

EU MATTERS: your newsletter on EU matters



December, 2018

INSTITUTIONAL AFFAIRS

Brexit

- The **European Council endorsed UK's withdrawal agreement** from the EU on Sunday 25th November. The British Parliament will now need to vote on the approval of the deal. The European Parliament and the Council are to take the necessary steps to ensure that the agreement can enter into force on 30 March 2019, so as to provide for an orderly withdrawal.

Link to the Council's announcement:

<https://www.consilium.europa.eu//media/37103/25-special-euco-final-conclusions-en.pdf>

LEGISLATIVE FILES

MiFID/MiFIR

- ESMA has launched a call for evidence on **periodic auctions** for equity instruments, which aims to gather relevant information to inform ESMA in developing its understanding of frequent batch auction trading systems, to assess whether and to which extent these systems can be used to circumvent the MiFID II transparency requirements and, should this be the case, to develop appropriate policy measures. The call for evidence is open until 11 January 2019.

Link:

<https://www.esma.europa.eu/press-news/esma-news/esma-launches-call-evidence-periodic-auctions-equity-instruments>

- ESMA has updated its Q&As regarding **market structures and transparency issues** under MiFID II and MiFIR.

The new Q&As provide clarification on the following topics:

- making data available free of charge 15 minutes after publication;
- obligations applicable to systematic internalisers in non-TOTV instruments;

- definition of RFQ systems;
- pre-trade transparency in RFQ systems;
- concept of comparable size in market making agreements and voluntary provision of liquidity.

Link to market structure issues:

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

Link to transparency issues:

<https://www.esma.europa.eu/file/49743/download?token=EuO5tKem>

Capital Markets Union

- The European Parliament's ECON Committee has adopted its report on the European Commission's proposal for legislation on European **Crowdfunding** Service Providers (ECSP) for Business. The report includes a proposal to raise the threshold for crowdfunding offers from €1 million to €8 million per year. The file now awaits a general approach by the Council, before trilogue negotiations to finalise the text can start.

Link to ECON's report:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2018-0364+0+DOC+PDF+V0//EN&language=EN>

Market Abuse Regulation (MAR)

- ESMA has **updated its Q&As** regarding the implementation of MAR, clarifying the scope of the trading restrictions for persons discharging managerial responsibilities under Article 19(11) of MAR.

See the link here:

https://www.esma.europa.eu/sites/default/files/library/esma70-145-111_qa_on_mar.pdf

Anti-money laundering

- The political negotiations on the proposal to further strengthen the supervision of EU financial institutions and to better address money laundering and terrorist financing threats are ongoing. In addition, the European Council has adopted an **Action Plan** setting out a number of short-term non-legislative actions to address 8 key objectives. These include improving supervision and cooperation among relevant authorities.

Link to Council conclusions:

https://www.consilium.europa.eu/en/press/press-releases/2018/12/04/money-laundering-council-adopts-conclusions-on-an-action-plan-for-enhanced-monitoring/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Money+laudinging%3a+Council+adopts+conclusions+on+an+action+plan+for+enhanced+monitoring

Clearing

- ESMA has proposed to amend the three Commission Delegated Regulations on the **clearing obligation** under EMIR. ESMA proposes new draft RTSs, in the context of UK's withdrawal from EU, to introduce a limited exemption in order to facilitate the novation of certain non-centrally cleared OTC derivative contracts to EU counterparties during a specific time-window. The amendments would only apply if the UK leaves the EU without the conclusion of a withdrawal agreement – a no deal scenario. Next step is for the European Commission to endorse the draft RTSs.

Link:

https://www.esma.europa.eu/sites/default/files/library/esma70-151-1854_final_report_on_the_co_regarding_novated_trades_to_the_eu.pdf

Short-selling

- ESMA has **updated its Q&As** on the Short-Selling Regulation (SSR).

Link to it:

https://www.esma.europa.eu/sites/default/files/library/esma70-145-408_qa_on_ssr.pdf

EU Benchmark Regulation

- ESMA has **updated its Q&As** on the Benchmarks Regulation, providing clarifications regarding the use of benchmarks in bilateral agreement on exchanged collateral.

Link to the Q&A:

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

Sustainable finance

- The European Parliament's ECON Committee has adopted its report on the European Commission's proposal on **disclosures relating to sustainable investments and sustainability risks**. The file now awaits a general approach by the Council, before trilogue negotiations to finalise the text can start.

Link to ECON's report:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2018-0363+0+DOC+PDF+V0//EN>

Retail

- The European Supervisory Authorities (ESAs) have jointly issued a consultation paper on **the rules for the Key Information Document (KID)** for PRIIPs. The ESAs set out their intention to make proposals to support legislative changes to avoid the possibility of duplicating information requirements for investment funds from 1st January 2020 and to tackle key issues that have arisen since the implementation of the KID. The consultation paper addresses, in particular, amendments to the information regarding investment products' performance scenarios.

Link to the consultation:

<https://eiopa.europa.eu/Pages/Consultations/Joint-Consultation-Paper-concerning-amendments-to-the-PRIPs-Kid.aspx>

OTHER

Brexit

- The European Commission has published communication “Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a **Contingency Action Plan**”. Among other things, the Commission states that it will act, to the extent necessary, to address financial stability risks in the EU arising from the withdrawal of the UK without any agreement. In such a scenario, the Commission will adopt a temporary and conditional equivalence decision in order to ensure that there will be no disruption to central clearing.

Link to the communication:

https://ec.europa.eu/info/publications/communication-preparing-withdrawal-united-kingdom-european-union-30-march-2019-contingency-action-plan-13-11-2018_en

- ESMA has published a public statement supporting the continued **access to UK CCPs** to limit the risk of disruption in central clearing and to avoid negatively impacting EU financial market stability. Therefore, ESMA is engaging with the European Commission to plan, as far as possible, the preparatory actions for the recognition process of UK CCPs, in case of a no-deal scenario. The aim is to ensure continued access to UK CCPs for EU clearing members and trading venues as of 30 March 2019, should all the conditions in EMIR, including any conditions set out in the equivalence decision, be fulfilled.

Link to ESMA’s statement:

<https://www.esma.europa.eu/press-news/esma-news/managing-risks-no-deal-brexit-in-area-central-clearing>

Supervision

MiFID/MiFIR

- ESMA has published the total number of trades and total volume over the period April-September 2018 for the purpose of the **systematic internaliser calculations** for 17,999 equity and equity-like instruments and for 387,212 bonds. The publication of the data for the SI calculations for derivatives and other instruments will start on 1 February 2019 as set out in the plan announced by ESMA on 12 July 2018.

Link to the publication:

<https://www.esma.europa.eu/press-news/esma-news/mifid-ii-esma-publishes-data-systematic-internaliser-calculations-equity-equi-0>

- ESMA has made available the third quarterly **liquidity assessment for bonds** available for trading on EU trading venues at the end of October. For this period, there are currently 470 liquid bonds subject to MiFID II transparency requirements.

Read it here:

<https://www.esma.europa.eu/press-news/esma-news/mifid-ii-esma-makes-new-bond-liquidity-data-available-1>

MAR

- ESMA published its first annual report concerning **administrative and criminal sanctions as well as other administrative measures** issued by National Competent Authorities (NCAs) under MAR.

Full report:

https://www.esma.europa.eu/sites/default/files/library/esma70-145-1081_mar_article_33_report_sanctions.pdf

EMIR

- ESMA has issued a statement relating to the challenges that certain groups, as well as **certain non-financial counterparties above the clearing threshold (NFC+)**, would face on 21 December 2018 to start CCP clearing some of their OTC derivative contracts and trading them on trading venues.

Link here:

<https://www.esma.europa.eu/press-news/esma-news/esma-issues-clarifications-clearing-and-trading-obligations-ahead-21-december>

Retail

- ESMA has renewed the prohibition of the marketing, distribution or sale of **binary options** to retail clients, in effect since 2 July, for a further three-month period. The measure is renewed from 2 January 2019 on the same terms as the previous renewal decision that started to apply on 2 October 2018. At the same time, ESMA has updated its Q&As on the topic.

Link to decision on renewed prohibition:

<https://www.esma.europa.eu/press-news/esma-news/esma-renews-binary-options-prohibition-further-three-months-2-january-2019>

Link to updated Q&As:

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

- ESMA has also decided to restrict the marketing, distribution or sale of **contracts for differences** (CFDs) to retail clients.

Link:

<https://www.esma.europa.eu/press-news/esma-news/notice-esma%E2%80%99s-product-intervention-renewal-decision-in-relation-contracts>

NOTICABLE EVENTS IN BRUSSELS:

- Nasdaq and EQT organised the Nordic Financial Ecosystem Forum in Brussels. The conference had a number of high level speakers including European Commission's VP Valdis Dombrovskis, MEP Markus Ferber and Paulina Dejmek Hack, Financial Adviser to Commission President Juncker. Speakers from Nasdaq were Lauri Rosendahl,

Adam Kostyál, Nikolaj Kosakewitsch and Wendy Jephson. The conference was well attended and gave the occasion to advocate policy messages.

- 4th December FESE and EuropeanIssuers, in cooperation with the European Commission, hosted the 2018 edition of their annual European Small and Mid-Cap Awards.

The winning

- ✚ International Star: Winner: BOKU listed in LSE; runners up: CELLINK, listed in Nasdaq Sweden and VARTA listed on Deutsche Boerse (Germany)
- ✚ Rising star: Winner: ATRYS listed in BME; runners up: GomSpace listed in Nasdaq Sweden (Denmark) and MÁDARA Cosmetics listed in Nasdaq (Latvia)
- ✚ Star of Innovation; Polski Bank Komórek Macierzystych (PBKM) listed in GPW Warsaw Stock Exchange, Runners up: Gofore listed in Nasdaq (Finland) and SaltX Technology listed in Nasdaq (Sweden)
- ✚ Star of 2018; Takeaway.com listed in Euronext. Runners up: Befesa listed on Deutsche Boerse (Germany) and Dino Polska listed on the GPW – Warsaw Stock Exchange (Poland)
- ✚ Special Mention; Keiretsu Forum.

Link to the Awards:

<http://europeansmallandmidcapawards.eu/>

- EuropeanIssuers held an event on Capital Markets Forum in Brussels, speakers included Lauri Rosendahl, President Nasdaq Stockholm and President Nasdaq Nordics.
- FESE/Better Finance held EU Capital Market Conference in Brussels; speakers included Henrik Husman, President Nasdaq Helsinki.

EVENTS:

2018

- 6 Dec CEPS - 2018 Cybersecurity Summit: Quo vadis EU?, Brussels
- 11 Dec UK Parliament votes on Brexit deal
- 12 Dec CEPS - Blockchain: Beyond the Hype. Leveraging digital transformation for value chain integrity

2019

- 11 Jan ESMA's Call for evidence periodic auctions for equity instruments closes
- 21-22 Feb 6th CEPS Ideas Lab, Brussels

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