

This month...

EVENT

Senior Executive Accountability Regime: In conversation with Gerry Cross Director of Financial Regulation Policy and Risk in the Central Bank of Ireland

On 23 June, Arthur Cox was delighted to host Gerry Cross from the Central Bank of Ireland at a webinar held as part of our Individual Accountability Series.

Read the speech

INSIGHT

Sixth Package of EU Sanctions against Russia and Belarus

Maedhbh Clancy and Edel Curry discuss the final form of the sixth package of EU sanctions against Russia and Belarus was confirmed by the EU Council on 3 June 2022.

Read the article

REGULATORY OVERVIEW

Debt Capital Markets in Ireland

A Q&A guide to debt capital markets law in Ireland.

Find out more



Financial Regulation:

- <u>Crypto-Assets and AML: Agreement on MiCA; AML Action Plan progresses</u>
- Central Bank Update on Macroprudential Measures
- Central Bank publishes Annual Report: what you need to know about its strategic plans for 2022
- <u>Hire-Purchase, Consumer Hire, PCP and Buy-Now-Pay-Later: New authorisation framework</u>
- New authorisation framework commenced for Hire-Purchase, Consumer Hire, PCP and Buy-Now-Pay-Later providers and servicers
- <u>Distance Marketing: Commission publishes reform proposals</u>
- <u>The "persisting challenge" of SFDR complexity ESAs clarification of SFDR RTS</u>
- SFDR PAI at entity and product levels
- Structured Retail Products: Central Bank sets out its expectations and next steps for investment firms
- Individual Accountability; Women in Finance; Diversity; Climate Key financial services themes this week

Financial Regulation, Individual Accountability and SEAR:

- Fitness and Probity: Central Bank amends PCF list
- <u>Individual Accountability/SEAR Update: Pre-Legislative Scrutiny Report published</u>
- <u>Individual Accountability/SEAR: Publication of the Bill remains a Government priority</u>

Debt Capital Markets:

- <u>Debt Capital Markets in Ireland: Regulatory Overview</u>
- E<u>U Green Bond Standard: State-of-play</u>
- A voluntary or mandatory EU Green Bond Standard? The debate continues
- ESG and STS Securitisations: ESAs consult on optional originator disclosures
- Risk Retention: EBA publishes final draft RTS

Irish Mortgage Market:

• Non-Bank Lenders: Insights on their increased role in the Irish mortgage market

Securities Settlement:

- CSDR: Mandatory buy-in update
- CSDR: Commission proposes targeted changes; Countdown to application of Article 3

Financial Sanctions:

• <u>Sixth Package of EU Sanctions against Russia and Belarus</u>

Company Law:

- Interim Period for Temporary Measures under Companies Act 2014 Extended
- <u>Company Law: Back to Basics Transactions & Arrangements with Directors and Connected Persons</u>



NB: The final Dáil sitting before the summer recess is currently scheduled for Thursday 14 July 2022.

IRISH LEGISLATION

Individual Accountability Framework and the Senior Executive Accountability Regime

The Minister for Finance hopes to publish the Central Bank (Individual Accountability Framework) Bill before the Dáil summer recess, with formal consideration of the Bill by the Houses of the Oireachtas starting in Q3 2022 when the Dáil reconvenes. While it had been hoped that the legislation would complete its passage through the Houses of the Oireachtas before the summer recess, publication of the Bill was delayed slightly pending:

the publication by the Joint Committee on Finance, Public Expenditure and Reform and Taoiseach of its
 <u>Report</u> on pre-legislative scrutiny of the General Scheme of the Bill in April 2022 (see our update here:
 <u>Individual Accountability/SEAR Update: Pre-Legislative Scrutiny Report published)</u>;

• final agreement on changes needed to take account of the Supreme Court's decision in *Zalewski v Adjudication Officer and Others*. For further information on that decision, read our Employment Group's briefing: Permanent changes for the WRC and the wider implications of the recent Supreme Court decision in Zalewski.

Our Financial Regulation: Individual Accountability and SEAR team was delighted to host Gerry Cross, the Central Bank of Ireland's Director of Financial Regulation: Policy and Risk, at a webinar to discuss the impending individual accountability framework (IAF) on 23 June 2022. In his remarks (Individual accountability – a maturing of financial regulation) he confirmed that the Central Bank is working on its draft regulations and guidance and plans to consult on those once the Bill is finalised. The IAF is now expected to be implemented in the second half of 2023. In the meantime, the message from the Central Bank continues to be that in-scope regulated financial services firms should be preparing for the IAF by examining their obligations, reviewing their current governance structures to assess who is responsible for what, reviewing their current fitness and probity processes to assess any improvements that should be made, and examining their internal culture and values by reference to the principles underpinning the

Moneylending

The Consumer Credit (Amendment) Act 2022 was signed into law on 29 June 2022. Commencement orders are expected shortly and the Act will update the regulatory framework for moneylenders in Ireland by changing how they are referred to (they will now be referred to as 'high cost credit providers') and allowing the Minister for Finance to set the maximum interest rate at which a 'high cost credit' loan can be provided.

Interest Rates

The Labour Party has introduced a private members' bill in the Dáil (the Central Bank (<u>Variable Rate Mortgages</u>) Bill 2022) substantially based on the Bill previously proposed by Fianna Fáil (when in opposition in 2016) to cap variable rate mortgages. The previous Bill did not progress in light of concerns raised by the Central Bank of Ireland, and concerns regarding possible constitutional issues. In light of that, the new Bill is unlikely to progress and we are actively monitoring its status.

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IRISH FINANCIAL SERVICES

Consumer Protection

We expect to see a discussion paper on the <u>Consumer Protection Code</u> published over the summer.

Macroprudential Measures

Following the Central Bank's recent announcement that it will gradually rebuild the Countercyclical Capital Buffer to 1.5% (read our update here: Central Bank Update on Macroprudential Measures), work is continuing on the Central Bank's review of its mortgage measures framework, and on possible leverage limits and guidance on liquidity mismatch in relation to property funds investing more than 50% of their assets directly or indirectly in Irish property – output is expected in H2 2022 (more likely in Q4 than Q3).

Retail Banking Review

As part of its ongoing review of the Irish retail banking sector (due to conclude in November 2022), the Department of Finance's public consultation on retail banking services closes on 8 July 2022. This consultation, which was launched in conjunction with the announcement of the results of the Department's survey of consumer's attitudes to the Irish retail banking sector, focuses on perceptions of competition in the Irish retail banking sector; the need for branch services; whether protections are needed for cash services; the operation of mortgage, consumer credit and SME credit services; capital, operational and other challenges for the retail banks; whether remuneration restrictions should be retained; whether retail banks are sufficiently regulated; and whether retail banks are adequately supporting customers in transitioning to carbon neutral.

"The Central Bank will gradually rebuild the Countercyclical Capital Buffer to 1.5%"



"Financial sanctions (in particular in response to Russia's invasion of Ukraine) will continue to be a priority matter"

SANCTIONS

Ireland

Financial sanctions (in particular in response to Russia's invasion of Ukraine) will continue to be a priority matter, following the Central Bank's <u>letter</u> to business and professional representative bodies in mid-June 2022 asking that they assist their members with financial sanctions compliance.

Further EU Sanctions expected

The Czech Republic took over the Presidency of the Council of the European Union on 1 July 2022 for a 6-month period. EU support for Ukraine is at the top of its <u>list of 5 priority areas for the next 6 months</u>, with the possibility of additional financial sanctions to follow the sixth package of sanctions which was finalised in early June 2022 (see our update here: <u>Sixth Package of EU Sanctions</u> against Russia and Belarus).

The G7 also signposted the possibility of further financial sanctions against Russia in a joint statement on 27 June 2022, with a particular focus on reducing Russia's revenues from gold, reducing its export revenues by reducing dependency on Russian energy, and restricting Russia's ability to access to key industrial inputs, services, and technologies produced by EU economies, in particular those that support arms and technology. We may see further developments in this area during the course of July 2022.



ESG

Bonds

Developments continue at pace at EU level, with trilogue negotiations beginning on the proposed EU Green Bond Standard (read our recent update for more information: <u>EU Green Bond Standard: State-of-play</u>) and leading industry bodies such as the ICMA and AFME highlighting key issues from an industry perspective which they hope to see addressed as part of those discussions (see here (ICMA) and <a href=here (AFME)).

Industry will also benefit from the updated <u>Green Bond Principles</u>, <u>Social Bond Principles</u> and other supporting materials in relation to green, social, and sustainability-linked bonds <u>published by the ICMA at the end of June 2022</u>.

Taxonomy Regulation

The European Commission's plan to include specific nuclear and gas energy activities in the list of environmentally sustainable economic activities covered by the EU Taxonomy Regulation will be voted on at a full plenary session of the European Parliament on 4-7 July 2022. The Parliament and the EU Council have until 11 July 2022 to decide whether to veto the Commission's proposal. In June 2022, the Parliament's Economic and Monetary Affairs Committee and its Environment, Public Health and Food Safety Committee both objected to the proposal.

The Commission's first Article 26 report on the functioning of the EU Taxonomy Regulation is due on 13 July 2022, but it is not yet clear whether that deadline will be met.

Integrating Sustainability Considerations

The effective dates for EU delegated acts incorporating sustainability considerations into a range of EU financial services legislation are fast approaching.

The EU delegated regulations incorporating sustainability considerations into MiFID II (<u>here</u>), AIFMD (<u>here</u>), the Insurance Distribution Directive (<u>here</u>) and the Solvency II Directive (<u>here</u>) will have direct effect in Ireland from 1 August 2022.

Irish transposing legislation is required by 31 July 2022 for the EU delegated directive (here) incorporating sustainability considerations into the UCITS Directive.

Irish transposing legislation is also required by 22 August 2022 for the EU delegated directive (<u>here</u>) which will integrate sustainability considerations into MiFID II's product governance rules from 22 November 2022.

Corporate Sustainability Reporting Directive (CSRD)

Work will also continue on finalising the text of the proposed CSRD following provisional political agreement on the text (see our Corporate Group's briefing here for more information: Significant Progress on Corporate Sustainability Reporting Directive).

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STRUCTURED FINANCE AND SECURITISATION

Securitisation

From a securitisation perspective, as the market awaits the publication by the Commission of its Article 46 review of the functioning of the EU Securitisation Regulation (now expected in September 2022 – read our update on the Commission's pre-review consultation here: Securitisation Regulation: Commission consults on how framework is functioning), two notable recent consultations will close in July 2022:

- (closing 2 July 2022) the European Supervisory Authorities (ESAs) joint consultation on sustainability disclosures by originators of STS non-ABCP traditional securitisations and on-balance sheet STS securitisations, where the underlying exposures are residential loans, or auto loans or leases (read our analysis of that consultation here: ESG and STS Securitisations: ESAs consult on optional originator disclosures); and
- (closing 13 July 2022) EIOPA's <u>consultation paper</u> on its response to the Commission's October 2021 <u>call for advice</u> to the Joint Committee of the ESAs on the recent performance of the rules on capital requirements (for banks and (re)insurance undertakings) and liquidity requirements (for banks) relative to the framework's original objective of contributing to the sound revival of the EU securitisation market on a prudent basis.

Covered Bonds

Ireland's European Union (Covered Bonds) Regulations 2021 come into effect on 8 July 2022, transposing the new EU Directive on the issue and public supervision of covered bonds. The Directive sets out a common definition of covered bonds, defines their structural features, lists eligible asset and lays down rules regarding the use of the 'European Covered Bonds' label.

The related EU Regulation on exposures in the form of covered bonds also comes into force on 8 July 2022.

The Department of Finance published its <u>Feedback Statement</u> on its public consultation on the national discretions in the EU Covered Bonds Directive in May 2021, noting that some of those discretions were of limited relevance to Ireland in light of the provisions of its existing covered bonds framework under the Asset Covered Securities Acts.

Capital Markets Union

EU trilogue negotiation are expected to start shortly on the Commission's proposed changes to the AIFMD following last month's confirmation from the EU Council that it had agreed its negotiating position.



EU FINANCIAL REGULATION

AML

Elements of the Commission's AML Action Plan are expected to progress in July (for more information on that Action Plan, read our update here: <u>AML: EU-level supervision and a single rulebook by the end of 2025</u>). In particular, the following elements are progressing:

- The proposal for a new EU-level Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA); the EU Council has/largely/confirmed its negotiating position but is yet to agree on where AMLA will be based.

Distance Marketing of Consumer Financial Services

The Commission's consultation on its review of the Directive on Distance Marketing of Consumer Financial Services (DMD) closes on 8 July 2022. The Commission proposes to repeal the DMD and, in respect of those provisions which remain relevant, include simplified and modernised versions of them in the 2011 Consumer Rights Directive (which does not, at the moment, apply to financial services). A full-harmonisation approach will be taken, meaning that the rules will be similar for all financial services providers and consumers across the EU.

Read our related briefing for more information: <u>Distance Marketing</u>: <u>Commission publishes reform proposal</u>s.

Payment Services

Two targeted consultations launched as part of the Commission's <u>Digital Finance Strategy</u> and <u>Retail Payments Strategy</u> close on 5 July 2022:

- $\bullet \quad \text{the targeted consultation on the review of the revised Payment Services Directive (PSD2); and}\\$
- the targeted consultation on an open finance framework and data sharing in the financial sector.

The Commission will start to review <u>feedback received to those consultations</u>, in conjunction with feedback received from the European Banking Authority (EBA) on 23 June 2022 to the Commission's 2021 Call for Evidence to the ESAs on the functioning of PSD2 – the EBA has made more than 200 proposals as part of its response, including that PSD2 be merged with the revised E-Money Directive.

PRIIPS

The Delegated Regulation postponing the application date of certain PRIIPs-related disclosures was published in the Official Journal on 24 June 2022 as Commission Delegated Regulation (EU) 2022/975 and will come into effect on 14 July 2022.

It postpones the application date of certain PRIIPs-related disclosures to 1 January 2023 (instead of 1 July 2022). It also prolongs the application of Article 14(2) of Commission Delegated Regulation (EU) 2017/653 until 31 December 2022 (instead of 30 June 2022), concerning the ability to use UCITS Key Investor Information to provide specific information for the purposes of disclosures relating to PRIIPs offering a range of options for investment.

As the Regulation will not come into effect until mid-July (after the two original deadlines have passed) the Commission has <u>advised that</u> national competent authorities should take these timing changes into account when discharging their supervisory tasks during the intervening period (i.e. the first two weeks of July 2022), and that has been <u>endorsed by the ESAs</u>.



Please contact us if you would like to know more about anything in this Horizon Scanner or if you have a matter you would like to discuss.

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