

## EU Matters - your newsletter on EU matters, April 2019



April 2019

### General and Institutional Affairs

#### Brexit

- The European Commission has completed its **“no-deal” preparations**.  
Link to the press release:  
[http://europa.eu/rapid/press-release\\_IP-19-1813\\_en.htm](http://europa.eu/rapid/press-release_IP-19-1813_en.htm)
- ESMA has published a statement on the impact on the MiFIR **share trading obligation in case of a no-deal Brexit**, including a list of ISINs to which the trading obligation would apply.  
Link to the statement:  
[https://www.esma.europa.eu/sites/default/files/library/esma70-155-7329\\_public\\_statement\\_trading\\_obligation\\_shares.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-155-7329_public_statement_trading_obligation_shares.pdf)
- ESMA has published a statement on its approach to the application of some key **MiFID II /MiFIR and Benchmark provisions in case of a no-deal Brexit**. It sets out details on the following MiFID II and BMR aspects:
  - The MiFID II C(6) carve-out
  - Trading obligation for derivatives
  - Post-trade transparency and position limits
  - Post-trade transparency for OTC transactions between EU investment firms and UK counterparties
  - ESMA register of administrators and 3rd country benchmarksLink to the statement:  
[https://www.esma.europa.eu/sites/default/files/library/esma70-155-7253\\_public\\_statement\\_mifidii\\_bmr\\_provisions\\_under\\_a\\_no\\_deal\\_brexit.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-155-7253_public_statement_mifidii_bmr_provisions_under_a_no_deal_brexit.pdf)
- ESMA has published a statement in relation to the **impact on ESMA’s databases and IT systems in case of a no-deal Brexit**. This statement complements the previous statement from 5 February 2019 and covers the following systems:
  - Financial Instruments Reference Data System (FIRDS);
  - Financial Instrument Transparency System (FITRS);

- Double Volume Cap System (DVCAP);
- Transaction reporting systems; and
- ESMA's registers and data.

Link to the statement:

[https://www.esma.europa.eu/sites/default/files/library/esma65-8-6254\\_public\\_statement\\_on\\_brexit\\_data\\_operational\\_plan.pdf](https://www.esma.europa.eu/sites/default/files/library/esma65-8-6254_public_statement_on_brexit_data_operational_plan.pdf)

- ESMA has published a statement highlighting that, in relation to previously published measures and actions issued on the basis of a no-deal Brexit scenario, reference to the date of 29 March 2019 in these statements should now be read as **12 April 2019**.

Link to the statement:

[https://www.esma.europa.eu/sites/default/files/library/esma90-1-83\\_public\\_statement\\_-\\_brexit\\_update.pdf](https://www.esma.europa.eu/sites/default/files/library/esma90-1-83_public_statement_-_brexit_update.pdf)

## Legislative files

### Capital Markets Union

- A political agreement was reached on the '**SME listing package**'. The package includes changes to the Prospectus Regulation, the Market Abuse Regulation and MiFID II, all intended to make it easier for issuers to access capital via SME Growth Markets. For instance, a common set of rules on liquidity contracts are created. Also, when a company switches listing from an SME Growth Market to a main market, a lighter prospectus will be allowed.

Link to the final text:

<https://data.consilium.europa.eu/doc/document/ST-7349-2019-ADD-1/en/pdf>

- The European Commission has adopted new rules **easing insurers' capital requirements for investments in equity and private debt**. The rules are intended to make it more attractive for the insurance industry to invest in the economy, helping mobilise private sector investment – a key objective of the CMU.

Next: The amendments will now be subject to a scrutiny period of 3 months by the European Parliament and the Council.

Link to the press release:

[http://europa.eu/rapid/press-release\\_IP-19-1601\\_en.htm](http://europa.eu/rapid/press-release_IP-19-1601_en.htm)

- The European Commission has published a **Communication on Capital Markets Union: progress on building a single market for capital for a strong Economic and Monetary Union**. The report takes stock of progress made, and also includes an overview of ongoing and future work.

[http://ec.europa.eu/finance/docs/policy/190315-cmu-communication\\_en.pdf](http://ec.europa.eu/finance/docs/policy/190315-cmu-communication_en.pdf)

## Review of the European System for Financial Supervision

- A political agreement was reached on the European Commission's proposal on reviewing the European System for Financial Supervision, i.e. the '**ESAs review**'. The new rules place certain new businesses under direct ESMA supervision, such as in the field of critical benchmarks and of data reporting services. The governance of ESMA was enhanced, including strengthening the role of the chair person. The reform also strengthens the role and powers of the EBA as regards anti-money laundering supervision.

Read more:

<https://www.consilium.europa.eu/en/press/press-releases/2019/03/21/financial-supervision-council-presidency-and-parliament-reach-provisional-deal-on-supervisory-framework-for-european-financial-institutions/>

## Sustainable finance

- A political agreement was reached on new rules on **disclosure requirements related to sustainable investments and sustainability risks**.

The new regulation is built around three main pillars:

- Elimination of greenwashing and an increase of market awareness
- Regulatory neutrality: a disclosure toolbox to be applied in the same manner by different financial market operators.
- Level playing field: the regulation covers investment funds; insurance based investment products; pensions; individual portfolio management; and both insurance and investment advice.

Link to press release:

[http://europa.eu/rapid/press-release\\_IP-19-1571\\_en.htm](http://europa.eu/rapid/press-release_IP-19-1571_en.htm)

- The European Parliament's ECON and ENVI Committees have finalised its position on the European Commission's proposal for an **EU classification system for sustainable economic activities ('taxonomy')**. Negotiations are still outstanding in the Council, before trilogue negotiations can start later this year.

Link to press release:

[http://europa.eu/rapid/press-release\\_MEX-19-1653\\_en.htm](http://europa.eu/rapid/press-release_MEX-19-1653_en.htm)

## Prospectus Regulation

- ESMA published **Q&As on the Prospectus Regulation**, providing clarification on the following issues:
  - The scope of the grandfathering of prospectuses approved under the national laws of Member States
  - The applicability of the current level 3 guidance concerning the Prospectus Directive after the entry into application of the Prospectus Regulation
  - The process of updating the information included in registration documents and universal registration documents

Link to the Q&As:

[https://www.esma.europa.eu/sites/default/files/library/esma31-62-1258\\_prospectus\\_regulation\\_qas.pdf](https://www.esma.europa.eu/sites/default/files/library/esma31-62-1258_prospectus_regulation_qas.pdf)

- ESMA has published its technical advice on the **minimum information content of documents describing a takeover, merger or division**. The technical advice will form the basis for the delegated acts to be adopted by the European Commission, under the Prospectus Regulation.

Link to the technical advice:

[https://www.esma.europa.eu/sites/default/files/library/esma31-62-1207\\_final\\_report\\_on\\_technical\\_advice\\_under\\_prospectus\\_exemption.pdf](https://www.esma.europa.eu/sites/default/files/library/esma31-62-1207_final_report_on_technical_advice_under_prospectus_exemption.pdf)

- ESMA has published **Guidance on risk factors** under the Prospectus Regulation.

Link to the guidelines:

[https://www.esma.europa.eu/sites/default/files/library/esma31-62-1217\\_final\\_report\\_on\\_guidelines\\_on\\_risk\\_factors.pdf](https://www.esma.europa.eu/sites/default/files/library/esma31-62-1217_final_report_on_guidelines_on_risk_factors.pdf)

## EMIR

- A political agreement has been reached on the European Commission's proposal on **supervision of CCPs (EMIR 2.2)**. For instance, the new rules establish a Supervisory

Committee within ESMA, with independent members, national supervisors and central banks. For the supervision of third-country CCPs, a proportionate approach is introduced, based on systemic importance.

Link to the press statement:

[http://europa.eu/rapid/press-release\\_IP-19-1657\\_en.htm](http://europa.eu/rapid/press-release_IP-19-1657_en.htm)

- ESMA published a statement on the **implementation of the new EMIR Refit regime** for the clearing obligation for financial and non-financial counterparties.

Link to the statement:

<https://www.esma.europa.eu/document/public-statement-refit-implementation-co-regime-fcs-and-nfcs>

## MiFID II/MIFIR

- ESMA has updated its MiFID II/MiFIR **Q&As on commodity derivatives** topics, which provide clarification on position limits, position reporting and ancillary activity.

See the link here:

<https://www.esma.europa.eu/file/48801/download?token=H2VZmfyp>

## Market Abuse Regulation

- ESMA has **updated its Q&As on the Market Abuse Regulation**, clarifying the scope of firms subject to the MAR provision to detect and report suspicious orders and transactions and new detailed answers on:
  - Meaning of parent and related undertakings; and
  - Disclosure of inside information concerning emission allowances, referring to installations of other undertakings of the group of the EAMP.

Link: [https://www.esma.europa.eu/sites/default/files/library/esma70-145-111\\_qa\\_on\\_mar.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-145-111_qa_on_mar.pdf)

## Other news

### Fintech

- ESMA has carried out an analysis of the regulatory and supervisory technologies currently being developed in response to various demand and supply drivers. ESMA finds that **RegTech and SupTech** may help improve a financial institution's ability to meet regulatory demands in a cost-efficient manner and help regulators to analyse increasingly large and complex datasets.  
The results of this analysis are included in the latest Trends, Risks and Vulnerabilities Report:  
<https://www.esma.europa.eu/press-news/esma-news/regtech-and-suptech-%E2%80%93-change-markets-and-regulators>

### ESMA

- MiFID II: ESMA has started to make the **annual transparency calculations for equity and equity-like instruments** available. These calculations include:
  - the liquidity assessment as per Articles 1 to 5 of CDR 2017/567
  - the determination of the most relevant market in terms of liquidity as per Article 4 of CDR 2017/587 (RTS 1)
  - the determination of the average daily turnover (ADT) relevant for the determination of the pre-trade and post-trade large in scale (LIS) thresholds
  - the determination of the average value of the transactions (AVT) and the related the standard market size (SMS)
  - the determination of the average daily number of transactions on the most relevant market in terms of liquidity relevant for the determination of the tick-size regime

The transparency requirements apply from 1 April 2019 until 31 March 2020.

Link to full details:

<https://www.esma.europa.eu/press-news/esma-news/mifid-ii-esma-makes-available-results-annual-transparency-calculations-equity>

- MiFID II: ESMA has made available the results of the **annual transparency calculations of the large in scale (LIS) and size specific to the instruments (SSTI) thresholds for bonds**.  
The transparency requirements based on the results of the annual calculations of the LIS and SSTI thresholds for bonds shall apply from 1 June 2019 until 31 May 2020.  
Link to full details:  
<https://www.esma.europa.eu/press-news/esma-news/mifid-ii-esma-publishes-results-annual-transparency-calculations-large-in-scale>
- ESMA has **updated the public register on the derivatives trading obligation** under MiFIR, providing clarity in particular on:
  - the classes of derivatives subject to the trading obligation

- the trading venues on which those derivatives can be traded
- the dates on which the obligation takes effect per category of counterparties

Link:

[https://www.esma.europa.eu/sites/default/files/library/public\\_register\\_for\\_the\\_trading\\_obligation.pdf](https://www.esma.europa.eu/sites/default/files/library/public_register_for_the_trading_obligation.pdf)

## EU support for Pan-Baltic Capital Market

- The European Commission and the European Bank for Reconstruction and Development are providing technical expertise to Latvia via the Structural Reform Support Programme to **develop regional capital markets between the Baltic States**. A new report recommends developing a single index classification for the Baltic States and also outlines further key actions: integrating the Baltic capital market across political, regulatory, institutional as well as professional dimensions, encouraging Latvian state owned enterprises and private entities to tap the capital market for funding and establishing a pan-Baltic fund to enhance access to finance for SMEs.

Link to more info:

<https://www.ebrd.com/news/2019/latvia-takes-next-step-toward-a-panbaltic-capital-market.html>

## CALENDAR DATES & EVENTS:

### April

- 3-5 EUROFI High Level Seminar, Bucharest, Romania
- 3 European Commission workshop on Green Bond Prospectus, Brussels
- 3 European Commission consultation on Green Bond Standards closes
- 9 European Commission - Digital day, Digital single market - Brussels
- 12 Brexit, unless further delay
- 24 Europex General Assembly, Amsterdam

### May

- 23-26 European Parliament elections
- 23 ESMA board

### June

- 4-5 FESE Convention, Dublin
- 6 FESE Board meeting, Dublin

**Past copies of EU MATTERS newsletter can be found here:**

<https://business.nasdaq.com/discover/public-policy-advocacy/spotlight-on-brussels/index.html>