

EU Matters - your newsletter on EU matters, May 2019



May 2019

General and Institutional Affairs

Brexit

- An **extension to Brexit has been agreed until 31 October 2019**, to allow for the ratification of the Withdrawal Agreement. The UK can however leave earlier by ratifying the Withdrawal Agreement (the actual withdrawal from the EU will then happen the first day of the following month). If the UK fails to hold European elections while it is still a Member of the EU on 23-26 May 2019 and has not ratified the Withdrawal Agreement by 22 May 2019, then the withdrawal will take place on 1st June 2019. During the delay the UK remains a member of the EU with the related rights and obligations.

Link to the Council decision:

<https://data.consilium.europa.eu/doc/document/XT-20013-2019-INIT/en/pdf>

- ESMA has accordingly adapted its previous decisions which were taken in preparation of a no-deal Brexit, to reflect the **new timelines**.
- ESMA has also **updated its publication schedule for transparency calculations** in May and June as a result of the Brexit delay, in order to provide clarity for stakeholders.

Read more:

<https://www.esma.europa.eu/press-news/esma-news/esma-update-no-deal-brexit-preparations>

<https://www.esma.europa.eu/press-news/esma-news/esma-updates-publication-schedule-transparency-calculations-in-may-and-june>

European Parliament

- The last session of the outgoing European Parliament took place on 18 April 2019. **European elections will be**

held across all Member States on 23-26 May. The inaugural session of the new European Parliament is on 2 July.

Legislative files

MiFID

- ESMA has updated its **Q&As on market structures and transparency** issues under MiFID II and MiFIR, providing clarification on the following topics:
 - determination of the turnover to be used for the average value of transactions (AVT) calculation
 - Money Market Instruments (MMIs);
 - impact for systematic internalisers (SIs) of an instrument changing liquidity status in between the SI determination dates
 - reporting of prime brokerage transactions
 - quoting obligation for SIs in non-equity financial instruments
 - branches of third country firms operating as SI in the EU
 - third-country trading venues' access to an EU CCP

Link to Markets Structure issues Q&A:

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

Link to Transparency issues Q&A:

https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-35_qas_transparency_issues_0.pdf

- ESMA has updated the **public register of those derivative contracts that are subject to the trading obligation under MiFIR**. The update follows the authorisation of one additional Dutch venue, and also reflects a recent European Commission equivalence decision for Singapore. Read more:
<https://www.esma.europa.eu/press-news/esma-news/esma-updates-register-derivatives-be-traded-venue-under-mifir>
- ESMA has updated its **Q&A on data reporting** under MiFIR, providing clarifications in relation to the requirements for submission of reference data. The Q&A on a defined list of instruments provides new answers on how operators of trading venue(s) should report instrument reference data in accordance with Article 2 of RTS 23 and related MAR RTS and ITS. To view the Q&A here:
https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-56_qas_mifir_data_reporting.pdf
- The European Commission has adopted an **equivalence decision under MiFIR, regarding Singapore**. It deems the legal

and supervisory framework applicable to approved exchanges and recognised market operators in Singapore equivalent to MiFIR.

Link to the text here:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019D0541&from=EN>

- ESMA has agreed positive opinions on five commodity derivatives position limits, regarding:
 - Belgian Power Baseload Futures
 - EEX Dutch Power Baseload Futures
 - Phelix DEAT OTF Base Futures
 - Phelix DE Power Peak Futures
 - Phelix DEAT Power Peak Futures

Read more here: <https://www.esma.europa.eu/press-news/esma-news/esma-agrees-position-limits-under-mifid-ii-2>

European Markets Infrastructure Regulation (EMIR)

- European Commission has adopted an EMIR **equivalence decision for derivatives transactions in Japan**.

To view the text:

http://ec.europa.eu/finance/docs/level-2-measures/emir-implementing-act-2019-3221_en.pdf

Other news

Fintech

- The European Commission has facilitated the creation of the **International Association for Trusted Blockchain Applications, IATBA**, a new international association with the aim of encouraging the global governance and development of blockchain technology. IATBA launched on 3 April 2019 in Brussels. One of the founding members is the European Central Securities Depositories Association, ECSDA.
Read more: <https://inatba.org/>
- The European Commission and European Supervisory Authorities have launched the **European Forum for Innovation Facilitators (EFIF)**, intended to provide a new platform for participating authorities to collaborate and share experiences from engagement with firms through innovation facilitators. The establishment of EFIF follows up on the 2019 ESA's joint report on regulatory sandboxes and innovation hubs and it is in line with the Commission's FinTech Action Plan's objectives to support the competitiveness of the European financial sector and contribute to make Europe a hub for future innovation in FinTech.

Read Commission Vice-President Valdis Dombrovskis' remarks at the launch of the EFIF:

https://ec.europa.eu/commission/commissioners/2014-2019/dombrovskis/announcements/fintech-action-plan-keynote-speech-vp-dombrovskis-inaugural-event-european-forum-innovation_en

- The ESAs have jointly published two pieces of **advice on information and communication technology risk management and cybersecurity**. The advice responds to a request from the European Commission, within its Fintech Action Plan.
 - In the Joint Advice on the need for legislative improvements relating to Information and Communication Technology (ICT) risk management requirements in the EU financial sector, the ESAs call for streamlining aspects of the incident reporting frameworks across the financial sector. Furthermore, the ESAs suggest that a legislative solution for an appropriate oversight framework to monitor the activities of critical third party service providers should be considered.
 - In the Joint Advice on the costs and benefits of a coherent cyber resilience testing framework for significant market participants and infrastructures within the EU financial sector, the ESAs' advise for the short-term to focus on achieving a minimum level of proportionate cyber-resilience across the sectors. In the long-term, the ESAs aim to ensure a sufficient cyber maturity level of identified cross-sector entities.
Read more about the two pieces of advice here:
<https://www.esma.europa.eu/press-news/esma-news/esas-publish-joint-advice-information-and-communication-technology-risk>

European Supervisory Authorities (ESAs)

- The European Supervisory Authorities (=ESMA, EBA and EIOPA) have published their joint 2019 Spring report on **"Risks and Vulnerabilities in the EU Financial System"**. It highlights the following risks as potential sources of instability:
 - uncertainties around the terms of the UK's withdrawal from the European Union
 - further repricing of risk premia and asset price volatility, which could be aggravated in conjunction with a less favourable macro-economic environment and the materialisation of a no-deal Brexit scenario

Link to the report:

https://www.esma.europa.eu/sites/default/files/library/jc_2019_15_joint_committee2019springriskreport.pdf

ESMA

- ESMA has issued four **positive opinions on product intervention measures** taken by the National Competent Authorities of the Netherlands, Poland and the UK. The opinions concern national product intervention measures from:
 - Netherlands - binary options and contracts for differences
 - Poland - binary options
 - United Kingdom - binary options

Press release:

<https://www.esma.europa.eu/file/50992/download?token=aR7PXzXo>

- ESMA has launched its third **EU-wide CCPs stress test exercise**. The new exercise will cover the 16 CCPs authorised in the EU, including the three UK CCPS unless there is a no-deal Brexit. It has the following components:
 - Credit Stress
 - Liquidity Stress
 - Concentration risk
 - Reverse Credit Stress

The publication of the final report and results is scheduled to take place in Q2 2020.

Link here:

https://www.esma.europa.eu/sites/default/files/library/esma70-151-2198_framework_for_the_2019_ccp_st_exercise.pdf

Federation of European Securities Exchanges (FESE)

- FESE published its **European Capital Markets Fact Sheet** for Q1 2019.

Link to it here:

<https://fese.eu/app/uploads/2019/04/FESE-European-Capital-Markets-Fact-Sheet-2019-Q1.pdf>

EVENTS:

May

- 23-26 European Parliament elections
- 23 ESMA board meeting, Paris
- 24 Europex General Assembly, Amsterdam

June

- 4 6th Annual QED Conference on Cross-border regulation of financial services, Brussels
- 4-5 FESE Convention, Dublin
- 6 FESE Board meeting, Dublin

July

- 11 ESMA Board meeting, Paris
- 12 ESMA joint Board & Securities and Markets Stakeholder Group meeting, Paris
- 30-2 WFE's Technology Conference 2019, Umeå, Sweden

September

11-13 EUROFI Financial Forum, Helsinki

30 IOSCO - World Investor Week, worldwide

Previous copies:

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