

# Regulation Round Up

Regulatory & Compliance on September 2023

Welcome to the UK Regulation Round Up, a regular bulletin highlighting the latest developments in UK and EU financial services regulation.

Key developments in September 2023:

## 29 September

**Consumer Duty:** The Financial Conduct Authority (“FCA”) published a [portfolio letter](#) that it sent to all platform service providers setting out an update of its view of the key harms in that sector, its expectations of firms and a summary of its key priorities for the sector and supervisory work programme for the next two years.

**FCA Handbook:** The FCA published [Handbook Notice 112](#), which sets out changes to the FCA Handbook.

**Cryptoassets:** The European Banking Authority (“EBA”) published [technical advice](#) for the European Commission relating to delegated acts to be adopted under the Regulation on markets in cryptoassets ((EU) 2023/1114) (“MiCA”).

## 28 September

**ESMA Work Programme:** The European Securities and Markets Authority (“ESMA”) published its [work programme](#) for 2024 (ESMA22-50751485-1368), which sets out ESMA's objectives and outputs for each of its strategic priorities.

**ESG:** The Joint Committee of the European Supervisory Authorities (“ESAs”) published its [second annual report](#) (JC 2023 42) on the extent of voluntary disclosure of principal adverse impact (“PAI”) under Article 18 of the Sustainable Finance Disclosure Regulation ((EU) 2019/2088) (“SFDR”). Please refer to our dedicated article on this topic [here](#).

**FCA Regulation Round-up:** The FCA published its [regulation round-up](#) newsletter for September 2023.

**Ring-fencing Regime:** HM Treasury and the Prudential Regulation Authority (“**PRA**”) published consultation papers ([here](#) and [here](#)) on near-term reforms relating to the bank ring-fencing regime.

**Appointed Representatives:** The FCA published a [webpage](#) setting out how it is improving the appointed representatives (“**AR**”) regime through greater use of data.

**Ring-fencing Regime:** HM Treasury published a [summary of responses](#) to its call for evidence on aligning the bank ring-fencing and resolution regimes.

**Corporate Finance:** The FCA published a [portfolio letter](#) setting out its supervisory strategy for corporate finance firms.

## 27 September

**ESG:** The European Systemic Risk Board (“**ESRB**”) published its [advice](#) on the prudential treatment of environmental and social risks.

**Consumer Duty:** The FCA published a new [webpage](#) setting out the findings of its multi-firm review of how firms offering “restricted mass market investments” have complied with new rules on the customer journey.

**Basel 3.1:** The PRA published a [news release](#) for firms in relation to its intended timetable to complete its work and implement the Basel 3.1 standards in the UK.

**AIFMD II:** The European Parliament updated its [procedure file](#) on the proposed Directive amending the Alternative Investment Fund Managers Directive (2011/61/EU) (“**AIFMD II**”) and the UCITS Directive (2009/65/EC). The European Parliament has indicated it will consider AIFMD II during its plenary session to be held from 5 to 8 February 2024.

**FX Risk:** The PRA published a [consultation paper](#) (CP17/23) proposing clarifications and amendments when capitalising foreign exchange (“**FX**”) exposures under the market risk capital framework. It also sets out the process for seeking permission to exclude structural FX positions from this capital calculation.

## 26 September

**CRR:** The European Commission adopted an [Implementing Regulation](#) on amendments to Implementing Regulation (EU) 945/2014, which contains implementing technical standards (“**ITS**”) on the list of diversified indices required under the Capital Requirements Regulation (“**CRR**”) (575/2013).

**Diversity & Inclusion:** The FCA and the PRA published consultation papers (CP23/20 / CP18/23) ([here](#) and [here](#)) on diversity and inclusion in the financial sector. Please refer to our dedicated article on this topic [here](#).

## **22 September**

**ESG:** The United Nations Environment Programme Finance Initiative published its [second biennial report](#) on progress made by the signatories to the Principles for Responsible Banking in their implementation of the Principles, together with a [factsheet](#) summarising the report.

## **21 September**

**Cryptoassets:** The FCA published a [letter](#) it has sent to cryptoasset firms marketing to UK consumers, setting out a “final warning” to these firms, and those supporting them, to get ready for the cryptoassets financial promotion regime.

## **20 September**

**ESG:** The draft [Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No 2\) Order 2023](#) was laid in UK Parliament.

**Cryptoassets:** The Joint Money Laundering Steering Group (“**JMLSG**”) published a [press release](#) announcing it has received HM Treasury ministerial approval for revisions to chapter 22 of Part II of its anti-money laundering (“**AML**”) and counter-terrorist financing guidance for the financial services sector relating to cryptoasset transfers.

**ESG:** The Glasgow Financial Alliance for Net Zero (“**GFANZ**”) published a [consultation](#) on defining transition finance and considerations for decarbonisation contribution methodologies.

## **19 September**

**ESG:** The Taskforce on Nature-related Financial Disclosures (“**TNFD**”) released the [final version](#) of its recommendations for a disclosure framework. Please refer to our dedicated article on this topic [here](#).

**CCPs:** The FSB published a [consultation report](#) on proposed financial resources and tools for the resolution of CCPs.

## **14 September**

**ESG:** The European Commission published a [targeted consultation](#) and a [public consultation](#) to seek feedback on the SFDR. Please refer to our dedicated article on this topic [here](#).

**Future of Regulation:** The FCA published a [speech](#) by Ashley Alder, FCA Chair, on international collaboration and the modernisation of UK financial services regulation.

## **13 September**

**SME Test:** The European Commission published for consultation a proposal amending Directive (EU) 2013/34 as regards adjustments of the size criteria for micro, small, medium-sized and large companies (“**SMEs**”).

**Financial Promotions:** The FCA published a new [webpage](#) on applying to approve financial promotions for unauthorised persons.

## **12 September**

**Financial Promotions:** The FCA published a [policy statement](#) (PS23/13) on introducing a gateway for firms that approve financial promotions.

## **8 September**

**Wholesale Banks:** The FCA published a [portfolio letter](#) sent to all wholesale banks active in the UK, setting out key priorities for the sector and the supervisory work programme for the next two years.

**ESG:** The Green Technical Advisory Group (“**GTAG**”) published two reports ([here](#) and [here](#)) containing technical advice for HM Treasury on the data and financial products under the UK green taxonomy.

## 7 September

**Decentralised Finance:** The International Organization of Securities Commissions (“**IOSCO**”) published a [consultation report \(CR/04/2023\)](#) on policy recommendations for decentralised finance.

**Artificial Intelligence:** The FCA published the [minutes](#) of the FCA board meeting held on 27 July 2023, at which (among other things) it discussed the FCA's emerging approach to artificial intelligence.

**ESG:** The FCA published its [response](#) to the consultation on agenda priorities published by the International Sustainability Standards Board in May 2023.

**Cryptoassets:** The FSB published a [joint paper](#) it has developed with the International Monetary Fund (“**IMF**”) that outlines the risks and policy findings relating to cryptoassets arising from the FSB's work on financial stability risks and the IMF's work on macroeconomic and monetary issues.

**Cryptoassets:** The FCA published a [letter](#) it has sent to firms that intend to communicate or approve cryptoasset financial promotions ahead of the cryptoassets financial promotions regime coming into force on 8 October 2023. It outlines good and poor practice and actions the FCA is taking to support firms which includes a modification by consent. Please refer to our dedicated article on this topic [here](#).

**ESG:** The Network for Greening the Financial System (“**NGFS**”) published the beta version of a [conceptual framework for nature-related financial risks](#) to guide actions by central banks and supervisors.

**LIBOR:** The BoE published [remarks](#) by Arif Merali, Senior Advisor in the BoE's Markets directorate, at a LIBOR transition panel discussion.

## 6 September

**FSMA:** The [Financial Services and Markets Act 2000 \(Exemptions from Financial Promotion General Requirement\) Regulations 2023 \(SI 2023/966\)](#) have been published on [legislation.gov.uk](#).

**Financial Stability:** The FSB published a [report](#) on the financial stability implications of leverage in non-bank financial intermediation (“**NBFI**”) and a [progress report](#) to the G20 on enhancing the resilience of NBFI.

**Effective Controls:** The FCA published a [speech](#) given by Sarah Pritchard, FCA Executive Director of Markets and International, on calibrating controls to build confident markets.

**Shadow Banking:** The European Commission adopted a [Delegated Regulation](#) (C(2023) 5912 final) containing regulatory technical standards specifying the criteria for the identification of shadow banking entities referred to in Article 394(2) of the CRR.

**Sanctions:** The FCA published a new [webpage](#) on firms' response to increased sanctions due to the conflict in Ukraine.

## 5 September

**PEPs:** The FCA published a [press release](#) announcing the launch of a review of the treatment of domestic politically exposed persons (“**PEPs**”) by firms, together with the [terms of reference](#) for the review.

## 4 September

**ESG:** The ECB published a [speech](#) given by Frank Elderson, ECB Supervisory Board Vice-Chair and Executive Board Member, on addressing the risks of climate and environment-related litigation in the banking sector.

**ESG:** The NGFS published two complementary reports on climate-related litigation risks ([here](#) and [here](#)).

**ESG:** GTAG published two reports ([here](#) and [here](#)) containing technical advice for HM Treasury on scope and reporting under the UK green taxonomy.

**EU Regulatory Framework:** The European Systemic Risk Board (ESRB) published an [issues note](#) explaining how the EU regulatory framework for investment funds could enhance the prevention and mitigation of systemic risks.

## 1 September

**Quarterly Consultation Paper:** The FCA published its 41st quarterly [consultation paper](#) (CP23/18).

**Merger Simplification (Antitrust):** The European Commission's [2023 Merger Simplification Package](#) came into force. This involves (i) a revised Implementing Regulation with updated EU merger notification forms, (ii) a revised Notice on Simplified Procedure, which expands the circumstances in which transactions can qualify for a short form merger notification and simplified review, and (iii) a Communication on the transmission of documents to the European Commission, which provides for all submissions to be made digitally, including electronic signatures.

#### [Related Professionals](#)

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