

This month...

PUBLICATIONS

Mondaq: ESG Regulation Comparative Guide (Ireland)

Of Counsel and Senior Professional Support Lawyers from across the firm contributed the comparative guide for Ireland.

Read the Guide

APPOINTMENTS

New Insurance Of Counsel

Stephen D'Ardis has been appointed Of Counsel with our Insurance Group.

Read the Announcement

CPD ON-DEMAND PORTAL

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THOUGHT LEADERSHIP

Securitisation

Securitisation Regulation: European Commission publishes long-awaited Report

Individual Accountability / Senior Executive Accountability Regime

SEAR moving through Second Stage in the Dáil

European Commission's Banking Package

Banking Package: 'Daisy Chain' Regulation published in Official Journal

Financial Regulation

<u>Instant euro credit transfers: Commission proposes new Regulation</u>

Central Bank adjusts its mortgage measures framework

Consumer Protection Code: Central Bank publishes Discussion Paper

ESG

FAQ on EU Taxonomy Disclosures Delegated Act

TCFD 2022 Status Report

Pensions and ESG (podcast)

Financial Sanctions

Eighth Package of EU Sanctions against Russia

Settlement

<u>Launch of new TARGET system postponed to 20 March 2023</u>

CSDR: Mandatory buy-in formally postponed to 2 November 2025

Derivatives

The liquidity squeeze - Volatility and margin calls impacting pension funds and energy companies

Insurance

<u>Insurance Europe response to EIOPA consultation on differential pricing</u>

EIOPA review of CPI products results in warning to insurers and banks

Asset Management and Investment Funds

<u>Central Bank issues process clarifications for UCITS and AIFs' SFDR Level 2 pre-contractual documentation updates</u>

Real Estate

Government publishes draft legislation to provide for temporary stay on tenancy terminations

<u>Government approves legislation to provide for temporary stay on tenancy terminations this winter</u>

Energy and Transport

<u>Update on Energy Market Interventions in Electricity</u>

 $\underline{\textbf{Update on Energy Market Interventions in Gas and Critical Infrastructure}}$

<u>Electricity Grid: Reminder that Firm Access Consultation closes on 8 November 2022</u>



ECB "strongly welcomes the measures envisaged by the draft law regarding the individual responsibilities of senior persons, including management board members and key function holders."

IRISH DEVELOPMENTS

Individual Accountability Framework

The Central Bank (Individual Accountability Framework) Bill 2022 began its progress through the Houses of the Oireachtas in October, and Committee Stage in Dáil Éireann is expected to take place in early November 2022.

At Second Stage in Dáil Éireann, it was flagged that the Minister for Finance will put forward additional amendments to the Bill at Dáil Committee Stage to reflect drafting feedback from the ECB. The ECB wants the Bill to be clearer that, in respect of banks that are 'significant' for the purposes of the Single Supervisory Mechanism, it is the ECB has exclusive power to approve PCF appointments. It has also asked that the Irish SSM Regulations be amended to more accurately set out the jurisdictional split between the ECB and the CBI for certain SSM-specific matters. Apart from that, the ECB "strongly welcomes the measures envisaged by the draft law regarding the individual responsibilities of senior persons, including management board members and key function holders."

 $\underline{\textbf{See the Thought Leadership section of this Horizon Scanner for related insights.}}$

Retail Banking Review - Report Due

A report is due to be presented to the Minister for Finance in November 2022, setting out the results of the Retail Banking Review that has taken place over the last 12 months.

Temporary Stay on Tenancy Terminations

The Residential Tenancies (Deferment of Termination Dates of Certain Tenancies) Bill 2022 is expected to be signed into law by early November 2022, if not before.

See the Thought Leadership section of this Horizon Scanner for related insights.



ESG

MiFID II Product Governance

The Irish transposing legislation (<u>European Union (Markets in Financial Instruments)</u> (Amendment) (No. 3) Regulations 2022) in respect of the EU delegated directive (<u>here</u>) that will integrate sustainability considerations into MiFID II's product governance rules applies from 22 November 2022 and will update the product governance requirements in Schedule 4 of the 2017 Irish MiFID Regulations from that date.



SETTLEMENT

Mandatory Buy-In

The Commission Delegated Regulation which formally postpones the application of the CSDR mandatory buy-in regime until 2 November 2025 comes into force on 2 November 2022.

<u>See the Thought Leadership section of this Horizon Scanner for related insights.</u>

TARGET

The decision of the ECB Governing Council to postpone the launch of its new real-time gross settlement system (TARGET) (the result of the TARGET2-T2S consolidation project) to 20 March 2023 comes into force on 21 November 2022.

<u>See the Thought Leadership section of this Horizon Scanner for related insights.</u>



SECURITIES LAW

Securitisation - STS Notification Requirements

<u>Commission Implementing Regulation (EU) 2022/1929</u> amending the existing implementing technical standards on the templates for the provision of information in accordance with the STS notification requirements for on-balance-sheet synthetic securitisations will come into force on 2 November 2022. Annexes I and II of the new Implementing Regulation set out the content and format of the notification templates for on-balance-sheet synthetic STS securitisations.

Market Abuse Regulation - SME Growth Markets

<u>Commission Delegated Regulation (EU) 2022/1959</u> with regulatory technical standards (**RTS**) setting out a contractual template for liquidity contracts for the shares of issuers whose financial instruments are admitted to trading on an SME growth market under the Market Abuse Regulation (**MAR**) will come into force on 7 November 2022. The new RTS set out the requirements with which parties to a liquidity contract should comply to ensure they are not engaging in market manipulation under MAR.

Revised Shareholder Rights Directive

Responses to ESMA's <u>Call for Evidence</u> on the implementation of the revised Shareholders Rights Directive (**SRD2**) are due by 28 November 2022. ESMA wants to map the state of play regarding implementation of the SRD2 provisions on the identification of shareholders, transmission of information and facilitation of exercise of shareholder rights, as well as on the transparency of proxy advisors, and is looking for input from those directly or indirectly impacted by the SRD2, in particular investors, issuers, intermediaries, proxy advisors as well as other entities such as consultants and service providers in the investor communication and voting industry. ESMA is due to deliver an SRD2 review to the Commission by July 2023.

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RESTRUCTURING

Early Warning Indicators and Restructuring Options

The Corporate Enforcement Authority's request for feedback on its <u>draft</u> <u>Information Note concerning the European Union (Preventive Restructuring)</u> <u>Regulations 2022</u> ends on 1 November 2022.

The draft Information Note sets out:

- a non-exhaustive list of potential early warning indicators that might serve to assist company directors in identifying that a company may be approaching financial difficulties; and
- information on the restructuring options available to companies facing financial difficulties, but which may otherwise have a reasonable prospect of survival.



"The draft guide aims to clarify the supervisory approach taken by the ECB and national competent authorities to assessing qualifying holding procedures."

EU FINANCIAL REGULATION

AML - Transfers of Funds

The deadline for responding to the European Banking Authority's <u>call for input</u> on the ESA's 2017 Joint Guidelines to prevent the abuse of fund transfers for money laundering/terrorist financing purposes is 15 November 2022. Any feedback received will inform the EBA's approach to those aspects of the revised regulation on information accompanying transfers of funds that come within the EBA's mandate.

Banks - Qualifying Holding Procedures

The ECB's <u>consultation on a draft guide on qualifying holding procedures</u> closes on 9 November 2022. The draft guide aims to clarify the supervisory approach taken by the ECB and national competent authorities to assessing qualifying holding procedures. In particular, it covers (a) the obligation to make a notification concerning a decision to acquire or increase a qualifying holding (and also sets out the ECB's approach to notifications concerning complex acquisition structures and the concept of acting in concert); (b) the assessment of the proposed acquisition against the criteria specified in the Capital Requirements Directive; and (c) procedural aspects and documentation concerning the notification process, including the documentation required. When finalised, the new guide will complement the ECB's Guide on the supervisory approach to consolidation in the banking sector.

Banks - Resolvability

Some of the changes to the Capital Requirements Regulation (**CRR**) and the Bank Recovery and Resolution Directive introduced by the 'daisy chain' Regulation will come into force in November 2022.

<u>For more information, read our insights in the Thought Leadership section of this Horizon Scanner.</u>

Capital Requirements Regulation - Own funds requirement for market risk

Three Commission Delegated Regulations supplementing the CRR with regulatory technical standards (**RTS**) on the own funds requirement for market risk have been published in the Official Journal and will come into force on 15 November 2022. These are:

<u>Commission Delegated Regulation (EU) 2022/2058 (RTS on liquidity horizons for the alternative internal model approach)</u>

<u>Commission Delegated Regulation (EU) 2022/2059 (RTS specifying the technical details of back-testing and profit and loss attribution requirements under Articles 325bf and 325bg of CRR)</u>

Commission Delegated Regulation (EU) 2022/2060 (RTS specifying the criteria for assessing the modellability of risk factors under the internal model approach (IMA) and specifying the frequency of that assessment under Article 325be(3) of the CRR)

Crowdfunding - Transitional Period

The <u>Commission Delegated Regulation</u> which formally extends the transitional period under the EU Crowdfunding Regulation by 12 months from 10 November 2022 to 10 November 2023 comes into force on 10 November 2022.

For more information, read our insights here: <u>Crowdfunding Update: Transitional period will be extended by 12 months to 10 November 2023</u>.

Operational Resilience - DORA

The European Parliament has confirmed that it will now consider the proposed regulation on digital operational resilience (**DORA**) at its 9-10 November plenary session (it had previously been scheduled for consideration at its 17 to 20 October plenary session).

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INSURANCE

Recovery and Resolution for Re-Insurers

EIOPA will host a technical seminar on recovery and resolution for (re)insurers on 18 November 2022. It should give some insight as to how the upcoming EU Insurance Recovery and Resolution Directive will work in practice. More details, and a registration link, are <u>here</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. Please click here to view recent editions of our Horizon Scanner.

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