



Insurance

Quarterly Legal and Regulatory Update

Period covered: 1 April 2023 – 30 June 2023

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1. SOLVENCY II

1.1 European Commission publishes ITS on templates for the submission of information necessary for supervision under Solvency II

On 5 May 2023, Commission Implementing Regulation (EU) 2023/894 laying down implementing technical standards (ITS) for the application of the Solvency II Directive (2009/138/EC) with regard to the templates for the submission by insurance and reinsurance undertakings to their supervisory authorities of information necessary for their supervision and repealing Implementing Regulation (EU) 2015/2450 (**Implementing Regulation**) was published in the Official Journal of the European Union (**OJ**).

The Implementing Regulation contains various supervisory reporting templates including:

- Templates For Supervisory Reporting;
- Quantitative Reporting Templates for Individual Undertakings; and
- Quantitative Reporting Templates for Groups.

The text of the Implementing Regulation can be accessed [here](#).

2. EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY (EIOPA)

2.1 EIOPA updates Q&As on Regulation

During the second quarter of 2023, the European Insurance and Occupational Pensions Authority (**EIOPA**) published updated Q&As on the following topics, relating to the Solvency II Directive:

- Reporting Templates – Question IDs [2627](#), [2632](#), [2639](#), [2642](#), [2643](#), [2645](#), [2678](#), [2686](#).
- Risk Concentration – Question ID [2408](#).

3. INSURANCE DISTRIBUTION DIRECTIVE (IDD)

3.1 EU Commission adopts Retail Investment Strategy

On 24 May 2023, the European Commission published its Retail Investment Strategy seeking to "empower retail investors to make investment decisions that are aligned with their needs and preferences, ensuring that they are treated fairly and duly protected".

The proposal comprises:

- a Directive amending rules set out in the Undertakings for Collective Investment in Transferable Securities Directive (**UCITS Directive**)¹, the Solvency II Directive², the Alternative Investment Fund Managers Directive (**AIFMD**)³, MiFID II⁴, and the Insurance Distribution Directive (**IDD**)⁵ (the **Omnibus Directive Proposal**), which can be accessed [here](#); and
- a Regulation amending the Packaged Retail and Insurance-based Investment Products Regulation (**PRIIPs Regulation**)⁶, in particular with regard to rules on the key information document (**KID**), which can be accessed [here](#).

¹ Directive 2009/65/EC

² Directive 2009/138/EC

³ Directive 2011/61/EU

⁴ Directive 2014/65/EU

⁵ Directive 2016/97

⁶ Regulation (EU) No 1286/2014

(together, the **Legislative Proposals**).

The European Commission aims to amend organisational and conduct requirements for various types of financial firms and to align regulatory requirements across different distribution channels.

The Legislative Proposals include the following measures:

- The modernisation of disclosure rules, adapting them to the digital age and investors' sustainability preferences;
- The development of benchmarks against which the value of financial products need to be assessed;
- The addressing of potential conflicts of interest by banning inducements for "execution-only" sales and strengthening conditions where inducements are allowed;
- Ensuring financial advisors examine retail investors' financial situation more carefully;
- Requiring that marketing be fair, clear and not misleading also via digital channels and influencers;
- The improvement of both financial advisors' and retail investors' knowledge of financial markets;
- The improvement of investor categorisation by reforming the eligibility criteria for professional investors; and
- The enhancement of supervisory cooperation between national competent authorities and the European Supervisory Authorities (**ESAs**).

The European Commission has published a suite of documents accompanying the Legislative Proposals, available [here](#).

4. PRIIPS

4.1 Publication of Consolidated FAQ on PRIIPS Regulation

On 17 May 2023, the ESAs published a consolidated Q&A containing all responses given by the European Commission on the PRIIPS Regulation (coded in blue) as well as all responses provided by the ESAs relating to the practical application or implication of the PRIIPS Regulation and its delegated acts to date (not colour coded).

A copy of the consolidated Q&A can be accessed [here](#).

4.2 European Commission proposes amendments to PRIIPS Regulation

On 24 May 2023, the European Commission published its Retail Investment Strategy which, in addition to the proposed measures set out at Section 3.1 above, proposes targeted changes to the PRIIPS Regulation which are intended to improve information for investors and their ability to take well-informed decisions as well as adapting disclosures to the digital environment.

The proposed changes to the PRIIPS Regulation and related implementing measures include (but are not limited to):

- The inclusion of a new section in the PRIIPS KID entitled "How environmentally sustainable is this product" which is intended to complement the existing EU sustainable finance disclosure framework;
- The inclusion of a new "dashboard" of key information on the first page of the PRIIPS KID which will provide information on the summary risk indicator, "total costs" figure and recommended holding period;
- Clarifying that certain types of corporate bonds with make-whole causes are out of the scope of the PRIIPS Regulation provided that they are redeemed at a fair value;
- Amending the rules for presenting costs of multi-option products (**MOPs**); and
- Introduction of other changes to adapt the PRIIPS KID to a digital environment.

The legislative proposals put forward by the European Commission must now be considered by the European Parliament and the Council of Europe.

The proposed amendments to the PRIIPS Regulation can be accessed [here](#).

A Dillon Eustace briefing on the topic can be accessed [here](#).

5. CENTRAL BANK OF IRELAND

5.1 Updated Central Bank Procedures for Fitness and Probity Investigations, Suspensions and Prohibitions

In April 2023, the Central Bank published updated regulations and guidance for its Fitness and Probity investigations, suspensions and prohibitions procedures, which apply from 20 April 2023, namely the:

- Central Bank Reform Act 2010 (Procedures Governing the Conduct of Investigations) Regulations 2023, available [here](#); and
- Fitness and Probity - Investigations, Suspensions and Prohibitions: Guidance (April 2023), available [here](#).

(together, the **Updated Regulations and Guidance**).

For further details on the Updated Regulations and Guidance, please refer to the Dillon Eustace briefing on this topic which can be accessed [here](#).

5.2 Central Bank publishes General Good Rules

On 18 April 2023, the Central Bank published a document entitled “General Good Rules Arising from the Directive (EU) 2016/97 on Insurance Distribution” (**General Good Rules**).

This document sets out the general good rules, in accordance with Article 11 of the IDD, that insurance distributors and reinsurance distributors must adhere to when operating in Ireland on a cross-border basis. The Central Bank notes that the list of rules provided is indicative and without prejudice to other general good rules, codified or not, which are applicable to regulated entities in Ireland.

The General Good Rules can be accessed [here](#).

5.3 Central Bank publishes Report on Insurance Digitalisation Survey

On 26 May 2023, the Central Bank published a report on digitalisation in insurance (**Report**) which presents the findings of their “Insurance Digitalisation Survey”. The purpose of the survey was to develop a clearer understanding of the impact of digitalisation throughout the insurance value chain and to identify key opportunities, risks and challenges.

Key survey results include:

- The majority of respondents are undertaking, or plan to undertake, initiatives to digitalise business models, with an initial focus on improving the efficiency of processes within the firm;
- 86% of respondents indicated a commercial relationship with “Big Tech”, with the use of technologies such as cloud computing and Artificial Intelligence often being facilitated by a relationship with group or third parties; and
- 75% of firms indicated they have a digital strategy in place.

Overall, the survey results indicate a steady pace of digitalisation and incremental, rather than transformational, change during the next three years.

In its Report, the Central Bank notes that firms may need to reflect on the appropriateness of their overall approach to the management of digitalisation risks, to ensure continued adherence with relevant requirements. The Central Bank emphasises that, while the extent of digitalisation may vary between firms, a clear strategy and robust oversight (including at board level) remain of fundamental importance.

The Report can be accessed [here](#).

5.4 Central Bank publishes consultation on Guidelines in respect of the Administrative Sanctions Procedure (CP154)

On 9 March 2023, the Central Bank (Individual Accountability Framework) Act 2023 (**Act**) was signed into law.

The Act was introduced to promote individual accountability within the financial services sector and is intended to make individuals in key positions individually responsible for their actions within the scope of their roles (**IAF**). This includes senior management, directors and other decision makers with an impact on the firm's overall performance, with the ultimate goal being an improvement in integrity and stability.

The Act also introduces a number of important changes intended to enhance the Central Bank's Administrative Sanctions Procedure (**ASP**) which are intended to underpin and support the introduction of the IAF and to incorporate additional safeguards.

On 22 June 2023, the Central Bank published CP154, which contains draft consolidated guidelines in respect of the ASP, for consultation. The consultation will close on 14 September 2023, following which the Central Bank will review all feedback received.

Interested stakeholders are invited to submit their feedback on CP154 to the Central Bank by the deadline of 14 September 2023 via email to ASPconsultation2023@centralbank.ie.

A copy of the Act can be accessed [here](#).

CP154 can be accessed [here](#).

5.5 Central Bank publishes quarterly Insurance Newsletter

On 29 June 2023, The Central Bank published its quarterly Insurance Newsletter (**Newsletter**). The Newsletter aims to provide relevant news and insights to key stakeholders in the insurance sector.

The Newsletter addresses the following topics:

- Thematic Inspection of Product Oversight and Governance;
- The Central Bank's observations based on supervision of reinsurance activities;
- Insurance Digitalisation Survey; and
- Key conduct risks in the insurance sector.

The Newsletter can be accessed [here](#).

5.6 Central Bank conducts Thematic Inspection of Product Oversight & Governance

In the latter half of 2022, the Central Bank conducted a thematic inspection of Product Oversight and Governance (POG) arrangements in a selection of non-life insurance undertakings.

In its quarterly Insurance Newsletter (Newsletter), published 29 June 2023, the Central Bank provided a summary of the common themes and key issues, together with good practices, identified following the thematic inspection.

The Central Bank stated that it expects strong second line and Board oversight of all new products and material changes to existing products, noting that firms need to ensure that the POG process is integrated with both the emerging risk and ORSA processes. Furthermore, following the thematic review, the Central Bank issued to certain firms Risk Mitigation Programmes in relation to enhancing the role of the Risk Function in relation to POG. Examples of good practice identified during the thematic review include the inclusion of

at least one member of the Board with a detailed understanding of insurance products, the establishment of a “Customer Forum”, the establishment of a formally constituted “Wordings Committee” and the formal scheduling of product reviews.

The Central Bank concludes by noting that many firms need to do more to ensure they have robust procedures and controls, as well as technical expertise to advise and challenge, to ensure they have a full understanding of their exposures from the products they offer.

The Newsletter can be accessed [here](#).

6. ANTI-MONEY LAUNDERING (AML) AND COUNTERING THE FINANCING OF TERRORISM (CFT)

6.1 European Commission adds Nigeria and South Africa to its list of high-risk countries

Under Article 9 of Directive (EU) 2015/849 (the **Fourth Anti-money Laundering Directive**), the European Commission is mandated to adopt and maintain a list of countries with strategic deficiencies in their anti-money laundering/countering the financing of terrorism regimes.

On 17 May 2023, the European Commission published a draft delegated regulation adding Nigeria and South Africa to its list of high-risk third countries and deleting Cambodia and Morocco from that list.

The delegated regulation will enter into force following its publication in the OJ and after the standard two-month scrutiny period by the European Parliament and the Council of Europe.

A copy of the delegated regulation can be accessed [here](#).

6.2 Changes to the right of access to the Central Register of Beneficial Ownership of Companies

On 13 June 2023, the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) (Amendment) Regulations 2023 (**Amending Regulation**) became law in Ireland, restricting access to the Central Register of Beneficial Ownership of Companies to those persons who have a “legitimate interest” in anti-money laundering and the countering of terrorism financing.

The amending regulations are required on foot of the European Court’s decision in *Sovim*⁷ in November 2022. The Court found that a regime of general public access to companies’ beneficial ownership information constituted a “a serious interference with the fundamental rights to respect for private life and to the protection of personal data.”

Under the “legitimate interest requirement, the interested party must demonstrate to the Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies that:

- the person is engaged in the prevention, detection or investigation of money laundering or terrorist financing offences;
- they are seeking to inspect the information for those purposes; and
- that the relevant entity concerned is connected with persons convicted of an AML/CTF offence or holds assets in a high-risk third country.

The Amending Regulations amend the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019 (**Principal Regulation**).

The Principal Regulation can be accessed [here](#).

The Amending Regulation can be accessed [here](#).

⁷ The *Sovim* decision (C-37/20 and C-601/20)

7. DATA PROTECTION

7.1 EDPB publishes Final Guidelines on Data Subject Right of Access

On 17 April 2023, the European Data Protection Board (**EDPB**) published a final version of the Guidelines 01/2022 on data subject rights - Right of access (**Guidelines**). The updated version follows a public consultation on their draft guidelines published on 18 January 2022.

The Guidelines include consideration of:

- The aim of the right of access, the structure of Article 15 of GDPR and general principles;
- General considerations regarding the assessment of access requests;
- Scope of the right of access and the personal data and information to which it refers;
- Guidelines on how controllers can provide access;
- Limits and restrictions of the right of access; and
- A flowchart illustrating the process relevant firms should take in interpreting, assessing and processing a request.

The Guidelines can be accessed [here](#).

7.2 EDPB promotes consistent approach for 101 NOYB data transfers complaints

On 19 April 2023, the EDPB published a report of the work undertaken by supervisory authorities within the “101 Task Force”. This task force (**TF**) was initiated at a plenary meeting on 2 September 2020 to ensure a common supervisory approach to the 101 complaints made by non-profit organisation NOYB regarding transfers of personal data to the USA earlier in that year.

The complaints revolve around the implementation of the tools “Google Analytics” and “Facebook Business Tools” (“**tools**”) on a website and the subsequent processing of personal data that may follow because of such implementation.

The report details three main topics:

1. **Transfers of Personal Data:** Even if appropriate standard contractual clauses are used, additional measures must still be in place to address deficiencies identified in the *Schrems II* judgement. In this context, the TF members agreed that encryption by the data importer was not a suitable measure if the data importer, as provider of the tool, has legal obligations to provide the cryptographic keys. In addition, there was an agreement that anonymization functions, such as the anonymization of the IP address, are not a suitable measure where the anonymization takes place only after all the data has been transferred to the third country to the importer.
2. **Principle of Accountability:** The onus of compliance is not solely upon the website operators (as data controllers), but in certain instances also on respective “providers of tools” which enable the processing of data to a sufficient degree whereby they can be considered a controller, or a processor for the purposes of the assistance obligations under Article 28 GDPR.
3. **Allocation of data protection roles:** The TF members agreed that the decision of a website operator to use a specific tool for specific purposes is regarded as determining the “purposes and means” pursuant to Article 4(7) GDPR (as relevant for identifying the data controller(s)).

The report can be accessed [here](#).

7.3 European Parliament issues Opinion rejecting the proposed EU-US Data Privacy Framework

On 11 May 2023, the European Parliament adopted a non-binding opinion concluding that the EU-U.S. data privacy framework proposed by the European Commission on 13 December 2022 (**EU-U.S. Data Privacy Framework**) fails to ensure an adequate level of protection for personal data transferred from the EU to US companies (**Opinion**).

The European Commission had previously proposed on 13 December 2022 that the EU-U.S. Data Privacy Framework, which was intended to replace the previous US Privacy Shield invalidated by the CJEU in the *Schrems II* case, would ensure equivalence in the level of protection between U.S. and EU Law.

In the Opinion, the European Parliament indicates that;

- It has taken note of the efforts made in the President of the United States' Executive Order 14086 of 7 October 2022 on Enhancing Safeguards for United States Signals Intelligence Activities (**EO 14086**) to lay down limits on US signals intelligence activities. However, the European Parliament voices its concerns in respect EO 1408, such as the failure to provide sufficient safeguards in the case of bulk data collection and the failure to provide clear rules on data retention.
- In respect of the principles of proportionality and necessity introduced by EO 14086, the substantive definitions in EO 14086 are not in line with their definition under EU law and their interpretation by the CJEU. The European Parliament also points out that for the purposes of the EU-US Data Privacy Framework, these principles would be interpreted solely in the light of US law and legal traditions and not those of the EU.
- In relation to the new Data Protection Court, the European Parliament calls out the inability of European citizens to seek effective judicial redress in the U.S. courts to the same extent as US citizens, the failure of the proposed redress process to provide for an avenue for appeal in a federal court and the failure to provide any possibility for of European citizens to claim damages and the lack of independence of the Date Protection Review Court.

The Opinion notes that the European Parliament believes that the EU-US Data Privacy Framework fails to create essential equivalence in the level of protection in the U.S, and it therefore calls on the European Commission to continue negotiations with its U.S. counterparts with the aim of creating a mechanism that would ensure such equivalence and which would provide the adequate level of protection required by Union data protection law. It has called on the European Commission not to adopt the adequacy finding until all the recommendations made in the Opinion and the EDPB opinion of 28 February 2023 are fully implemented.

A copy of the Opinion can be accessed [here](#).

7.4 EDPB adopts final version of its Recommendations 1/2022 on the application for approval and on the elements and principles to be found in Controller Binding Corporate Rules and template complaint form

On 20 June 2023, the EDPB adopted the final version (version 2.0) of its Recommendations 1/2022 on the application for approval and on the elements and principles to be found in Controller Binding Corporate Rules (**Recommendations**).

The Recommendations build upon the agreements reached by data protection authorities in the course of approval procedures on concrete BCR applications since the entering into application of the GDPR. The recommendations provide additional guidance and aim to ensure a level playing field for all BCR applicants. The recommendations also bring the existing guidance in line with the requirements in the CJEU's *Schrems II* ruling.

The Recommendations indicate that the EDPB expects all new and ongoing BCR-C applicants to bring their BCR-C in line with the requirements either during the application process or as part of their 2024 update.

The Recommendations can be accessed [here](#).

In addition, on 20 June 2023, the EDPB adopted a template complaint form to facilitate the submission of complaints by individuals and the subsequent handling of complaints by Data Protection Authorities in cross-border cases.

A copy of the template complaint form and the template acknowledgement of receipt can be accessed [here](#).

8. FINANCIAL SANCTIONS

8.1 Adoption of eleventh package of sanctions against Russia by the European Union on 23 June 2023

In reaction to Russia's continued military aggression against Ukraine, the European Union adopted additional economic sanctions against Russia which have been introduced through a suite of additional packages adopted by the Council of the European Union announced on 23 June 2023. This package included, amongst others, the following measures:

- (i) an extension to the existing prohibition on the sale of investment funds which provide exposure to transferable securities denominated in any EU official currency to Russian investors⁸ to prohibit the sale of investment funds which provide exposure to transferable securities denominated in any other currency issued after 6 August 2023 to any such Russian investors⁹;
- (ii) an extension to the list of those individuals and entities subject to restrictive measures;
- (iii) introduction of a further criterion for the listing of natural or legal persons, entities or bodies subject to the asset freeze and the prohibition on making funds and economic resources available to designated persons and entities and amendment of an existing listing criteria;
- (iv) introduction of further derogations from the asset freeze and the prohibition on making funds and economic resources available to certain listed entities to allow for divestment from Russian companies and the disposal of certain types of securities held with specified listed entities; and
- (v) additional provisions on information exchange and reporting.

For a complete overview of the additional measures introduced on 23 June 2023, please see the related press release which can be accessed [here](#).

The Central Bank's webpage on sanctions reporting can be accessed [here](#).

A consolidated version of the European Commission's frequently asked questions on the range of measures introduced in response to Russia's continued military aggression against Ukraine can be accessed [here](#).

9. SUSTAINABILITY

9.1 ESAs launch consultation on proposed amendments to SFDR Delegated Regulation

On 12 April 2023, the ESAs published a consultation paper on proposed amendments to the SFDR Delegated Regulation.¹⁰

The proposals put forward by the ESAs include, but are not limited to:

- Extension of the mandatory principal adverse impact (PAI) indicators to incorporate additional social indicators and targeted changes to some of the existing PAI indicators contained in the SFDR Delegated Regulation;
- Additional pre-contractual, periodic report and website disclosure obligations on any financial product which sets a greenhouse gas emissions reduction (or "decarbonisation") target; and

⁸ Russian investors for this purpose includes any Russian national, any natural person residing in Russia or any legal person, entity or body established in Russia. This prohibition is disapplied where the investor in question is an EEA national or a Swiss national or has a temporary or permanent residence permit in an EEA Member State or Switzerland.

⁹ Russian investors for this purpose includes any Russian national, any natural person residing in Russia or any legal person, entity or body established in Russia. This prohibition is disapplied where the investor in question is an EEA national or a Swiss national or has a temporary or permanent residence permit in an EEA Member State or Switzerland.

¹⁰ Commission Delegated Regulation (EU) 2022/1288 as amended by Commission Delegated Regulation (EU) 2023/363

- Simplification of the existing pre-contractual and periodic report annexes and the inclusion of a dedicated dashboard of key information.

The consultation closes on 4 July 2023. The ESAs are expected to issue their final advices containing revisions to the SFDR Delegated Regulation to the European Commission for its consideration by the end of October 2023.

A copy of the consultation paper can be accessed [here](#).

9.2 European Commission provides key clarifications on the SFDR framework

On 14 April 2023, the European Commission published its responses to questions posed by the ESAs on key aspects of the SFDR framework in September 2022.

Its responses provide guidance on a number of key concepts under the SFDR, including the following:

- The definition of “sustainable investment” under the SFDR and in particular how the “contribution” limb of the “sustainable investment” test can be satisfied;
- The scope of Article 9(3) of the SFDR, confirming that financial products which passively track a Paris-Aligned benchmark or a Climate Transition benchmark can be classified as an Article 9(3) financial product without being required to assess whether constituents of the benchmark satisfy the “sustainable investment” test under the SFDR;
- Confirmation that it is possible for an actively managed financial product to fall within the scope of Article 9(3) of the SFDR provided that related disclosure obligations have been satisfied; and
- Confirmation that in order for a financial product to consider PAIs of investment decisions on sustainability factors, procedures must be implemented to mitigate those impacts.

The European Commission guidance can be accessed [here](#).

A copy of the questions posed by the ESAs on the SFDR framework in September 2022 can be accessed [here](#).

9.3 ESAs publish Consolidated Q&A on the SFDR and SFDR Delegated Regulation

On 17 May 2023, the ESAs published a consolidated Q&A containing all responses given by the European Commission on the SFDR and the SFDR Delegated Regulation (coded in blue) as well as all responses provided by the ESAs relating to the practical application or implication of SFDR (not colour coded) to date.

A copy of the Consolidated Q&A can be accessed [here](#).

9.4 Provisional agreement reached on European Single Access Point

On 23 May 2023, the Council of the European Union announced that agreement has been reached between it and the European Parliament on the creation of a European Single Access Point (**ESAP**) under which financial and sustainability-related information published by European companies, including small companies, will be made available to investors free of charge via a digital platform.

ESAP will provide access to information already made public by in-scope companies under relevant European directives and regulations. Amongst other objectives, this is intended to facilitate ease of access for financial market participants to sustainability-related information reported by in-scope European companies.

Under the provisional agreement, the ESAP platform is expected to be available from summer 2027 and gradually phased in to allow for a robust implementation.

The provisional agreement must be confirmed by the Council of Europe and the European Parliament before it can be formally adopted.

The Council of Europe's press release can be accessed [here](#)

9.5 European Commission publishes draft delegated acts under CSRD for consultation

On 12 June 2023, the European Commission launched a consultation on draft delegated acts containing the first set of sustainability reporting standards for large European companies and listed European companies under the Corporate Sustainability Reporting Directive (**CSRD**) under which in-scope European companies will be required to report on their environmental and societal impact as well as about risks faced from climate change and other issues.

The first delegated act, which takes into account technical advice from European Financial Reporting Advisory Group (**EFRAG**), sets out cross-cutting standards and standards for the disclosure of environmental, social and governance information.

The consultation closed on 7 July 2023 after which the European Commission will consider feedback received and then submit finalised delegated acts to the European Parliament and Council for scrutiny.

The CSRD will be effective for financial years starting on or after 1 January 2024 for those entities already subject to the Non-Financial Reporting Directive (reporting in 2025) and for financial years starting on or after 1 January 2025 for all other large companies (reporting in 2026).

A copy of the draft delegated acts being consulted on can be accessed [here](#).

9.6 European Commission publishes Sustainable Finance Package

On 13 June 2023, the European Commission published a range of measures which are intended to “build on and strengthen the foundations of the EU sustainable finance framework.”

The measures announced by the European Commission include the following

:

Adoption of new EU Taxonomy Delegated Acts by the European Commission

Following a consultation on draft delegated acts under the Taxonomy Regulation earlier this year, the European Commission announced the following:

- Adoption of delegated acts setting down the technical screening criteria which must be satisfied in order for an economic activity to be considered to make a substantial contribution to (i) sustainable use and protection of water and marine resources, (ii) transition to a circular economy, (iii) pollution prevention and control and (iv) protection and restoration of biodiversity and ecosystems, thus allowing new sectors and operators to show their Taxonomy alignment. A copy of the draft delegated acts and accompanying annexes are available [here](#);
- Adoption of targeted amendments to the existing EU Taxonomy Climate Delegated Acts which expand on the economic activities contributing to climate change mitigation and climate change adaptation not yet covered by the EU Taxonomy framework, in particular the manufacturing and transport sectors, which are available [here](#); and
- Adoption of amendments to the existing EU Taxonomy Disclosures Delegated Acts which apply to entities falling within the scope of Article 8 of the Taxonomy Regulation to clarify the disclosure obligations for the additional activities.

Assuming that neither of the European Parliament or the Council of Europe object to the draft delegated acts adopted by the European Commission, they will enter into force and apply from January 2024.

Proposal for a Regulation on ESG Rating Providers

The European Commission also launched a consultation on a proposed regulation on the transparency and operations of ESG rating providers (**ESG Rating Providers Proposal**) which is intended to improve the quality of ESG ratings by; (i) improving transparency of ESG ratings characteristics and methodologies; and (ii) ensuring increased integrity of operations of ESG rating providers and the prevention of risks of conflicts of interest at ESG rating providers' level. The European Commission has proposed that all ESG rating providers offering services to investors and companies in the EU should be authorised and supervised by ESMA.

The consultation process closes on 22 August 2023.

The draft ESG Rating Providers Proposal is available [here](#).

Recommendation on Transition Finance

The European Commission also published a recommendation on facilitating finance for the transition to a sustainable economy (**Recommendation**).

The Recommendation is intended to provide guidance as well as practical examples to companies and the financial sector on how they can use the various tools of the EU sustainable finance framework voluntarily to channel the urgently needed investments into transition and manage their risks stemming from climate change and environmental degradation.

A copy of the Recommendation can be accessed [here](#).

Commission Notice on Interpretation and Implementation of certain legal provisions of the Taxonomy Regulation and links to the SFDR

As part of this package, the European Commission published a new FAQ document on the interactions between the concepts of 'taxonomy-aligned investment' and 'sustainable investment' under the SFDR.

In this document, the European Commission clarified that investments in 'environmentally sustainable economic activities' within the meaning of the EU Taxonomy can be qualified as a 'sustainable investment' within the meaning of the SFDR. This clarification intends to simplify and encourage the use of the taxonomy framework as a base for a common understanding of what environmental sustainability means in EU financial products and use of proceeds instruments.

A copy of the FAQ document can be accessed [here](#)

Enhancement of the usability of the EU Taxonomy and the overall EU sustainable finance package

The European Commission also published a staff working document on the usability of the EU Taxonomy and the wider EU sustainable finance framework which it summarises the most recent measures and initiatives adopted by it to support stakeholders in their implementation efforts.

The European Commission has also launched a series of online tools and guides which are intended to help stakeholders when assessing and reporting their taxonomy alignment.

These documents and tools are now gathered on the new EU Taxonomy Navigator website which provides access to the following:

- EU Taxonomy Compass;
- EU Taxonomy Calculator;
- FAQs repository providing an overview of questions and answers on the EU Taxonomy and its delegated acts; and

- EU Taxonomy User Guide-a simple guide on the Taxonomy for non-experts.

The EU Taxonomy Navigator website can be accessed [here](#).

A copy of the European Commission's staff working document can be accessed [here](#).

Details of the full package of measures announced by the European Commission are available [here](#).

10. MISCELLANEOUS

10.1 European Commission adopts draft Memorandum of Understanding with the United Kingdom

On 17 May 2023, the European Commission announced that it has adopted a draft Memorandum of Understanding (**MoU**) establishing a framework for structured regulatory cooperation in the area of financial services with the UK.

The MoU, once signed by both Parties, will create the administrative framework for voluntary regulatory cooperation in the area of financial services between the EU and the UK. The MoU does not deal with the access of UK-based firms to the Single Market – or EU firms' access to the UK market - nor does it prejudge the adoption of equivalence decisions.

The draft MOU is subject to final political endorsement by the European Council before it can be signed by the Commission on behalf of the EU.

A copy of the press release can be accessed [here](#).

10.2 IAIS publishes Issues Paper on Insurance Sector Operational Resilience

On 23 May 2023, the International Association of Insurance Supervisors (**IAIS**) published an Issues Paper on Insurance Sector Operational Resilience (**Issues Paper**).

The Issues Paper identifies various key issues impacting operational resilience in the insurance sector on a global scale and reflects upon methods used by supervisors to tackle these developments, with particular reflection on what the industry has learned from the COVID-19 pandemic.

The paper focuses on the following key issues and supervisory approaches with regard to operational resilience:

- Governance and Board accountability;
- Information collection and sharing;
- Cyber resilience;
- IT third-party outsourcing; and
- Business continuity management.

The Issues Paper can be accessed [here](#).

10.3 Provisional Agreement reached on Directive concerning Financial Services Contracts Concluded at a Distance

On 6 June 2023, the Council of the EU and the European Parliament reached a provisional political agreement on the directive concerning financial services contracts concluded at a distance, repealing the existing Distance Marketing Directive and inserting its provisions into the Consumer Rights Directive once finalised.

The agreed text simplifies existing legislation, increases consumer protection and is intended to reduce unnecessary burden and create a level playing field for financial services concluded at a distance in order to encourage the cross-border provision of such services. It is also intended to improve the rules around information disclosure and aims to provide better protection for consumers in the digital environment. Under the agreed text, where the consumer concludes a contract using online tools (such as robo-advice or chatbots), the consumer will have the right to request human intervention in order to fully understand the effects of the contract on their financial situation.

The agreed text also provides for a 'withdrawal function', which aims to ensure that to withdraw from a contract is not more burdensome than to enter it.

The provisional agreement must now be formally adopted by both the European Parliament and the Council of Europe before being published in the OJ.

A copy of the Council's press release can be accessed [here](#).

10.4 ESAs launch Consultation on first batch of DORA RTS

On 19 June 2023, the ESAs published the first batch of policy mandates in respect of Articles 15, 16(3), 18(3), 28(9) and 28(10) of the [Digital Operational Resilience Act \(DORA\)](#).

Please refer to our Dillon Eustace briefing paper entitled "First Public Consultation on DORA standards launched" for further information, which can be accessed [here](#).

10.5 Road Traffic and Roads Act 2023 signed into law

On 27 June 2023, the Road Traffic and Roads Act 2023 (**Act**) was signed into law.

The Act legislates, for the first time, the use of E-scooters and E-bikes on Irish roads with implications for the range of related insurance products available in the market.

The Act resolves the legal barriers to the use of E-scooters on public roads by introducing a new class of vehicle called Personal Powered Transporters (**PPTs**). Regulations can now be commenced to classify e-scooters as PPTs, allowing the Minister for Transport to specify appropriate power, speed and weight values, along with other technical and usage requirements for e-scooters. PPTs do not require registration, motor tax, insurance or a driving licence to use on Irish roads. Until the regulations are in place, e-scooters will remain illegal for use on public roads. Once the Regulations are in place, those that do not comply with them will be illegal to be used on public roads.

In addition, the legal position of E-bikes has been clarified. E-bikes with a maximum power output of 250W and a motor cut-off speed of 25km/hr will be treated as bicycles under Irish law. E-bikes that can go faster than 25km/hr or have a power output greater than 250W, and those that can operate without pedalling will now be classified as an e-moped. Under the new categorisation, E-mopeds will be seen as motorised vehicles which will require a licence, registration, tax and insurance to be used on Irish roads. The new rules for E-mopeds are expected to come into effect in Q1 2024.

The text of the Act can be accessed [here](#), and an accompanying Press Release can be accessed [here](#).

If you have any questions in relation to the content of this update, to request copies of our most recent newsletters, briefings or articles, or if you wish to be included on our mailing list going forward, please contact any of the team members below.

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