

# FINANCIAL REGULATION WEEKLY BULLETIN

Major UK and European regulatory developments of interest to banks  
insurers and reinsurers, asset managers and other market participants

## QUICK LINKS

[Selected Headlines](#)

[General](#)

[Banking and Finance](#)

[Securities and Markets](#)

[Asset Management](#)

[Insurance](#)

[Financial Crime](#)

[Enforcement](#)

If you have any  
comments or  
questions, please  
contact:  
[Selmin Hakki](#).

Slaughter and May  
also produces a  
periodical Insurance  
Newsletter. If you  
would like to go on  
the distribution list,  
please contact:  
[Beth Dobson](#).

## SELECTED HEADLINES //

### General

**SDR and investment labels regime - FCA publishes webpage** **3.1**

### Banking and Finance

**Enhancing Real-Time Gross Settlement - Bank of England publishes discussion papers** **6.1**

### Securities and Markets

**EMIR 3 - Council of the European Union and the European Parliament reach provisional agreement** **8.2**

**Requirements under MAR and posting investment recommendations on social media - ESMA issues warning** **10.2**

### Insurance

**Non-financial misconduct - FCA issues survey for Lloyd's and London market intermediaries and managing general agents** **13.1**

### Financial Crime

**Reducing and preventing financial crime - FCA outlines areas of focus** **14.1**

### Enforcement

***Nvayo Ltd v Financial Conduct Authority* [2024] UKUT 15.1  
35 (TCC) (5 February 2024)**

## Selected Headlines

[General](#)[Asset Management](#)[Enforcement](#)[Banking and Finance](#)[Insurance](#)[Securities and Markets](#)[Financial Crime](#)

## GENERAL //

### 1 EUROPEAN PARLIAMENT

- 1.1 Facilitating data sharing and re-use - European Parliament publishes report on proposed Regulation - 2 February 2024** - The European Parliament has published the report of its Economic and Monetary Affairs Committee on the European Commission's proposed Regulation amending the European Systemic Risk Board Regulation (1092/2010), EBA Regulation (1093/2010), EIOPA Regulation (1094/2010), ESMA Regulation (1095/2010) and InvestEU Regulation ((EU) 2021/523) as regards certain reporting requirements in the fields of financial services and investment support (2023/0363(COD)). The report contains a draft European Parliament legislative resolution.

[Report on the proposal for a regulation of the European Parliament and of the Council amending Regulations \(EU\) No 1092/2010, \(EU\) No 1093/2010, \(EU\) No 1094/2010, \(EU\) No 1095/2010 and \(EU\) 2021/523 as regards certain reporting requirements in the fields of financial services and investment support \(2023/0363 \(COD\)\)](#)

### 2 UK GOVERNMENT

- 2.1 Pro-innovation approach to AI regulation - UK Government publishes consultation response - 6 February 2024** - The Department for Science, Innovation and Technology has published its response to a consultation on its AI White Paper, launched in March 2023.

The response includes a range of investment announcements and initiatives in response to feedback received during the consultation. It confirms that the IPO voluntary code of practice for copyright and AI will not be proceeding. The government also renamed the Centre for Data Ethics and Innovation to the Responsible Technology Adoption Unit. Certain regulators, including the FCA, have been asked to publish an outline approach to AI regulation by 30 April 2024, which must include a summary of progress against the principles set out in the AI White Paper.

[UK government consultation outcome: A pro-innovation approach to AI regulation: government response](#)

[Press release](#)

### 3 FINANCIAL CONDUCT AUTHORITY

- 3.1 SDR and investment labels regime - FCA publishes webpage - 2 February 2024** - The FCA has published a new webpage on its sustainability disclosure requirements (SDR) and investment labelling regime. The new webpage discusses the measures introduced in the FCA's November 2023 Policy Statement (PS23/16) which was previously reported in this bulletin.

The webpage includes guidance on how firms should be approaching the regime before the requirements come into effect from 31 May 2024. It also sets out: an implementation timeline; responses to some common questions on the investment labels that are being introduced for

## Selected Headlines

[General](#)[Asset Management](#)[Financial Crime](#)[Banking and Finance](#)[Insurance](#)[Enforcement](#)[Securities and Markets](#)

products with a sustainability objective; the naming and marketing rules; and exceptions to the application of the requirements.

[FCA: Sustainability disclosure and labelling regime](#)

[Implementation times factsheet](#)

## 4 FINANCIAL CONDUCT AUTHORITY AND PAYMENT SYSTEMS REGULATOR

- 4.1 **Approach to cost benefit analysis - FCA and PSR publish documents - 6 February 2024** - The FCA and the Payment Systems Regulator (PSR) have published documents outlining their respective approaches to cost benefit analyses (CBAs). In the documents, the FCA and the PSR set out, among other things, the typical circumstances in which the regulators will carry out CBAs.

The Financial Services and Markets Act 2023 requires the FCA to establish an independent CBA panel. The FCA intends to establish the panel later in 2024.

[FCA: How we analyse the costs and benefits of our policies](#)

[Updated webpage](#)

[PSR: Our draft cost benefit analysis framework](#)

## BANKING AND FINANCE //

### 5 EUROPEAN PARLIAMENT

- 5.1 **Instant transfers in euro - European Parliament votes to adopt new rules - 7 February 2024** - The European Parliament has adopted the proposed Regulation amending the Single Euro Payments Area Regulation (260/2012) and the Cross-Border Payments Regulation ((EU) 2021/1230) as regards instant credit transfers in euro (2022/0341(COD)). The proposed Regulation aims to ensure that retail clients and businesses (particularly SMEs) will not have to wait for their money, as well as to enhance the safety of credit transfers. In addition, banks and other payment service providers will have to ensure that credit transfers are affordable and immediately processed.

The proposal will enter into force on the 20th day after publication in the Official Journal of the European Union.

[Texts adopted: proposal for a regulation of the European Parliament and of the Council amending Regulations \(EU\) No 260/2012 and \(EU\) 2021/1230 as regards instant credit transfers in euro \(2022/0341\(COD\)\)](#)

[Press release](#)

## Selected Headlines

[General](#)[Asset Management](#)[Financial Crime](#)[Banking and Finance](#)[Insurance](#)[Enforcement](#)[Securities and Markets](#)

## 6 BANK OF ENGLAND

### 6.1 Enhancing Real-Time Gross Settlement - Bank of England publishes discussion papers - 8 February 2024 - The Bank of England (the Bank) has published two discussion papers on proposals to enhance the Real-Time Gross Settlement (RTGS) service.

One of the discussion papers outlines initial findings from the Bank's assessment of the potential benefits and costs of extending operating hours for RTGS and the Clearing House Automated Payment System (CHAPS). In particular, it encourages respondents to think strategically as to what might be required in roughly 10 years from now. The Bank intends to issue a consultation paper in 2025 to formally consult on a proposal for RTGS and CHAPS operating hours.

The second discussion paper refers to four priority areas for further work to facilitate wider access to RTGS accounts for settlement and settlement services. These include: enhancing the process for consideration of non-bank payment service providers seeking access to RTGS; understanding the demand of foreign banks for access to RTGS to support payment system settlement; clarifying requirements for financial market infrastructures to access RTGS; and reviewing the CHAPS value threshold. The Bank intends to publish a response to this paper by 30 April 2025.

Responses can be made on both discussion papers until 30 April 2024.

[Bank of England discussion paper: Reviewing access to RTGS accounts for settlement](#)

[Bank of England discussion paper: Exploring longer operating hours for RTGS](#)

[Press release](#)

## SECURITIES AND MARKETS //

## 7 COUNCIL OF THE EUROPEAN UNION

### 7.1 Proposed Directive and Regulation to improve MiFID II market data access and transparency - Council of the European Union publishes texts - 2 February 2024 - The Council of the European Union has published the texts of:

- the proposed Regulation amending the Markets in Financial Instruments Regulation (600/2014) as regards enhancing data transparency, removing obstacles to the emergence of consolidated tapes, optimising the trading obligations and prohibiting receiving payment for order flow (2021/0385 (COD)); and
- the proposed Directive amending the MiFID II Directive (2014/65/EU) (2021/0384 (COD)).

The European Parliament adopted the proposed Regulation and Directive in January 2024 after the Council of the European Union and the European Parliament reached political agreement in June 2023.

## Selected Headlines

[General](#)[Asset Management](#)[Financial Crime](#)[Banking and Finance](#)[Insurance](#)[Enforcement](#)[Securities and Markets](#)

**Final compromise text: Regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 as regards enhancing data transparency, removing obstacles to the emergence of consolidated tapes, optimising the trading obligations and prohibiting receiving payment for order flow (2021/0385 (COD))**

**Final compromise text: Directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments (2021/0384 (COD))**

## 8 COUNCIL OF THE EUROPEAN UNION AND EUROPEAN PARLIAMENT

- 8.1 Proposed Regulation on ESG rating activities - Council of the European Union and the European Parliament reach provisional agreement - 6 February 2024** - The Council of the European Union (the Council) and the European Parliament (the Parliament) have reached provisional political agreement on the proposed Regulation on the transparency and integrity of ESG rating activities (2023/0177(COD)).

Among other things, it has been agreed that non-EU ESG rating providers that wish to operate in the EU will need to obtain an endorsement of their ratings by an EU ESG rating provider; a recognition based on a quantitative criterion; or be registered in the EU on the basis of an equivalence decision concerning their home state following a dialogue between the European Securities and Markets Authority and the relevant third-country competent authority.

The provisional political agreement is subject to approval by the Council and the Parliament before going through the formal adoption procedure.

[European Parliament press release](#)

[Council of the European Union press release](#)

- 8.2 EMIR 3 - Council of the European Union and the European Parliament reach provisional agreement - 7 February 2024** - The Council of the European Union (the Council) and the European Parliament (the Parliament) have reached provisional political agreement on the proposals for amending the European Market Infrastructure Regulation (648/2012/EU) to mitigate excessive exposures to third-country central counterparties (CCPs) and improve the efficiency of EU clearing markets (referred to as EMIR 3) (2022/0403(COD) and 2022/0404(COD)). The provisional political agreement provides for an active account requirement, which requires certain financial and non-financial counterparties to have an account at an EU CCP. This includes operational elements such as the ability to handle the counterparty's transactions at short notice if necessary, and activity elements to ensure the account is used effectively.

The provisional political agreement is subject to approval by the Council and the Parliament before going through the formal adoption procedure.

[European Parliament press release](#)

[Council of the European Union press release](#)

[Selected Headlines](#)[General](#)[Asset Management](#)[Financial Crime](#)[Banking and Finance](#)[Insurance](#)[Enforcement](#)[Securities and Markets](#)

## 9 EUROPEAN SUPERVISORY AUTHORITIES

- 9.1 **Withdrawal of recognition as third-country CCP under EMIR - ESAs Board of Appeal confirms ESMA's decision - 6 February 2024** - The Board of Appeal of the European Supervisory Authorities (comprising the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (ESMA)) has dismissed an appeal made by the Dubai Commodities Clearing Corporation (DCCC) against ESMA's decision to withdraw its recognition of the DCCC as a Tier 1 third-country central counterparty under EMIR (648/2012).

ESMA announced its decision to withdraw recognition in July 2023.

[Board of Appeal of the ESAs Decision: DCC v ESMA \(BoA-D-2024-01\)](#)

[Webpage](#)

[Press release](#)

## 10 EUROPEAN SECURITIES AND MARKETS AUTHORITY

- 10.1 **CCP resolution regime - ESMA publishes guidelines - 2 February 2024** - The European Securities and Markets Authority (ESMA) has published official translations of its guidelines on co-operation arrangements under the Regulation on the recovery and resolution of central counterparties ((EU) 2021/23) (CCP Recovery and Resolution Regulation). ESMA has also published official translations of its guidelines on written arrangements and procedures for the functioning of resolution colleges under the CCP Recovery and Resolution Regulation. The guidelines will apply from 2 April 2024.

[ESMA Guidelines on the types and content of the provisions of Cooperation Arrangements \(Article 79 of CCPRRR\) \(ESMA91-372-1791\)](#)

[ESMA Guidelines on written arrangements and procedures for the functioning of resolution colleges \(ESMA91-372-1958\)](#)

- 10.2 **Requirements under MAR and posting investment recommendations on social media - ESMA issues warning - 6 February 2024** - ESMA has published a warning (ESMA74-1103241886-912) on the application of requirements under the Market Abuse Regulation (596/2014) to the posting of investment recommendations on social media and the risks of market manipulation.

The document discusses, among other things, what constitutes an investment recommendation, the applicable regulations, the consequences of non-compliance and how certain additional requirements apply to professionals and experts.

[ESMA Warning: For people posting Investment Recommendation on social media \(ESMA74-1103241886-912\)](#)

[Webpage](#)

## Selected Headlines

[General](#)[Asset Management](#)[Financial Crime](#)[Banking and Finance](#)[Insurance](#)[Enforcement](#)[Securities and Markets](#)

## ASSET MANAGEMENT //

### 11 EUROPEAN PARLIAMENT

**11.1 Proposed Directive amending AIFMD and UCITS Directive - European Parliament adopts proposed Directive - 7 February 2024** - The European Parliament has voted to adopt the proposed Directive (sometimes referred to as AIFMD II) amending the Alternative Investment Fund Managers Directive (2011/61/EU) (AIFMD) and the Undertakings for Collective Investment in Transferable Securities Directive (2009/65/EC) (UCITS). The amendments concern delegation arrangements, liquidity risk management, supervisory reporting, provision of depositary and custody services and loan origination by alternative investment funds.

The European Parliament has also published the adopted text (P9\_TA(2024)0064) of the proposed Directive.

[Texts adopted: AIFMD II \(2021/0376\(COD\)\)](#)

[Press release](#)

## INSURANCE //

### 12 EUROPEAN COMMISSION

**12.1 Provisional equivalence of US under Solvency II - European Commission publishes consultation - 6 February 2024** - The European Commission has published a consultation on a draft Delegated Decision on the renewal of its equivalence determination on the solvency regime in force in the United States for the purposes of the Solvency II Directive (2009/138/EC).

Commission Delegated Decision ((EU) 2015/2290) grants provisional equivalence under Article 227 of the Solvency II Directive to the US (among other non-EU jurisdictions). Equivalence under Article 227 will permit an insurance group to continue to calculate the contribution that US members of the group make to the group solvency requirement and eligible own funds taking into account the calculation of capital requirements and available capital (own funds) under the rules of relevant states of the United States rather than calculating them on the basis of Solvency II.

The Delegated Decision applies from 1 January 2016 and expires on 1 January 2026. The draft Delegated Decision will renew the US provisional equivalence for 10 years starting from 1 January 2026.

The consultation closes to feedback on 5 March 2024.

[Webpage](#)

[Selected Headlines](#)[General](#)[Asset Management](#)[Financial Crime](#)[Banking and Finance](#)[Insurance](#)[Enforcement](#)[Securities and Markets](#)

## 13 FINANCIAL CONDUCT AUTHORITY

**13.1 Non-financial misconduct - FCA issues survey for Lloyd's and London market intermediaries and managing general agents - 6 February 2024** - The FCA has published a letter sent to regulated Lloyd's managing agents and London market insurers (including protection and indemnity clubs) and Lloyd's and London market insurance intermediaries (and managing general agents). The letter is accompanied by a survey, which does not appear to have been published, requesting information relating to incidents of non-financial misconduct (NFM) in firms for 2021, 2022 and 2023. The survey has been issued using the FCA's powers to gather information under section 165(1)(a) of the Financial Services and Markets Act 2000.

The survey covers incidents that took place at the office, working from home, working offsite and social situations related to work. Firms are asked to include all incidents of NFM, including those that it has not already reported to the FCA (for example, incidents that did not meet FCA reporting thresholds). The survey enquires about the volume and type of incidents of NFM, as well as methods of detection and actions taken to address incidents within firms. The survey also raises questions on regulatory references, governance, appointed representatives and diversity and inclusion policies.

Firms must complete the survey by 5 March 2024.

[FCA letter: Notice to Provide Information](#)

## FINANCIAL CRIME //

## 14 FINANCIAL CONDUCT AUTHORITY

**14.1 Reducing and preventing financial crime - FCA outlines areas of focus - 8 February 2024** - The FCA has published what it refers to as a corporate document on reducing and preventing financial crime. The document summarises the work that the FCA has delivered over the last 18 months tackling sanctions evasion, fraud, and money laundering. Looking ahead, the FCA identifies four areas of focus for the coming year where it considers further collaborative effort can help "shift the dial" decisively on reducing and preventing financial crime. The four areas are: data and technology; collaboration; consumer awareness; and metrics. The FCA includes suggested questions for firms' boards to consider in some of the areas identified above.

The document advises that "bolder and more innovative solutions" are needed and that firms must make use of new systems, processes, available data and approaches to keep up with emerging risks in the future. A key FCA focus in 2024 will be supporting the government's proposals to reform the anti-money laundering supervisory regime. It considers that the option of a single professional service supervisor offers the best opportunity to deliver on the aims of the reform.

[FCA: Reducing and preventing financial crime](#)

## Selected Headlines

[General](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)[Enforcement](#)

## ENFORCEMENT //

### 15 RECENT CASES

#### 15.1 *Nvayo Limited v The Financial Conduct Authority* [2024] UKUT 00035 (TCC) - 5 February 2024

The Upper Tribunal (Tax and Chancery Chamber) has published its decision not to suspend restrictions placed by the FCA on Nvayo Limited, an e-money firm (the firm). The restrictions were imposed during 2023 on account of concerns about the firm's compliance with anti-money laundering rules. The restrictions are set out on the FCA register and include restrictions on the business that the firm can do. The firm is continuing through the appeals process.

[Nvayo Limited v The Financial Conduct Authority \[2024\] UKUT 00035 \(TCC\)](#)

## Selected Headlines

[General](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)[Enforcement](#)

This Bulletin is prepared by the Financial Regulation Group of Slaughter and May in London. The Group comprises a team of lawyers with expertise and experience across all sectors in which financial institutions operate.

We advise on regulatory issues affecting firms across the financial services sector, including banks, investment firms, insurers and reinsurers, brokers, asset managers and funds, non-bank lenders, payment service providers, e-money issuers, exchanges and clearing systems. We also advise non-regulated businesses involved in financial regulatory matters. In addition, our leading financial regulatory investigations practice is regularly instructed by financial institutions requiring specialist knowledge of financial services regulation together with experience in high profile and complex investigations and contentious regulatory matters.

Most of the projects that we advise on have an extensive international or cross-border element. We work in seamless integrated teams with leading independent law firms which offer many of the most highly regarded financial institutions lawyers in Europe, the US and Asia, as well as strong and constructive relationships with local regulators.

Our Financial Regulation Group also produces occasional briefing papers and other client publications. The five most recent issues of this Bulletin and our most recent briefing papers and client publications appear on the Slaughter and May website [here](#).

If you would like to find out more about our Financial Regulation Group or require advice on a financial regulation matter, please contact one of the following or your usual Slaughter and May contact:

Jan Putnis	<a href="mailto:jan.putnis@slaughterandmay.com">jan.putnis@slaughterandmay.com</a>
Nick Bonsall	<a href="mailto:nick.bonsall@slaughterandmay.com">nick.bonsall@slaughterandmay.com</a>
David Shone	<a href="mailto:david.shone@slaughterandmay.com">david.shone@slaughterandmay.com</a>
Kristina Locmele	<a href="mailto:kristina.locmele@slaughterandmay.com">kristina.locmele@slaughterandmay.com</a>
Tim Fosh	<a href="mailto:timothy.fosh@slaughterandmay.com">timothy.fosh@slaughterandmay.com</a>
Sabine Dittrich	<a href="mailto:sabine.dittrich@slaughterandmay.com">sabine.dittrich@slaughterandmay.com</a>

London  
T +44 (0)20 7600 1200  
F +44 (0)20 7090 5000

Brussels  
T +32 (0)2 737 94 00  
F +32 (0)2 737 94 01

Hong Kong  
T +852 2521 0551  
F +852 2845 2125

Beijing  
T +86 10 5965 0600  
F +86 10 5965 0650

Published to provide general information and not as legal advice. © Slaughter and May, 2024.  
For further information, please speak to your usual Slaughter and May contact.

[www.slaughterandmay.com](http://www.slaughterandmay.com)