

EU MATTERS: your newsletter on EU matters



Happy Holidays!

August, 2018

General and Institutions

Brexit

- The UK published a **white paper** on: **‘The future relationship between the UK and the EU’** making detailed proposals for Brexit. The UK is asking for a post-Brexit “association agreement” including a “free-trade area” for goods, a looser arrangement for financial services, alongside a security partnership and continued membership of many EU agencies.
See the full document here:
https://www.gov.uk/government/publications/the-future-relationship-between-the-united-kingdom-and-the-european-union?utm_source=e5b3260b-2069-4b57-a5bd-24e9ea02aa88&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate
- The UK Prime Minister Theresa May announced that she will be **the leader of the Brexit negotiations**. Her deputy, in her absence, will be Dominic Raab.
- ESMA has issued a Public Statement in order to raise the awareness of all market participants on the importance to prepare for the possibility of no agreement in the context of the UK withdrawing from the EU, **reminding UK based regulated entities about timely submission of authorisation applications**.
See the link here:
<https://www.esma.europa.eu/document/timely-submission-requests-authorisation-in-context-united-kingdom-withdrawing-european>

Legislative files

EU Benchmark Regulation (BMR)

- ESMA **updated its Q&A on BMR**, providing new answers regarding the following topics:
 - Whether calculation agent should be considered users of benchmarks; and

- Whether a benchmark can be considered as ‘regulated-data benchmark’ if a third party is involved in the process of obtaining the data.

https://www.esma.europa.eu/sites/default/files/library/esma70-145-114_gas_on_bmr.pdf

MiFID/MIFIR

- ESMA has updated its public register with the latest set of **double volume cap (DVC) data** under MiFID II. These updates include DVC data and calculations for the period of 1 June 2017 to 31 May 2018 as well as updates to already published DVC periods. Read the update here:
<https://www.esma.europa.eu/double-volume-cap-mechanism>
- ESMA has published details of its **action plan for systematic internaliser (SI) regime calculations** ahead of their publication on 1 August 2018. This was done within its updated Q&As on MiFID II and MiFIR transparency topics. The action plan focuses on equity, equity-like instruments and bonds while postponing the publication for derivatives and other instruments to 1 February 2019. The updated implementation schedule means ESMA will publish the necessary EU wide data, for the first time by:
 - 1 August 2018 - covering a period from 3 January 2018 to 30 June 2018 for **equity, equity-like and bond instruments**. Investment firms will then have to perform their first assessment and, where appropriate, comply with the SI obligations by 1 September 2018.
 - 1 February 2019 - covering a period from 1 July 2018 to 31 December 2018 for **ETCs, ETNs, SFPs, securitised derivatives, emission allowances and derivatives**. SIs will have to eventually comply with the obligations from 1 March 2019.

Read more here:

<https://www.esma.europa.eu/press-news/esma-news/esma-sets-out-plan-systematic-internaliser-regime-calculations-and-publications>

- Further, in accordance with the above-mentioned plan, ESMA has published **data for the systemic internaliser calculations** for equity, equity-like instruments and bonds under MiFID II and MiFIR.

Read more about it here:

<https://www.esma.europa.eu/press-news/esma-news/mifid-ii-esma-publishes-data-systematic-internaliser-calculations-equity-equity>

- ESMA has published a Consultation Paper proposing amendments to the **MiFID tick size regime**. The consultation aims to address issues that have arisen with respect to financial instruments where only a marginal proportion of trading is executed on EU trading venues and the main pool of liquidity is located outside the EU (third country instruments). The consultation is open until 7 September 2018.

Read it here:

<https://www.esma.europa.eu/file/48819/download?token=qNLfyDfd>

- ESMA has updated its Q&As **temporary product intervention measures** on the marketing, distribution or sale of CFDs and binary options to retail clients. The update provides clarification on the application of the measures on clients established outside the Union and non-Union nationals. Read more here:

https://www.esma.europa.eu/sites/default/files/library/esma35-36-1262_technical_gas_product_intervention.pdf

Prospectus Regulation

- ESMA issued **draft implementation rules** of certain provisions in the Prospectus Regulation, covering the following areas:
 - Key financial information to be disclosed by issuers for the prospectus summary;
 - Data for classification of prospectuses and the practical arrangements to ensure that such data is machine readable;
 - Advertisements disseminated to retail investors;
 - Requirements to publish supplements to a prospectus;
 - Publication of a prospectus; and
 - Arrangements for the notification portal used for passporting prospectuses.

The draft rules need to be endorsed by the European Commission before finalised.

See the link:

https://www.esma.europa.eu/sites/default/files/library/esma31-62-1002_final_report_on_draft_rts_under_the_new_prospectus_regulation.pdf

- ESMA has opened a consultation on implementing rules under the Prospectus Regulation, seeking stakeholders' views on a proposed technical advice on exempt documents produced for the purpose of offers/admission of securities connected to a **takeover, merger or division**. In addition, ESMA is seeking stakeholders' views in relation to its proposed guidelines on **risk factors**. The consultation is open until 5 October 2018. Read it here:

<https://www.esma.europa.eu/press-news/esma-news/prospectuses-esma-consults-risk-factors-and-exemptions-takeovers-mergers-and>

EMIR & supervision of CCPs

- ESMA has published a Consultation Paper on the Clearing Obligation under EMIR. ESMA seeks stakeholders' views on a **proposed extension of the temporary intragroup exemption for transactions with a third country group**. The consultation is open until 30 August 2018. Read it here:

https://www.esma.europa.eu/sites/default/files/library/esma70-151-1530_consultation_paper_no.6_on_the_clearing_obligation_intragroup.pdf

- ESMA issued an update of its **Q&A on practical questions regarding EMIR**. The update concern for instance the identification of counterparties to a derivative, Legal Entity Identifiers and reporting to trade repositories in a transaction scenario involving portfolio management companies. Link below:

https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-52_qa_on_emir_implementation.pdf

Review of the European Supervisory Authorities (ESAs) and third country equivalence

- The European Parliament's ECON Committee published its draft report on the European Commission's legislative proposals on the review of the European Supervisory Authorities. Among other things, the draft report suggests to reduce several of the Commission's proposal on increasing ESMA's role in direct supervision of certain financial services activities. The draft report will be further debated during

autumn and will eventually form the basis for the further political negotiations with the Council. Read the draft report here:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-625.358&format=PDF&language=EN&secondRef=01>

- The European Parliament's ECON Committee adopted a report on third-country equivalence (rapporteur: Brian Hayes). This report, which is not binding, will be voted on in plenary in September. Once formally adopted, it will represent the Parliament's position and could serve as basis for a legislative proposal from the European Commission on equivalence regimes.

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-619.408&format=PDF&language=EN&secondRef=01>

OTHER

IOSCO

- IOSCO has produced a consultation paper on **Commodity Storage and Delivery Infrastructures: Good or Sound Practices**. IOSCO believes that the implementation of these practices will lead to a more transparent and robust environment for the physical storage and delivery of commodities, producing benefits for all commodity market participants. These practices fall into five broad areas: oversight, transparency, conflicts of interest, fees and incentives, and operations. The consultation is open until 29 August 2018.

Read more here:

<http://www.iosco.org/news/pdf/IOSCONEWS500.pdf>

- IOSCO issued **recommendations to help trading venues manage extreme volatility**.

The link to the media release is here:

<http://www.iosco.org/news/pdf/IOSCONEWS504.pdf>

EVENTS:

5-7 September	EUROFI Conference in Vienna
25 September	EPFSF - Tech Action Plan-delivering on the innovative capacity of the financial industry in Europe
1-7 October	IOSCO – World investor week
10 October	CEPS-ECMI Sustaining Growth through Innovation in Capital Markets, Brussels; speakers include Arminta Saladziene, Nasdaq Vice President, Lithuania
17 October	QED - 6th Annual QED Conference on Cybersecurity, Brussels
5 November	Commission conference: Europe as an investment destination, Brussels
6 November	EPFSF - Brexit, Brussels
28 November	Nordic Capital Markets Conference, Brussels
4 December	Annual European Small and Mid-Cap Awards, Brussels
4 December	EPFSF - Competitive positioning EU 27 in Financial Markets, Brussels