

EU MATTERS: your newsletter on EU matters



July 2017

General and Institutions

EU Presidency

Estonia takes over the rotating EU presidency from 1st July for 6 months.

Brexit

- **Negotiations** between the EU and the UK on Brexit started on 19 June. The opening negotiations focus on: issues related to citizens' rights; the financial settlement; the Northern Irish border; other separation issues. The plan is that negotiations will start with the divorce itself, and when “sufficient progress” has been achieved, they will move onto discussing the future relationship between the bloc and the UK.
- ESMA has published general principles aimed at fostering consistency in authorisation, supervision and enforcement related to the **relocation of entities, activities and functions from the UK**. This is a practical tool to support supervisory convergence in the context of increased requests from UK financial market participants seeking to relocate to the EU27. It covers in particular the AIFMD, UCITS, MiFID I and MiFID II.

<https://www.esma.europa.eu/press-news/esma-news/esma-issues-principles-supervisory-approach-relocations-uk>

EU FILES

Capital Markets Union

- The European Commission adopted a **Mid-term review of the CMU action plan**, taking stock of progress so far and setting out nine new priority actions that will be unveiled in the coming months. New actions include:
 - Strategy on local and regional capital market developments across the EU.
 - Assessment of whether targeted amendments to relevant EU legislation can deliver a more proportionate regulatory environment to support SME listing on public markets.

- Assessment of the drivers of equity investments by insurance companies and pension funds.

https://ec.europa.eu/info/sites/info/files/communication-cmu-mid-term-review-june2017_en.pdf

- The European Commission published a Report that maps **national and regional initiatives to help small businesses identify a wider range of sources of finance**. The Commission has also launched a call for proposals for a maximum amount of € 2.5 million under the Horizon 2020 programme. This Call for Proposals will allow to support capacity-building projects to address information barriers in the SME funding market and increase the range of financing opportunities by drawing on these successful national initiatives.

The feedback to SMEs initiatives is available here:

http://ec.europa.eu/info/publications/170606-sme-access-to-funding_en

- The European Commission published a proposal for a Regulation on a **Pan-European Personal Pension Product (PEPP)**. The Commission considers that personal pension plans, alongside occupational pensions, are part of the solution to supplement state-based pensions and bridge the EU pensions gap created by an ageing population.

http://europa.eu/rapid/press-release_IP-17-1800_en.htm?locale=en

Benchmarks

- The European Commission has published draft implementing acts under the EU Benchmark Regulation. The acts concern definitions, cessation of benchmarks, critical benchmarks and the calculation of total values for references. The public can comment during a four week period until 20th July.

[http://ec.europa.eu/info/law/better-regulation/initiatives_en?facet_select_field_brp_inve_resource_type:parents_all=744&facet_select_field_brp_inve_resource_type=128&field_brp_inve_fb_status=OPEN&field_brp_inve_fb_start_date\[date\]=22-06-2017&field_brp_inve_leading_service=120](http://ec.europa.eu/info/law/better-regulation/initiatives_en?facet_select_field_brp_inve_resource_type:parents_all=744&facet_select_field_brp_inve_resource_type=128&field_brp_inve_fb_status=OPEN&field_brp_inve_fb_start_date[date]=22-06-2017&field_brp_inve_leading_service=120)

- ESMA has published a methodological framework developed to promote convergence in relation to the supervision of critical benchmarks. ESMA has developed the framework to assist supervisors in their selection of supervised entities to be compelled to contribute input data to critical benchmarks, should its representativeness become at risk at some point in the future. It applies to all Interbank Offered Rates (IBORs) and to the Euro OverNight Index Average (EONIA).

https://www.esma.europa.eu/sites/default/files/library/esma70-143-5_methodological_framework_bmr.pdf

CCP clearing

- The European Commission has published a second batch of proposals revising EMIR. This second batch of proposals concerns the **supervisory arrangements for EU and third-country CCPs**.
http://ec.europa.eu/finance/docs/law/170613-emir-proposal_en.pdf
- The European Central Bank has adopted a recommendation asking that its statute be amended to give it a clear legal competence in the area of central clearing. This would pave the way for the Eurosystem to exercise the powers that are foreseen for central banks issuing a currency under the review of the European Market Infrastructure Regulation (EMIR) proposed by the European Commission
<https://www.ecb.europa.eu/press/pr/date/2017/html/ecb.pr170623.en.html>
- IOSCO/CPMI have published for public comment the report 'Framework for supervisory **stress testing of CCPs**'. The framework is designed to support supervisory stress tests conducted by one or more authorities that examine the potential macro-level impact of a common stress event affecting multiple CCPs. The consultation is open until 22 September.
<http://www.iosco.org/news/pdf/IOSCONEWS464.pdf>
- ESMA has opened a public consultation on future guidelines relating to EMIR, asking stakeholders feedback on a set of proposed provisions regarding the **management and avoidance of conflicts of interests by CCPs**. The consultation is open until 24 August.
https://www.esma.europa.eu/sites/default/files/library/esma70-151-291_esmas_guidelines_on_ccp_conflicts_of_interest_management_0.pdf

MiFID II & MiFIR

- The European Commission has published for public comment a proposal for amendment to MiFID II, as regards the specification of the **definition of systematic internalisers**. The amendment intends to clarify the precise scope of the definition of "systematic internaliser" to ensure uniform application of this term and avoid circumvention. The consultation is open until 18 July.
https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3070825_en
- ESMA has published a consultation paper regarding its draft technical standards specifying the **trading obligation for derivatives** under MiFIR. The consultation is open until 31 July.
https://www.esma.europa.eu/sites/default/files/library/esma70-156-71_cp_trading_obligation.pdf
- ESMA has provided an update on the implementation of their **IT projects regarding MiFID II**. The update, provided in a letter to the European institutions, include timelines for implementation of the different elements of its MiFID II IT infrastructure.
https://www.esma.europa.eu/sites/default/files/library/esma70-156-158_letter_to_ep_council_of_the_eu_and_european_commission_-_report_on_esma_it_projects_002.pdf
- ESMA has issued a number of documents providing guidance to the market regarding implementation of MiFID II /MiFIR. This includes:

- Opinion helping market participants to assess whether their **activities in commodity derivatives** can be considered as **ancillary** to their main business. https://www.esma.europa.eu/sites/default/files/library/esma70-156-165_opinion_on_market_size_calculation.pdf
- Guidelines on Calibration of **circuit breakers** and publication of **trading halts**. https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-63_mifid_ii_guidelines_on_trading_halts.pdf
- Opinion with interim **transparency calculations for non-equity** instruments. These calculations specify the transparency regime applicable to trading in secondary markets from 3 January 2018, when MiFID II will enter into force. <https://www.esma.europa.eu/press-news/esma-news/esma-provides-interim-transparency-calculations-mifid-ii>
- Opinion on under which circumstances **transactions executed on non-EU trading venues** will be subject to the MiFIR **post-trade transparency** rules. https://www.esma.europa.eu/sites/default/files/library/esma70-154-165_smsc_opinion_transparency_third_countries.pdf
- Opinion on whether positions held in **contracts traded on non-EU venues** will be subject to the MiFID II **position limit regime**. https://www.esma.europa.eu/sites/default/files/library/esma70-156-112_cdtf_opinion_eotc_third_countries.pdf

Retail

- The European Supervisory Authorities jointly published the first set of Q&As related to the **Key Information Document (KID) requirements for Packaged Retail and Insurance-based Investment Products (PRIIPs)**. This Q&A document aims at promoting common supervisory approaches and practices in the implementation of the KID. <https://www.esma.europa.eu/press-news/esma-news/european-supervisory-authorities-publish-ga-key-information-document-kid>
- European Parliament's ECON committee published a **draft Report on the Action Plan on Retail Financial Services**, for instance calling for an all-inclusive FinTech Action Plan in the framework of the CMU and digital single market (DSM) strategies, contributing to an effective and well-functioning integrated technology-driven single market of financial services benefiting all European end-users. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bCOMPARL%2bPE-605.928%2b01%2bDOC%2bPDF%2bV0%2f%2fEN>

Anti-money laundering

- The European Supervisory Authorities have jointly published its final Guidelines on **anti-money laundering and countering the financing of terrorism (AML/CFT)**. The Guidelines promote a common understanding of the risk-based approach to AML/CFT and set out how it should be applied. <https://www.esma.europa.eu/press-news/esma-news/esas-publish-amlcft-guidelines>

Corporate Governance

- The European Commission organised a conference on “EU Corporate Governance in XXI century: Shareholder Rights Directive II and Beyond”. The Commission presented the revised Shareholder Rights Directive and gave an orientation of future actions. Kaarel Ots, President Nasdaq Tallinn, spoke about the role fintech/blockchain can play in future corporate governance.
http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=58322

FinTech

- The FSB has issued a report on the potential financial stability implications from FinTech identifying supervisory and regulatory issues:
<http://www.fsb.org/2017/06/fsb-issues-a-report-on-the-financial-stability-implications-from-fintech/>

EVENTS

5 July	ESMA board of supervisors meeting in Paris
6 July	ESMA Joint Board of Supervisors & Securities and Markets Stakeholder Group meeting, Paris
18 July	Public hearing on sustainable finance, Charlemagne Building, Brussels
18 July	Commission MiFID II consultation on systematic internalisers ends.
31 July	ESMA consultation on trading obligation for derivatives under MiFIR ends
13-15 Sept	Eurofi conference in Tallinn, Estonia
24 August	Deadline for ESMA’s consultation on guidelines on CCPs conflict of interest management
13-15 Sept	EUROFI seminar, Tallinn, Estonia
22 Sept	IOSCO/CPMI Consultation ‘Framework for supervisory stress testing of central counterparties’ closes
22 Nov	European Small and Mid-Cap Awards ceremony, Brussels