



JUNE 2023

# Horizon Scanner: Finance

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

## This month...

---

### ARTHUR COX ADVISES VITA IRELAND ON VITA GREEN IMPACT FUND

We are delighted to have advised [Vita Ireland](#) on the establishment of the new Vita Green Impact Fund

[Read more here](#)

---

### ARTHUR COX AWARDED IRELAND LAW FIRM OF THE YEAR 2023 AT THE CHAMBERS EUROPE AWARDS

Arthur Cox is very pleased to have won Ireland Law Firm of the Year 2023 at the Chambers Europe Awards which took place in Milan.

[Read more here](#)

---

### ESG HUB

Our dedicated multi-disciplinary ESG lawyers work seamlessly together to assist clients with the identification and integration of ESG priorities at all levels of their business.

[Read more here](#)

---





Want to  
know **more?**

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.

---

## Authors



### MAEDHBH CLANCY

#### Of Counsel

Banking and Finance, Debt Capital Markets,  
Financial Regulation  
+353 1 920 1225  
[maedhbh.clancy@arthurcox.com](mailto:maedhbh.clancy@arthurcox.com)



### SINEAD CANTILLON

#### Senior Professional Support Lawyer

Banking and Finance, Debt Capital Markets,  
Financial Regulation  
+353 1 920 1083  
[sinead.cantillon@arthurcox.com](mailto:sinead.cantillon@arthurcox.com)



### SINEAD WILLIAMS

#### Senior Associate

Debt Capital Markets  
+353 1 920 1439  
[sinead.williams@arthurcox.com](mailto:sinead.williams@arthurcox.com)

## Key contacts

**David Molloy, Partner**  
**Banking and Finance**  
[david.molloy@arthurcox.com](mailto:david.molloy@arthurcox.com)  
+353 1 920 1220

**Aiden Small, Partner**  
**Debt Capital Markets**  
[aiden.small@arthurcox.com](mailto:aiden.small@arthurcox.com)  
+353 1 920 1072

**Robert Cain, Partner**  
**Financial Regulation**  
[robert.cain@arthurcox.com](mailto:robert.cain@arthurcox.com)  
+353 1 920 1050

[DISCLAIMER](#)

[MODERN SLAVERY STATEMENT](#)

[COOKIES AND PRIVACY](#)

[VISIT OUR WEBSITE](#)





# Looking Ahead: Irish Developments

## IRISH DEVELOPMENTS

### Consumer Protection Code Review

Following the end of the consultation period for the Central Bank's [Consumer Protection Code \(CPC\) Review Discussion Paper](#) on 31 March 2023, a feedback statement is expected by end-June 2023 in advance of a formal consultation paper in Q4 2023.

CONSUMER PROTECTION CODE:  
CENTRAL BANK PUBLISHES  
DISCUSSION PAPER

Read more

RETAIL BANKING REPORT: 34  
RECOMMENDATIONS WILL NOW FORM  
PART OF GOVERNMENT POLICY

Read more

### Individual Accountability and SEAR

The Central Bank's consultation on the individual accountability framework (**IAF**) and planned senior executive accountability regime (**SEAR**) closes for feedback on 13 June 2023.

The public consultation on IAF-related changes to the Administrative Sanctions Procedure is expected shortly.

Following that, the next key milestones will be 31 December 2023 (application of conduct standards; application of new certification requirement under the Fitness & Probity (**F&P**) regime; holding companies subject to F&P regime) and 1 July 2024 (SEAR will apply).

In the meantime, firms that are in-scope for SEAR, and their advisers, will be closely watching the outcome of HM Treasury's [Call for Evidence on the UK Senior Managers & Certification Regime \(SM&CR\)](#) and the [Joint Discussion Paper \(Review of the SM&CR\)](#) launched by the Prudential Regulation Authority and the Financial Conduct Authority. Each is part of the measures being taken under the umbrella of the Edinburgh Reforms, and each closes for feedback on 1 June 2023.

Visit <https://www.arthurcox.com/iaf> for our insights, interviews and podcasts on the IAF/SEAR framework.

### Companies Act 2014

The Department of Enterprise, Trade and Employment's [public consultation on changes to the Companies Act 2014](#) closes for feedback on 9 June 2023.

From a finance perspective, key areas in which industry feedback is being sought include tweaks to the financial assistance framework, a proposal to allow the Registrar of Beneficial Ownership to request the involuntary strike-off of a company for failure to provide beneficial ownership details, and a proposal to require receivers to deliver periodic updates to companies in respect of which they are appointed.

Our Insights

[DISCLAIMER](#)

[MODERN SLAVERY STATEMENT](#)

[COOKIES AND PRIVACY](#)

[VISIT OUR WEBSITE](#)





# EU Financial Regulation

## EU FINANCIAL REGULATION

### AML

Trilogue negotiations on the AML package began on 11 May 2023 and are expected to continue shortly.

The EBA's [Consultation Paper](#) on amendments to its [Guidelines on Risk-Based AML/CFT Supervision](#) (which would extend the scope of those guidelines to AML/CFT supervisors of crypto-asset service providers (**CASPs**)) closes for feedback on 29 June 2023. The proposed amendments include guidance on the sources of information competent authorities should consider when assessing money laundering (**ML**) and terrorist financing (**TF**) risks associated with CASPs.

Specific AML/CFT guidance for CASPs is the subject of a separate consultation, launched on 31 May 2023, and will take the form of updates to the EBA's [ML/TF risk factors guidelines](#). That consultation will close on 31 August 2023 and the EBA also plans to amend its guidelines to prevent the abuse of fund transfers for ML/TF purposes, and to launch new guidelines on policies and procedures for compliance with restrictive measures (in each case to complement the foregoing two CASP-related consultations).

### DORA

In light of the two delegated acts envisaged in the regulation on digital operational resilience for the financial sector (**DORA**) the European Commission asked the European Supervisory Authorities (**ESAs**) for technical advice on two specific points:

- Proposals regarding the criteria to be considered by the ESAs when assessing the critical nature of ICT third-party service providers, in particular, a number of relevant quantitative and qualitative indicators for each of the criticality criteria, along with the necessary information to construct those indicators.
- Proposals in relation to the amount of the fees levied on critical ICT third-party providers (**CTPPs**) and the way in which they are to be paid, in particular the types of expenditure that shall be covered by fees as well as the appropriate method, basis and information for determining the applicable turnover of the CTPPs, which will form the basis of fee calculation. The ESAs are also seeking input on the fee calculation method and other practical issues regarding the payment of fees.

To inform its technical advice, the ESAs have published a [Discussion Paper](#) seeking feedback by 23 June 2023.

### Insurance

EIOPA and the ECB's [discussion paper](#) on how to better insure households and businesses in the EU against climate-related natural catastrophes such as floods or wildfires closes for feedback on 15 June 2023.

EIOPA's [consultation](#) on draft amendments to the regulatory technical standards (**RTS**) adapting the base euro amounts for the professional indemnity insurance cover and financial capacity of insurance intermediaries under the Insurance Distribution Directive closed on 6 May 2023. EIOPA plans to finalise the draft RTS for submission to the European Commission by 30 June 2023.

### MiCA

We expect the regulation on markets in crypto-assets (**MiCA**) to be published in the Official Journal in June 2023, following its final [adoption by the EU Council in May 2023](#).

MiCA will apply 18 months after it is published in the Official Journal (save for the provisions in respect of stablecoins, which will apply 6 months earlier).

The recast regulation on information accompanying transfers of funds (which will capture transfers of crypto-assets) is expected to be published in the Official Journal at the same time.

[Our Insights](#)

### MiFID/MiFIR RTS

[Amendments to RTS 1 on certain transparency requirements applicable to transactions in equity instruments](#) and [Amendments to RTS 2 on certain transparency requirements applicable to transactions in non-equity instruments](#), which make minor changes relating to reporting fields, flags and transitional provisions, have been published in the Official Journal, and come into force on 5 June 2023. Some changes apply immediately, with others applying from 1 January 2024.

[Amendments to RTS 11 on the annual application date of the calculations of the average daily number of transactions for shares, depository receipts and exchange-traded funds for the purposes of the tick sizes regime](#) come into force on 5 June 2023.

### MiFIR Review

The next round of trilogues is due to take place on 12 June 2023. The key sticking points between the negotiators continue to be the consolidated tape proposal, and the potential ban of *'payments for order flow'*

### Payments

We expect to see the outcome (and possible legislative proposals) arising from the previous Commission consultations on the open finance framework, and the review of Payment Services Directive, towards the end of June 2023.

### Retail Investment Package

The initial feedback period on the legislative proposals set out in the Commission's retail investment package proposal would have ended in June 2023, but has been extended into July 2023 pending translation into all official EU languages.

[Our Insights](#)

### Sanctions

The EU's eleventh sanctions package against Russia has not yet been published, but is understood to be imminent. It is expected to be an *'anti-circumvention package'* which will also add additional items to the list of restricted exports of dual-use goods.

[DISCLAIMER](#)

[MODERN SLAVERY STATEMENT](#)

[COOKIES AND PRIVACY](#)

[VISIT OUR WEBSITE](#)







# Looking Ahead: Thought Leadership

---

## THOUGHT LEADERSHIP

### Financial Regulation

[Safeguarding requirements: more detail on audit of compliance by e-money firms/payment institutions](#)

[ESMA statement on offerings of unregulated products/services by regulated firms](#)

[Retail Investors and the EU Capital Markets: Commission publishes retail investment package](#)

[Central Bank 2022-2023 Performance Statement reiterates key priorities for the months ahead](#)

### ESG

[Green Bonds: Update on EU Green Bond Standard Regulation](#)

[ESG and Securitisation: ESG disclosures for certain STS securitisations](#)

[Sustainability-Linked Loans: LMA publishes model provisions](#)

### Company Law

[New Regime Assists Cross-Border Mobility of Companies](#)

[Directors' PPS numbers required for CRO filings from 11 June 2023](#)

[Consultation on proposals to amend the Companies Act 2014](#)

### Insurance

[ILS reform on the cards following ECB/EIOPA discussion paper](#)

[CJEU judgment in relation to unfair terms in group insurance contracts](#)

---

[DISCLAIMER](#)

[MODERN SLAVERY STATEMENT](#)

[COOKIES AND PRIVACY](#)

[VISIT OUR WEBSITE](#)





# ESG

## ESG

*All indications are that the European Commission will publish a significant sustainable finance package towards the end of June 2023.*

### Sustainable Finance Package: Taxonomy Environmental Delegated Act

This sustainable finance package is expected to include the Taxonomy Environmental Delegated Act, following the Commission's recent consultation that closed on 3 May 2023. That will contain technical screening criteria (**TSC**) for economic activities making a substantial contribution to the four remaining environmental objectives under the Taxonomy Regulation: the sustainable use and protection of water and marine resources; the transition to a circular economy; pollution prevention and control; and the protection and restoration of biodiversity and ecosystems. The scrutiny period for its review by the EU Council and the European Parliament is expected to be 4 months (extendable by 2 months). It is then expected to apply from 1 January 2024.

[Our Insights](#)

### Sustainable Finance Package: Changes to Taxonomy Climate Delegated Act?

We may also see the final form of the delegated regulation which will amend the Taxonomy Climate Delegated Act (which was subject to a parallel consultation to the consultation on the Taxonomy Environmental Delegated Act) by the end of June 2023.

The amendments are expected to add TSC for economic activities not yet included in that Taxonomy Climate Delegated Act (largely dealing with manufacturing activities in relation to key components for low carbon transport and electrical equipment, and some transitional activities in the transport sector).

### Sustainable Finance Package: ESG Ratings

We also expect a draft regulation on ESG ratings to form part of the above June 2023 sustainable finance package, following last year's [targeted consultation](#) by the European Commission on the functioning of the EU's ESG ratings market and the consideration of ESG factors in credit ratings.

### Tackling Greenwashing

ESMA, EIOPA and the EBA (the **ESAs**) delivered their progress reports on 1 June 2023 following the Commission's May 2022 [Request for Input](#) on the occurrence of greenwashing; the potential for greenwashing risks, and supervisory practices, experience, convergence and capacities relating to the prevention of greenwashing. The ESAs issued a call for evidence in November 2022 which will inform this particular set of progress reports. Final reports are due by the ESAs by end-May 2024. Keep an eye out for our insights on the progress reports in the coming days.

[Our Insights](#)

### Sustainable Finance Disclosures Regulation

Financial market participants must publish their first principal adverse impacts (**PAI**) statement under the SFDR Regulatory Technical Standards on 30 June 2023 (for the reference period 1 January 2022 to 31 December 2022).

### EU Green Bond Standard

The final compromise text agreed in trilogue is now available ([here](#)) and was sent by the EU Council to the European Parliament for final approval (following which it will be formally adopted by the EU Council).

[Our Insights](#)

### Climate and Environmental Risks

Approximately 88 significant euro-area banks will need to make their first disclosures on climate and environmental risks under the [Implementing Technical Standards on Pillar 3 ESG Disclosures](#) on 30 June 2023. The ECB cautioned, when publishing its [April 2023 review of climate-related and environmental risks disclosures practices and trends](#), that some banks appear largely unprepared for this exercise and that it “*will take the appropriate supervisory actions to ensure that banks comply*”.

[DISCLAIMER](#)

[MODERN SLAVERY STATEMENT](#)

[COOKIES AND PRIVACY](#)

[VISIT OUR WEBSITE](#)

