFT controls for VCCs. The MAS said the adverse findings should be considered by other types of business, not only in the context of VCCs:

- Insufficient oversight by VCCs of appointed providers
- Inadequate customer AML/CTF risk assessment frameworks and processes
- Failure to implement enhanced customer due diligence measures for higher risk customers

10. Financial Action Task Force
11. Bundesanstalt für Finanzdienstleistungsaufsicht

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Wholesale market conduct

Rules on conduct of business in the wholesale markets have generally been in place for several years. Regulators in some jurisdictions are now reviewing certain aspects of those rules to ensure they remain fit for purpose. For instance, the **Canadian** regulators sought comments on the current regulatory framework for short selling, and the **UK** regulatory authorities reviewed the criminal market abuse regime and identified areas that require updating (at the time of writing, rule amendments were awaited).

Other regulators are issuing good practice guidance and checking compliance by firms with specific rules. Examples include:

- In **Australia**, ASIC issued two reports on better and poorer practices in wholesale markets – one covered the monitoring of key conduct risks in fixed income markets and the other covered management of conflicts of interest.
- ESMA has issued clarity to **EU** market participants on best execution reporting.
- In 2022, following the findings of an earlier peer review by ESMA, the **Luxembourg** regulator launched a thematic review of the compliance of UCITS managers and AIFMs with obligations under the EU Market Abuse Regulation. The regulator emphasized that all firms should properly identify and manage all market abuse risks, be alert to market abuse risks among investors as well as staff, and have a regular audit and internal review of controls.
- In the **Netherlands**, the regulator asked investment firms to pay closer attention to transaction monitoring.

Stewardship and due diligence

In addition to the emphasis on good stewardship as part of the drive towards sustainable investment (see Chapter 2), some regulators are undertaking reviews of stewardship requirements more generally and proposing more user-friendly disclosures.

The **Canadian** securities regulators have proposed changes to corporate governance disclosure practices and guidelines, relating to the director nomination process, board renewal and diversity (beyond the representation of women). The main objectives are to provide guidance to issuers on corporate governance practices on those three matters, to increase transparency about diversity, and to provide investors with decision-useful information that enables them to better understand how diversity ties into an issuer's strategic decisions.

ESMA gathered information on the implementation of the **EU** Shareholders Rights Directive to obtain a comprehensive overview of existing practice. This included how stakeholders perceive the appropriateness of the scope and the effectiveness of the provisions on the identification of shareholders, transmission of information and facilitation of the exercise of shareholder rights, and on transparency of proxy advisors. Subsequent policy recommendations included standardizing the definition of a "shareholder" throughout the EU and clarifying which securities are captured by the regime.

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In **Japan**, the well-established Stewardship and Corporate Governance Codes, which have been subject to regular reviews and enhancements, are now reinforced by a new action program to accelerate corporate governance reform. Specific areas for action relate to:

- Encouraging management to promote initiatives relating to sustainability, including investment in human capital
- The effectiveness of independent directors, such as improving the effectiveness of the board, the nomination committee, and the remuneration committee, and improving the quality of independent directors
- Dialogues between companies and investors, such as enhancement of information disclosure, and dealing with legal and market environment issues

Included in the last point are concerns that asset managers disclose results in the form of PDF files, making it difficult for investors and other stakeholders to compare and analyze data of multiple asset managers. To facilitate evaluation of the effectiveness of stewardship activities and to promote further dialogue with corporates, asset managers are encouraged to promote data disclosure.

In a similar vein, the **US** SEC has adopted rules to enhance proxy voting disclosure by registered investment funds and to require disclosure of "say-on-pay" votes for institutional investment managers. The amendments to fund disclosures are intended to make proxy voting records more usable and easier to analyze, thereby improving investors' ability to monitor how their funds vote and to compare different funds' voting records. The rule for institutional investment managers fulfills one of the remaining rulemaking mandates under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Finally, the **UK** FCA is reviewing asset managers' voting policies and considering whether regulatory intervention could drive wider adoption of tools to allow greater investor engagement, such as "pass-through" voting instructions from investors in funds. In response, industry has proposed a voluntary, standardized template for asset managers to communicate to asset owners on voting activity, building on the US SEC's Form NP-X (required since 2003) and other frameworks

Actions for firms:

- Ensure the compliance function keeps pace with growth in the business and that the **three lines of defense** remain appropriately organized.
- Promote a "speak up" **culture** and establish an effective whistleblowing procedure.
- Review the **composition of the board** to check whether individuals can dedicate sufficient time to their role, and whether there is sufficient knowledge, expertise and independent challenge.
- Check the mapping of senior managers' and staff **roles and responsibilities** against new or changing accountability regimes.
- Review whether there are **sufficient resources and expertise** at all levels in the business to be able to evidence "substance" and effectively to oversee outsourced functions.
- Review policies and procedures to determine whether appropriate AML **due diligence arrangements** are in place for higher risk customers.
- Assess capabilities to identify and manage **market abuse risks** effectively.
- Enhance formalized **voting policies** and capabilities to disclose voting activity in easy to analyze format.

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08 Market access and opportunities

Developing capital markets are opening further to overseas firms and investors, subject to conditions. Various jurisdictions are competing as fund domiciles, with concerted efforts by some to address adverse findings by the global Financial Action Task Force (FATF). Within Europe, the fall-out from the UK's departure from the EU – "Brexit" – continues to occupy regulators.

Regulators around the world continue to create new fund vehicles or amend existing products, to offer flexibility and compete for market share. Authorities are also aiming to bolster investment from professional investors, and in infrastructure and unlisted companies to assist economic recovery. Regulators are keen, though, to mitigate potential conduct risks and prevent harm.

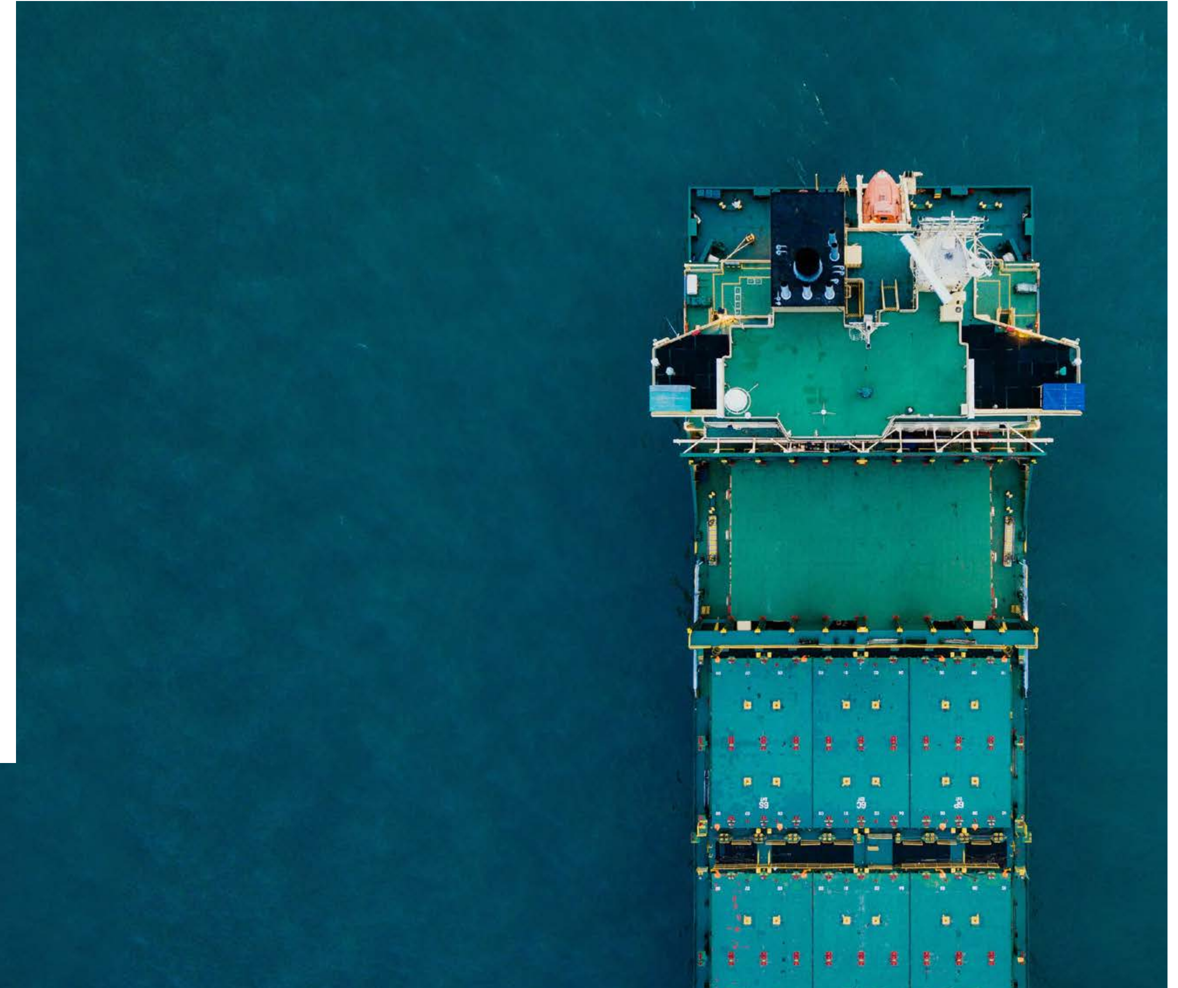
Opening markets

Following developments captured in previous editions of this report, **China** continued to open its markets to foreign investors, by expanding the scope of existing regimes, and to support the position of **Hong Kong (SAR), China** as an international financial center. Most fund management firms operating in China are domestic players, but the number of overseas managers is also increasing.

New wholly foreign-owned fund management companies were approved and given the go-ahead in 2023, which demonstrated the further opening-up of China's asset management sector.

Further to the opening of the Chinese bond markets to Qualified Foreign Institutional Investors (QFIIs), there were additional developments in autumn 2022. For example, the China Securities Regulatory Commission (CSRC) revised provisions on settlement of domestic securities transactions by QFIIs and consulted on cross-border futures business.

For managers of private funds (PFMs) new rules and guidance issued in May 2023 included changes for wholly-foreign-owned managers (WFO PFMs). Previously, the overseas shareholder of a WFO PFM investing in securities had to be a financial institution approved or licensed by the financial regulator of its home jurisdiction, and that regulatory authority must have agreed a memorandum of understanding (MoU) on securities regulatory cooperation with the CSRC. The new rules relaxed this approval and licensing requirement but include higher requirements on PFMs' legal representatives and senior management personnel in charge of investment management, as described in Chapter 8.



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The CSRC and the Securities and Futures Commission (SFC) continue to strengthen links between China mainland and Hong Kong (SAR), with expansion of "Stock Connect" and mirror regimes. ETF Stock Connect went live in summer 2022. Stock Connect has since been broadened to allow foreign companies primary-listed on the Hong Kong (SAR) stock exchange to be accessible by mainland investors via southbound[1] trading, and additional companies listed on the Shanghai and Shenzhen stock exchanges can be traded by overseas investors via northbound trading.

The CSRC also supports the introduction of treasury bond futures in Hong Kong (SAR) and opening them to overseas investors. A joint working group completed a feasibility study on promoting trading of RMB-denominated securities and discussions are underway to explore the inclusion of RMB-denominated securities in southbound trading. And in May 2023, "Swap Connect" was officially launched. Initially, it will be available only for northbound trading.

Other jurisdictions are also opening their markets to foreign investors. For instance, foreign investors that meet certain criteria – including that their home country regulator is a signatory to IOSCO's[2] multilateral MoU or to a bilateral MoU with the Indian regulator – can invest in **Indian** alternative investment funds (AIFs).

Saudi Arabia continues to open its capital markets to foreign investors. In March 2023, the Capital Market Authority (CMA) issued rules for foreign investment in securities listed in the local main market, debt instruments and investment funds. The rules define eligible foreign investors, required qualifications, investment restrictions, and other terms and conditions. The rules intend to facilitate foreign investment into the country, particularly to attract large global asset managers.

In October 2022, the rules of the Financial Market Entry Office of the **Japan** Financial Services Authority were amended to allow an applicant to submit written applications for registration and other subsequent documents in English, provided certain conditions are met:

- The applicant will sell only interests in collective investment schemes managed by group companies of the applicant
- The Japanese clients of the applicant will be only professional investors
- The applicant is authorized to conduct businesses similar to investment advisory and agency

From July 2023, the **UK** FCA[3] offered a new pre-application support service (PASS) for overseas wholesale firms wishing to expand into the UK, certain UK-based firms planning to set up elsewhere, and those with innovative, complex, or high-risk business models.

1. Southbound trading: investors in China mainland can access certain securities in Hong Kong (SAR). Northbound trading: Hong Kong (SAR) and international investors can access certain Chinese securities.
2. International Organization of Securities Commissions
3. Financial Conduct Authority

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Competing fund and asset management domiciles

Fintech and/or sustainable finance are seen by some jurisdictions as potential drivers of growth in their asset management and fund industries, including **Luxembourg, Hong Kong (SAR), China, Singapore and Saudi Arabia,** while other jurisdictions are considering a wider range of factors, including **Ireland** and the **UK** (see Chapter 1).

Further to the introduction of variable capital companies (VCCs) in **Singapore** in 2020, over 800 such vehicles have been launched and the MAS[4] has extended the VCC grant scheme to January 2025, to help offset the costs for general partners setting up their first VCCs. The **Chinese** authorities have collaborated with their Singaporean counterparts to establish "ETF Link" to give more choice to Singaporean investors.

On home ground, the Chinese authorities also continue to support and promote opportunities to grow **Hong Kong (SAR)** as an international financial center and an asset management hub. The SFC's strategy has four prongs: onshoring of funds, "Connects" with the mainland, new fund products (ESG-related, virtual assets-focused and RMB-denominated), and technology (especially, artificial intelligence and machine learning). The new regulation of fund depositaries – see Chapter 6 – is part of the effort to support the onshoring of funds.

There are also initiatives to foster the Hong Kong REIT[5] market, including:

- Enhancements to the REIT Code to provide REIT managers with additional investment flexibility
- Clarification that Hong Kong REITs can invest in infrastructure
- Giving Hong Kong REIT issuers a one-off reward of RMB 1 million for listing high-quality Qianhai infrastructure projects on the Hong Kong Stock Exchange
- A proposal to include Hong Kong REITs as eligible securities under the Stock Connect regime
- Future possibility of allowing REITs to be structured in a corporate form

Saudi Arabia's "Vision 2030" is creating a conducive environment for start-ups and venture capital funds, leading to an uptick in the use of convertible instruments.

The **Irish** Department of Finance's review of the asset management and funds services sector (see Chapter 1) includes peer reviews of other EU jurisdictions and international comparisons, which will inform the future development of the Dublin International Financial Sector. Meanwhile, the **UK** government's review of the funds industry, which considered what gaps there might be in the UK's already extensive funds landscape, has moved to the detailed proposal stage (see below).

The **Malaysian** securities commission is considering revamping the capital markets and securities act. The goal is to modernize the law and make Malaysia more competitive. However, funds are leaving Labuan financial center due to an eight-fold increase in the tax rate if they do not meet certain substance requirements.

As noted in Chapter 7, concerns about substance in the context of anti-money laundering (AML) are a priority for some other jurisdictions. FATF reviews – and, particularly, entering the "grey" list (subject to increased monitoring) – continue to be a driver for regulators. For example, access to the **South African** market via offshore centers has been tightened and the government has adopted a "tough" approach.

Meanwhile, to compete with Hong Kong (SAR), China and Singapore as hedge fund and wealth management domiciles, the **Cayman Islands** will set up an office in one of the two cities, to help investors to set up and manage Cayman-domiciled funds.

In January 2023, the Securities and Commodity Authority (SCA) issued new regulations regarding the promotion of foreign funds in the **UAE** and the establishment of UAE-domiciled funds. A public offering of foreign funds is no longer permitted and overseas funds (including UCITS[6]) can no longer be registered with the SCA for public offering. Overseas funds may be marketed in the UAE only on a private placement basis to professional investors and must be registered with the SCA.

4. Monetary Authority of Singapore
5. Real estate investment trust
6. EU undertaking for collective investment in transferable securities

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Across borders: within and into the EU

EU regulators have noted an increase in the provision of cross-border services to retail clients in recent years, due to the digitalization of financial services and impacts of the pandemic. ESMA[7] therefore reviewed the 2017 technical standards under MiFID II[8] and consulted in November 2022 on new information requirements for firms at the passporting stage. The additional requirements relate to:

- The means of marketing and language arrangements for dealing with client complaints
- The member states in which the firm will actively use the passport
- The categories of clients that are to be targeted
- The firm's internal organizational arrangements relating to cross-border activities.

ESMA is expected to publish a final report and submission of draft technical standards to the European Commission for endorsement by the end of 2023.

Meanwhile, issues are arising with the EU directive on the cross-border distribution of funds, which entered into force in August 2021. The aim of the directive was to harmonize national marketing requirements and remove unnecessary bureaucracy. In some areas, the directive has achieved the intended results, but it has also given rise to additional burdens for firms, which must give one month's notice of any changes to a fund and provide documents in multiple languages. This is creating delays when launching new share classes for existing funds.

The impacts of Brexit continue to occupy regulatory time. In December 2022, ESMA issued a review of the supervisory approaches adopted by national regulators when authorizing relocating firms. It questioned whether adequate activities had been relocated into the EU and whether relocated firms were genuinely autonomous and independent. It suggested that substance and governance in EU firms needed to be enhanced, with delegation and outsourcing being a key focus. ESMA recommended further work to address the report's findings and recommendations, and to enhance supervisory convergence among national regulators.

ESMA's findings also informed the review of AIFMD[9] (see Chapter 1). Asset managers closely followed developments regarding third-country access to the EU, given that delegation is important to third-country asset management centers, as well as for EU fund managers. There were differences in opinion between policymakers over whether proposed amendments on delegation went far enough, including on how much information firms should have to provide on their delegation arrangements and what role ESMA should play in reviewing them. More substantive proposed restrictions on delegation practices, including an "equivalence" assessment of the third country's regulatory regime, were dropped. However, third-country asset managers will have to provide enhanced reporting to EU regulators. Also, there will be quarterly notification by national regulators to ESMA on material changes to delegation arrangements.

A proposal to prevent funds domiciled in countries on the EU's tax avoidance blacklist from accessing individual EU member states via national private placement regimes seems likely to be rejected by national regulators.

7. European Securities and Markets Authority
8. EU Markets in Financial Instruments Directive
9. EU Alternative Investment Fund Managers Directive

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New and evolving fund structures

Around the world, new and amended fund vehicles are offering greater flexibility, enabling jurisdictions to compete for market share. The primary focus is on professional investors, digital assets and private assets, but funds for retail investors are also evolving in some jurisdictions.

As part of a wider drive to achieve convergence in the approach of **EU** national regulators, ESMA is reviewing whether UCITS currently have indirect exposure to asset classes that the funds cannot invest in directly. It will consider whether direct or indirect exposures to such assets might be appropriate, or whether it considers the risk too high for retail investors. The types of investment considered in the review could include financial indices, certain kinds of derivatives, leveraged loans, emission allowances, commodities, crypto assets and unlisted equities.

Also in the retail space, but with a different driver, **Australian** firms have been launching new products since the "retirement income covenant" became law in July 2022. The covenant is intended to broaden the focus of superannuation schemes from the accumulation phase to the decumulation/retirement phase. Previously, life insurers were focused on longevity but are now looking to partner with asset managers to offer decumulation-phase products.

The new fund regime in **Brazil** (see Chapter 1) allows for the creation of fund share classes and permits retail funds to invest up to 100 percent offshore through UCITS. There are also detailed annexes for a range of funds investing in different types of assets or sectors.

New fund structures are emerging for professional investors. In **Switzerland**, the planned Limited Qualified Investor Fund (L-QIF) regime, which resembles the Luxembourg RAIF[10] regime, will allow for the inclusion of various alternative assets and a rapid time-to-market. It is expected to become available for fund launches in the first quarter of 2024.

Following the introduction in **Jersey** in September 2022 of limited liability companies (LLCs), **Guernsey** has consulted and new legislation is pending. Jersey LLCs can be formed as a company or partnership, have limited liability, and offer flexibility in organizational arrangements and in profit and loss allocation.

And following success with the notified AIF regime in **Malta**, the regulator launched a second consultation in May 2023 on a proposed framework for notified professional investor funds. The framework is intended to combine the existing professional investor fund regime with the positive elements of notification (not licensing), and is expected to result in a cost-effective solution, given that it will leverage the regulated status of fund service providers and the qualified status of the target investors.

There is also a focus on funds open to both professional and semi-professional/sophisticated investors. In May 2023, the **UK** government consulted on a new fund structure - the Reserved Investor Fund. It would take the form of a contractual scheme that is not authorized by the regulator (although managers of such funds will be) and that could have lower costs and more flexibility than the existing authorized contractual scheme. The fund would be able to be promoted to professional and sophisticated investors, with an unconstrained investment strategy.

A wider drive to "democratize" investment in private assets is growing, with jurisdictions such as **Spain** and **Italy** considering whether certain products should be made available to retail investors. In **Japan**, a self-regulatory committee has been established to consider the inclusion of unlisted stocks as eligible assets for investment trusts.

Investment in infrastructure assets is in focus in Europe. The **UK** regulator has permitted retail investors, additional defined contribution pension schemes and self-invested personal pensions to invest in LTAFs[11] (accompanied by investor protection rules – such as risk warnings and summaries, and the need for an appropriateness test).

10. Reserved Alternative Investment Fund
11. Long-Term Asset Fund

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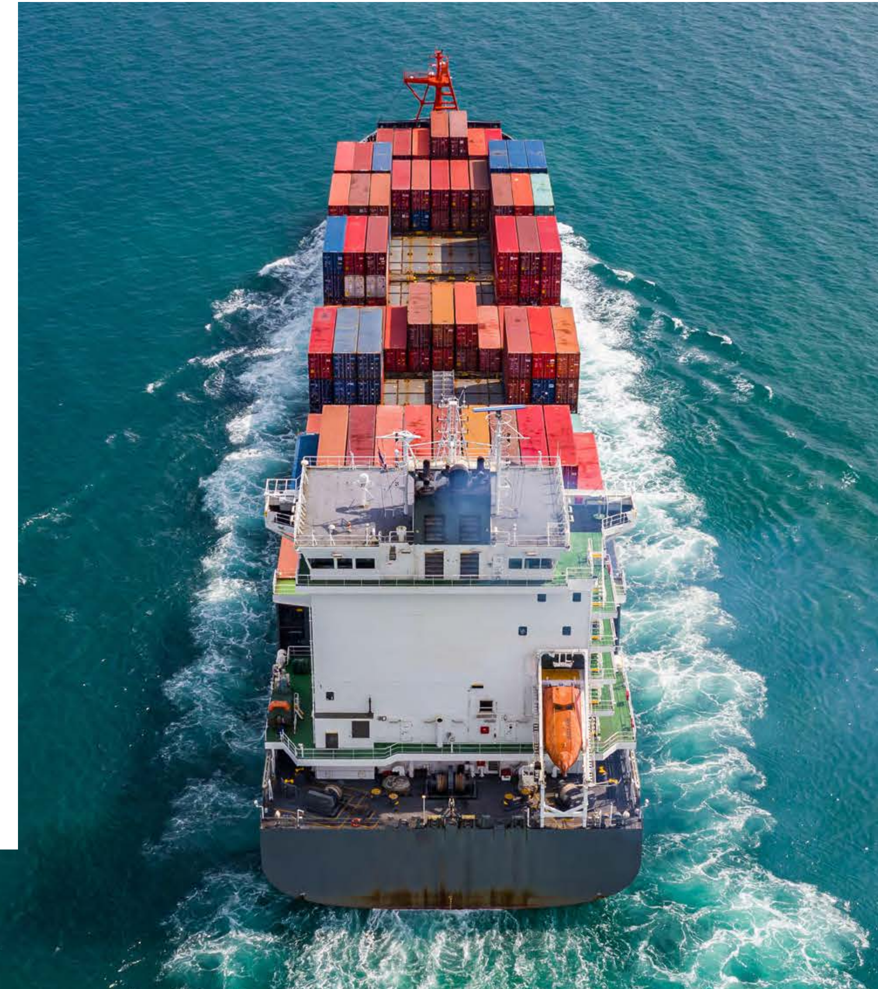
The review of **EU** long-term investment funds (ELTIFs), which were introduced in 2015 but saw only low take-up, resulted in wide-ranging amendments to the regulation, which will take effect from January 2024. The amendments ease existing restrictions and are intended to make ELTIFs more attractive to set up and invest in, and to increase investment in long-term projects:

- Expanding the scope of eligible assets and adding flexibility – for example, by reducing the minimum threshold for eligible assets from 70 percent to 55 percent of the fund's net asset value (NAV)
- The possibility of redemptions before the end of the ELTIF lifecycle under certain conditions
- Increased access to retail investors by removing the EUR 10k minimum investment threshold, the 10 percent exposure limit relating to a retail investor's total investment portfolio, and the duplicated suitability assessment if one is already performed under MiFID

ESMA subsequently consulted on technical standards to underpin the new rules, including redemption arrangements, the "matching policy" for exiting, and potential investors, cost disclosures and other adjustments. The **French** regulator has called for ELTIFs to offer at least quarterly redemption ("liquidity windows") to avoid first-mover advantages that could create run dynamics. Given difficulties in valuing real estate and infrastructure assets, there are also concerns about the prospect of substantial corrections in the NAVs of ELITFs and other types of private asset funds (see Chapter 3).

A new law has been introduced as part of the drive to modernize and increase the attractiveness of the **Luxembourg** investment funds' legislative framework, as well as to promote investments in alternative assets. The law introduces various changes, including to the definition of a "well-informed" investor to bring it into line with certain EU definitions, with the minimum investment threshold reduced from EUR 125,000 to EUR 100,000. Also, funds authorized as ELTIFs are now exempted from the "taxe d'abonnement."

In contrast, investment funds in **Saudi Arabia** are for the first time required to register with the local zakat (religious tax) authority and provide necessary information, through annual information returns, to the authorities around its zakat base. New corporate tax provisions are being introduced in the **UAE** but given that most funds and asset managers are domiciled in UAE free zones, it is not expected that the proposed taxes will have a significant impact on the industry.



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Other types of asset classes are being introduced into funds. The CSRC has launched a pilot real estate private equity fund to support the stable and healthy development of the **Chinese** real estate market. **Indian** AIFs can now invest in credit default swaps. And as part of the **EU**'s review of AIFMD, new rules for loan origination funds are under consideration. The details are being negotiated against a backdrop of concerns about systemic risk (specifically, leverage and contagion risks). Features under discussion include:

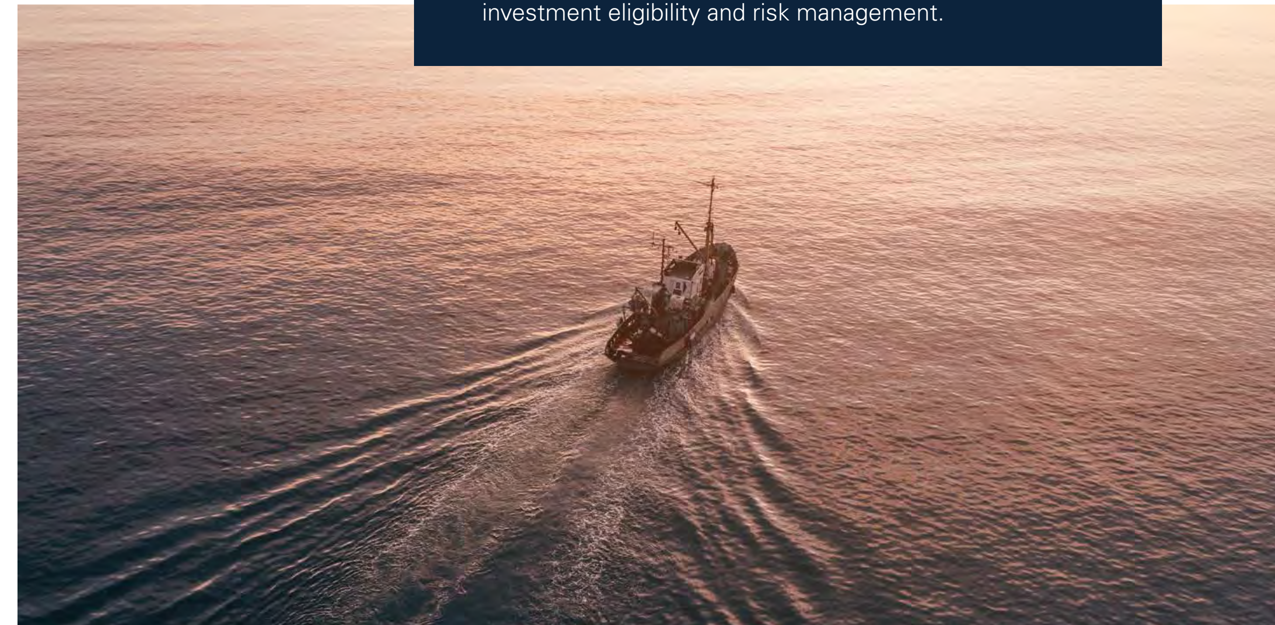
- Definition: AIFs that grant loans as the original lender, whereby the notional values of originated loans exceeds 60 percent of the fund's NAV
- 5 percent of notional value as risk retention
- Open-ended structures permitted, provided they have sound liquidity management, based on criteria to be defined by ESMA
- No leverage limit.

On a final, "virtual" note, and as mentioned in Chapter 5, a few jurisdictions have permitted funds to invest in crypto-assets:

- **Canada** allowed some ETFs to have exposure to crypto-derivatives and subsequently permitted spot-crypto funds.
- **Hong Kong (SAR), China** has approved some virtual asset futures ETFs.
- In **Brazil**, recoverable tokens are regarded as investible assets by funds. Funds can now invest directly in crypto-assets – previously, exposure to crypto-assets was allowed only through investment in crypto-asset ETFs. Funds for retail investors can invest at most 10 percent of their portfolio in crypto-assets, but the exposure via crypto-asset ETFs can be 100 percent of the portfolio.
- From April 2023, **Irish** qualifying investor AIFs have been able to invest in virtual assets.
- The **Luxembourg** regulator has updated its guidance on whether funds may or may not invest in virtual assets, any authorizations required, and specific considerations such as on anti-money laundering.
- The **UK** regulator is considering whether portfolio assets could be tokenized and will consider whether to permit funds to invest in crypto-assets.

Actions for firms:

- Factor **opening markets and access possibilities** into the business and product strategy.
- Monitor the outcomes of jurisdictions' **reviews of fund regimes.**
- Consider launching new products to take advantage of the evolving range of **fund vehicles.**
- Implement a robust approach to **crypto-assets** in terms of investment eligibility and risk management.



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EAMR Abbreviations

AFM	Autoriteit Financiële Markten (Netherlands)
AI	Artificial intelligence
AIF	Alternative Investment Fund (EU & UK)
AIFMD	Alternative Investment Fund Managers Directive (EU & UK)
AMAC	Asset Management Association of China (AMAC)
AMF	Autorité des Marchés Financiers (France)
AML	Anti-money laundering
APRA	Australian Prudential Regulatory Authority
ASIC	Australian Securities & Investments Commission
BaFin	Bundesanstalt für Finanzdienstleistungsaufsicht (Germany)
CBI	Central Bank of Ireland
CMA	Capital Market Authority (Saudi Arabia)
COFI	Conduct of Financial Institutions (South Africa)
CONSOB	Commissione Nazionale per le Società e la Borsa (Italy)
COP15	UN Biodiversity Conference
CSRC	China Securities Regulatory Commission
CSRD	Corporate Sustainability Reporting Directive (EU)
CSSF	Commission de Surveillance du Secteur Financier (Luxembourg)
CTF	Countering terrorist financing
CVM	Comissão de Valores Mobiliários (Brazil)
CySEC	Cyprus Securities and Exchange Commission
DFSA	Dubai Financial Services Authority (UAE)
DDO	Design and distribution obligations (Australia)
DORA	Digital Operational Resilience Act (EU)
DLT	Distributed ledger technology
EAMR	Evolving Asset Management Regulation (KPMG)
EBA	European Banking Authority
EIB	European Investment Bank
ELTIF	European Long-Term Investment Fund (EU)
ESAs	European Supervisory Authorities
ESG	Environmental, Social, Governance
ESMA	European Securities and Markets Authority
ETF	Exchange-traded fund
FATF	Financial Action Task Force
FCA	Financial Conduct Authority (UK)
FinSA	Financial services act (Switzerland)
FMC	Fund management company
FSB	Financial Stability Board
FSC	Financial Services Commission (Guernsey)
ICT	Information communication technology
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund
IOSCO	International Organization of Securities Commissions
ISSB	International Sustainability Standards Board
JFSA	Japanese Financial Services Agency
KID	Key Information Document
L-QIF	Limited Qualified Investment Fund (Switzerland)
LMT	Liquidity management tool
LTAF	Long-term asset fund (UK)
MAS	Monetary Authority of Singapore
MiFID II	Markets in Financial Instruments Directive (EU)
MiFIR	Markets in Financial Instruments Regulation (EU)
ML	Machine learning
MMF	Money market fund
NAV	Net asset value
NBFI	Non-bank financial intermediation
NCF	Natural Capital Fund (Jersey)
NPA	Non-product advertisement (Singapore)
OEF	Open-ended fund
PRIIP	Packaged Retail and Insurance-based Investment Product (EU)
QAR	Quality of Advice review (Australia)
QFI	Qualified foreign investor (China)
QFII	Qualified foreign institutional investor (China)
QFLP	Qualified Foreign Limited Partnership (China)
RAIF	Reserved Alternative Investment Fund (Luxembourg)
RAS	Risk appetite statement
REIT	Real estate investment trust
RIA	Registered investment adviser (US)
SASB	Sustainability Accounting Standards Board
SEAR	Senior Executive Accountability Regime (Ireland)
SEBI	Securities and Exchange Board of India
SEC	Securities and Exchange Commission (US)
SFC	Securities and Futures Commission (Hong Kong, (SAR), China)
SDR	Sustainability Disclosure Requirements (UK)
SFDR	Sustainable Finance Disclosure Regulation (EU)
TCFD	Task Force on Climate-Related Financial Disclosures
TNFD	Taskforce on Nature-related Financial Disclosures
UCITS	Undertaking for collective investment in transferable securities (EU & UK)
VCC	Variable capital company (Singapore)
VCFM	Venture capital fund management company
WFO PFM	Wholly-foreign-owned private fund manager

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