



FEBRUARY 2023

Horizon Scanner: Finance

A glance ahead at legal and regulatory developments expected over the next month

This month...

BRIEFING

What's Another Year?

Our annual 'What's Another Year?' bulletin gives a snapshot of the key legal and regulatory developments we expect to see during 2023 across all of the firm's key sectors and practice areas.

[Read the briefing](#)

NEWS

Green Financing

David Molloy, partner in our Banking and Finance Group, led the Arthur Cox team that advised City ID in securing green financing from HSBC.

[Read more here](#)

NEWS

Second Sovereign Green Bond

Cormac Kissane, partner in our Debt Capital Markets Group, led the Arthur Cox team that advised the managers on the issue of a €3.5 billion Green Bond by Ireland (acting through the NTMA). The bond is Ireland's second sovereign Green Bond following an inaugural issue in 2018.

[Read more here](#)



Looking Ahead: Thought Leadership

THOUGHT LEADERSHIP

AML / Cryptoassets

[Crypto/AML Update: European Parliament to consider MiCA in April 2023](#)

Credit Servicing / Non Performing Loans / Loan Sales

[NPL / Credit Servicing Update: Department of Finance consults on transposition of Credit Servicing Directive](#)

Financial Regulation Priorities for 2023

[Central Bank Update: Mortgage interest rates; regulatory priorities for 2023](#)

Insurance

[Insurance Europe publishes position paper on inducements](#)

[EIOPA analysis of role of private equity in transfers of life portfolios in the EU](#)

Payments / E-Money Firms / Payment Institutions

[E-money firms and payment institutions: Latest Central Bank Dear CEO Letter requires audit of compliance with safeguarding requirements](#)



Looking Ahead:
Irish Developments

“Dáil Report Stage for the Central Bank (Individual Accountability Framework) Bill is scheduled for Wednesday 1 February”

IRISH DEVELOPMENTS

Individual Accountability Framework/Senior Executive Accountability Regime

At the time of publication, Dáil Report Stage for the Central Bank (Individual Accountability Framework) Bill is scheduled for Wednesday 1 February, and we expect the remaining Seanad Stages to be scheduled shortly. Our [Financial Regulation: Individual Accountability and SEAR](#) group have been providing strategic advice and support to our clients as they manage the transition to the new individual accountability framework. Keep an eye out for their coverage of the Bill's progress throughout February 2023.

Financial Regulation Priorities

Central Bank Governor Gabriel Makhoul's recent [letter to the Minister for Finance](#), together with his [opening statement to the Oireachtas Finance Committee](#) confirm the areas on which the Central Bank and Department of Finance will work most closely together in 2023, the Central Bank's financial regulation priorities for the year ahead, and the Central Bank's views on the impact of interest rate increases on the Irish mortgage market. For more information, read our recent insights [here](#). When looking ahead at the 2023 financial regulation landscape in Ireland, work will start to implement the 34 recommendations set out in the November 2022 Retail Banking Report. For analysis of the key recommendations from that Report which will impact our clients in the year ahead, read our recent insights here: [Retail Banking Report: 34 recommendations will now form part of Government policy](#). The recommendations that are linked to the ongoing Central Bank review of the Consumer Protection Code are likely to be given priority consideration - the Report recommended addressing issues such as increased minimum notice periods for banking service changes, a requirement for customer charters with service standards to be prepared by providers of retail banking products, a requirement for banks to submit robust, board-approved assessments to the Central Bank when they plan to significantly alter services, and a requirement for ex-post assessments by banks 9-15 months after a change or closure.

Credit Servicing

The transposition deadline for the Credit Servicing Directive is coming up later this year (29 December 2023). The first indication of how the interplay between the new EU framework and Ireland's existing regulatory framework for credit servicers and loan owners will be managed came this month with the [launch](#), by the Department of Finance, of a [Consultation Paper](#) on the national discretions set out in the Directive (initial indications are that we may be looking at two parallel regimes, with no details yet on how post-transposition sales of mixed portfolios will be managed). With a tight timeframe for comments (responses are due by 8 March 2023) stakeholders are expected to spend much of February formulating potential submissions to the Department on a couple of key questions set out in the submission. For more information on the consultation, read our recent insights [here](#).

Possible EU-led Insolvency Reforms

The [call for views](#) by the Department of Enterprise, Trade and Employment on the European Commission's [proposals to harmonise aspects of national insolvency laws](#) (part of the Commission's Capital Markets Union project) closes for submissions on 24 February 2023. The Commission's proposal, as drafted, would impact Irish corporate insolvency law, personal insolvency law and bankruptcy law.

“work will start to implement the 34 recommendations set out in the November 2022 Retail Banking Report.”



Looking Ahead: ESG

ESG

ESG / Sustainability-Related Terms in Funds' Names

ESMA's [Consultation Paper on Guidelines on funds' names using ESG or sustainability-related terms](#) closes for responses on 20 February 2023. As part of that consultation, ESMA sought feedback on the introduction of quantitative thresholds for the minimum proportion of investments sufficient to support the ESG or sustainability-related terms in funds' names.

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Looking Ahead: Capital Markets



CAPITAL MARKETS

EU Green Bond Standard

Agreement was not reached at the fourth round of trilogues on the proposed EU Green Bond Standard on 14 December 2022. One of the key outstanding points on which the EU Council and the European Parliament could not agree was the potential extended scope of the proposed regulation to other environmentally sustainable / sustainability-linked bonds. A small number of open points remain to be agreed on green securitisation. Sweden has since taken over the EU Council Presidency, and guidance is awaited from them on next steps (we hope to see guidance/timelines for further discussions this month).



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Looking Ahead: Structured Finance and Securitisation

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“All resolution groups and stand-alone banks must comply with the Resolvability Guidelines by January 2024.”

STRUCTURED FINANCE AND SECURITISATION

AML – De-Risking

The European Banking Authority’s [Consultation Paper](#) covering changes to its [Guidelines on ML/TF risk factors](#) (to include an annex setting out factors that credit institutions and financial institutions should consider when assessing the ML/TF risks associated with a business relationship with not-for-profit organisation (**NPO**) customers) and also covering proposed new Guidelines on policies and controls for the effective management of ML/TF risks when providing access to financial services, closes for comments on 6 February 2023.

The consultation followed the [EBA’s January 2022 opinion on the scale and impact of de-risking in the EU](#), in which it identified the main drivers of de-risking, the negative impact that de-risking can have on customers and financial services when it isn’t warranted, and the steps that should be taken to mitigate de-risking and its negative impact. The Commission had subsequently asked the EBA to develop guidelines on steps that institutions should take to reduce unwarranted de-risking in respect of categories of customers that the EBA had identified as being particularly vulnerable to unwarranted de-risking, including NPOs and refugees.

EBA Resolvability Guidelines

The EBA’s [Consultation Paper](#) on amendments to its [Guidelines on improving resolvability for institutions and resolution authorities under Articles 15 and 16 of the Bank Recovery and Resolution Directive \(Resolvability Guidelines\)](#) closes for responses on 15 February 2023.

The EBA’s Resolvability Guidelines and its [Transferability Guidelines](#) set out capabilities that EU institutions should have at all times to support execution of resolution strategy. With a view to improving preparedness, the changes that are the subject of the current consultation aim to set out, in a new section of the EBA’s Resolvability Guidelines, how resolution authorities should engage with institutions in the area of testing. This will include a self-assessment report by institutions, a multi-annual resolvability testing programme, and a master playbook for more complex resolution groups.

All resolution groups and stand-alone banks must comply with the Resolvability Guidelines by January 2024.

MiFID II / Passporting

ESMA’s [consultation](#) on its review of technical standards under Article 34 of MiFID II closes for comments on 17 February 2023. Article 34 mandated ESMA to draft technical standards setting out the information to be notified by firms wishing to passport into other EU Member States, and establishing standard forms, templates and procedures for the transmission of that information.

The main changes being proposed by ESMA relate to the addition of certain items to the information that investment firms must provide at passporting stage: the means of marketing that the firm will use in the host Member States; the language(s) for which the investment firm has the necessary arrangements to deal with complaints from clients from each of the host Member States in which it provides services; the Member States in which the firm will actively use its passport as well as the categories of clients targeted; and the investment firm’s internal organisation in relation to the cross-border activities of the firm.

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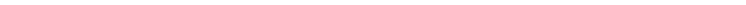
Looking Ahead: Insurance



INSURANCE

Stress-Testing

EIOPA's [Discussion Paper on Methodological Principles of Insurance Stress Testing with focus on Cyber Risk](#) closes for comments on 28 February 2023. The paper sets out various theoretical and practical approaches to support the design phase of potential future insurance stress tests with a focus on cyber risk.



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