

EU MATTERS: your newsletter on EU matters



June 2018

Legislative files

Capital Markets Union (CMU)

- The European Commission has proposed new rules to give **small and medium sized enterprises (SMEs) better access to financing through public markets**. The measures include:
 - to adapt current obligations to keep registers of persons that have access to price-sensitive information (so called insider register) so as to avoid excessive administrative burden for SMEs
 - to allow issuers with at least three years of listing on SME Growth Markets to produce a lighter prospectus when transferring to a regulated market
 - to make it easier for trading venues specialised in bond issuance to register as SME Growth Markets
 - to create a common set of rules on liquidity contracts for SME Growth Markets in all Member States, in parallel to national rules.

Read the press release here:

http://europa.eu/rapid/press-release_IP-18-3727_en.htm

MiFIDII/MIFIR

- ESMA has updated its public register with the latest set of **double volume cap data (DVC)** under MiFID II.
<https://www.esma.europa.eu/double-volume-cap-mechanism>
- ESMA has updated Q&As on **data reporting** under MiFIR, for instance on complex trades. Read it here:
https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-56_gas_mifir_data_reporting.pdf
- ESMA has added 9 new or updated Q&As on MiFID II/MiFIR **investor protection** topics. The new or updated Q&As cover the topics of best execution, client categorisation, provision of investment services and activities by third country firms, and other issues. See it here:

<https://www.esma.europa.eu/document/qas-mifid-ii-and-mifir-investor-protection-topics>

- ESMA has updated its Q&As regarding **transparency and market structures** issues under MiFID II and MiFIR. The new Q&A provides clarification on the following topics:
 - the way trading venues, APAs and CTPs should make data available free of charge 15 minutes after publication and ensure non-discriminatory access to the information
 - the publication of transactions and how to populate the field ‘publication date and time’
 - pre-trade transparency requirements for voice trading systems
 - pre-trade transparency requirements for RFQ systems; and
 - OTFs arranging trading in strategies which include an equity leg

See the updates here:

Transparency topics:

https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-35_gas_transparency_issues.pdf

Market Structure topics:

https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-38_gas_markets_structures_issues.pdf

EMIR and supervision of CCPs

- ESAs have launched two joint consultation to amend RTSs on the **clearing obligation and risk mitigation techniques for OTC derivatives** not cleared:
 - The consultation on the draft RTS on the **clearing obligation** clarify which arrangements under covered bonds or securitisations adequately mitigate counterparty risk and thus may benefit from an exemption from the clearing obligation. Link to it is here:
https://www.esma.europa.eu/sites/default/files/library/jc_2018_14_cp_on_the_amendments_to_co_under_the_securitisation_regulation.pdf
 - The consultation on the draft RTS on **risk mitigation techniques** aims at extending the type of special treatment currently associated with covered bonds to STS securitisations. See the link here:
<https://www.eba.europa.eu/regulation-and-policy/market-infrastructures/draft-regulatory-technical-standards-on-risk-mitigation-techniques-for-otc-derivatives-not-cleared-by-a-central-counterparty-ccp->

The consultations are open until 15 June 2018.

- ESMA has updated its Q&A on EMIR. The Q&A provides clarification on **reporting to trade repositories**. See the link here:
https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-52_qa_on_emir_implementation.pdf
- ESMA issued final guidelines on **anti-procyclicality margin measures for CCPs** under EMIR. The Guidelines seek to establish consistent, efficient and effective supervisory practices and to ensure a common, uniform and consistent application of EMIR in order to limit procyclicality of CCP margins. See the link here:
https://www.esma.europa.eu/sites/default/files/library/esma70-151-1293_final_report_on_guidelines_on_ccp_apc_margin_measures.pdf

- The European Parliament has finalised a report on the legislative proposal regarding **supervision of CCPs**. The report for instance calls for more power for ESMA and the central bank of issue. The report will form the basis for trilogue negotiations with the Council for finalising the legislative text. See the report: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2018-0190+0+DOC+PDF+V0//EN>
- The European Parliament's ECON Committee has voted on its report on the legislative proposal for **EMIR Refit**. The report for instance proposes certain exemptions from the clearing obligation. The report will form the basis for trilogue negotiations with the Council for finalising the legislative text. See the report: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2018-0181+0+DOC+PDF+V0//EN>

Sustainable finance

- The European Commission has delivered the first concrete actions to enable the EU financial sector to lead the way to a **greener and cleaner economy**. 'Sustainable finance: Making the financial sector a powerful actor in fighting climate change'. Measures include:
 - A unified EU classification system ('taxonomy'): The proposal sets harmonised criteria for determining whether an economic activity is environmentally-sustainable.
 - Investors' duties and disclosures: Introducing consistency and clarity on how institutional investors or investment advisors should integrate ESG factors in their investment decision-making process.
 - Low-carbon benchmarks: Create a new category of benchmarks, comprising the low-carbon benchmark or "decarbonised" version of standard indices and the positive-carbon impact benchmarks.
 - Better advice to clients on sustainability: A consultation to assess how best to include ESG considerations into the advice that investment firms and insurance distributors offer to individual clients.

Link to the press statement:

http://europa.eu/rapid/press-release_IP-18-3729_en.htm

Other:

ESMA

- Investors seeking information on whether a financial service provider is authorised within in the EU will now be able to do so on ESMA's new **companies' portal**. The portal provides investors with a one-stop-shop register, including for:
 - MiFID Investment firms including Systematic Internalisers
 - MiFID Trading venues
 - MiFID data reporting service providers
 - UCITS management companies
 - AIFMD fund managers including funds managed/marketed in the Union

<https://www.esma.europa.eu/press-news/esma-news/esma-provides-one-stop-company-portal>

- ESMA has adopted temporary **product intervention measures on the provision of CFDs and binary options** to retail investors.
 - Binary Options (from 2 July 2018) - a prohibition on the marketing, distribution or sale of binary options to retail investors; and
 - Contracts for Differences (from 1 August 2018) - a restriction on the marketing, distribution or sale of CFDs to retail investors.

Read about the measures here:

<https://www.esma.europa.eu/press-news/esma-news/esma-adopts-final-product-intervention-measures-cfds-and-binary-options>

And Q&As on the measures here:

<https://www.esma.europa.eu/press-news/esma-news/esma-publishes-qas-in-relation-temporary-product-intervention-measures>

EVENTS:

6 June	CFA: High level conference: 'The Future of Capital Markets in the European Union: towards deeper integration?', European Parliament, Brussels
7 June	CEPS: Fintech Day, Brussels
7 June	Brussels Tech Summit, Brussels
8-9 June	G7 Summit, Canada
15 June	ESMA Consultation on amendments to the EMIR Clearing Obligation under the Securitisation Regulation closes
18 June	European Commission with EESC - AI Europe stakeholder summit: A European strategy for artificial intelligence
19 June	EPFSF: Cybersecurity, Brussels
20 -21 June	FESE Convention, Vienna
26 June	QED: 5th Annual conference on Cross border regulation on Financial services, Brussels
29 June	European Commission: Public hearing: Making the capital markets union work for retail investors, Brussels
11 July	EPFSF: CMU, Sustainable Finance, Brussels
5-7 September	Eurofi, Vienna

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