

MiFID Monitor

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1 MiFID II

1.1 ESMA statement on amendments made by MiFIR II and MiFID III Directive

On 10 October 2025, ESMA published a statement relating to the application of certain provisions of [MiFIR](#) and the [MiFID II Directive](#) in light of amendments made under [MiFIR II](#) and the [MiFID III Directive](#).

The statement provides practical guidance to firms on the following:

- Revised systematic internaliser (SI) regime;
- The new single volume cap mechanism under MiFIR;
- Application of amended provisions of MiFID II in relation to commodity derivatives and derivatives on emission allowances;
- Application of revised transparency rules for bonds, structured finance products, emission allowances and equity instruments introduced under MiFIR II.

ESMA refers to its 8 October 2025 announcement on the standard market size for liquid instruments on the basis of the amended Table 3 and the new Table 3a of Annex II of Commission Delegated Regulation 2017/583. It has also published an amended version of its manual on pre-trade and post-trade transparency.

ESMA has stated that market participants are still expected to comply with the provisions as amended, irrespective of any change in timing for the European Commission's adoption of delegated and implementing acts. The revised MiFID II provisions will apply when the relevant changes have been transposed into national law.

ESMA's statement can be accessed [here](#).

ESMA's announcement from 8 October can be accessed [here](#).

ESMA's amended version of the manual can be accessed [here](#).

1.2 The EBA and ESMA recommend targeted revisions to the investment firms' prudential framework

On 15 October 2025 the EBA and ESMA together published a report on technical advice to the European Commission on the investment firms prudential framework set out in the [Investment Firms Regulation \(EU\) 2019/2033](#) (IFR) and [Investment Firms Directive \(EU\) 2019/2034](#) (IFD).

The report makes 49 recommendations, including in relation to the following:

- **Consistency of application** – the authorities believe there is potential for a more consistent application across the EU in some aspects of the framework, specifically referring to the need for clarity in terms and definitions used for K-factor requirements and prudential consolidation.
- **Proportionality and functioning** – the authorities suggest increasing thresholds for firms to establish risk and remuneration committees and harmonising the methodologies for categorisation thresholds, thus improving the framework's functionality and ensuring that it is applied proportionately.
- **Level playing field** – the authorities recommend improvements which strive towards a level playing field among investment firms within the EU and those that compete on an international level with market participants.

Under Article 60 of the IFR and Article 66 of the IFD, the Commission is required to produce a report on the IFR-IFD prudential framework, along with legislative proposals where appropriate, following consultation with the authorities. The Commission had made a formal call for advice to the authorities concerning the IFR and the IFD in February 2023.

The full technical advice can be accessed [here](#).

The respective press releases from ESMA and the EBA can be found [here](#) and [here](#).

1.3 Commission Implementing Regulation amending reporting and disclosure ITS under IFR

On 31 October 2025, [Commission Implementing Regulation \(EU\) 2025/2159](#), which amends the ITS set out in Implementing Regulation (EU) 2021/2284 (Implementing Regulation) in respect of supervisory reporting and disclosures of investment firms, was published in the Official Journal of the European Union.

The Implementing Regulation relates to the [Investment Firms Regulation 2019/2033](#) (IFR) and was published in December 2021. The revised reporting framework reflects changes introduced under the CRR III Regulation¹. The proposed amendments are based on Implementing Regulation (EU) 2024/3117, published in January 2025, and contain no significant changes, meaning that the EBA have not consulted on the ITS.

The European Commission adopted the ITS on 27 October 2025 and they entered in force on 20 November 2025.

1.4 Delegated Regulations enabling creation of consolidated tape under MiFIR

On 3 November 2025, the following Delegated Regulations were published in the Official Journal of the European Union. These Regulations facilitate the creation of the consolidated tape (CT), a centralised database intended to improve overall price transparency across EU trading venues under MiFIR²:

- [Commission Delegated Regulation \(EU\) 2025/1143](#) – this will supplement MiFIR in respect of regulatory technical standards (RTS) on the authorisation and organisational requirements for approved publication arrangements (APAs) and approved reporting mechanisms (ARMs), along with authorisation requirements for CT providers, and repealing Delegated Regulation (EU) 2017/571;
- [Commission Implementing Regulation \(EU\) 2025/1155](#) – supplementing MiFIR in the respect of RTS which specify the input and output data of CTs, synchronisation of business clocks and the revenue redistribution by the CT provider for shares and exchange traded funds along with repealing Delegated Regulation (EU) 2017/574;
- [Commission Delegated Regulation \(EU\) 2025/1156](#) – supplementing MiFIR in respect of RTS relating on the obligation to make market data available to the public on a reasonable commercial basis;
- [Commission Implementing Regulation \(EU\) 2025/1157](#) – containing implementing technical standards (ITS) for the application of MiFIR with regard to standard forms, templates and procedures for the authorisation for APAs, ARMs and CT providers, and repealing Commission Implementing Regulation (EU) 2017/1110;
- [Commission Delegated Regulation \(EU\) 2025/1246](#) – amending the RTS set out in Delegated Regulations (EU) 2017/583 and (EU) 2017/587 as regards transparency requirements for trading venues and investment firms for bonds, structured finance products, emission allowances and equity instruments.

These Delegated Regulations were adopted by the European Commission in June 2025 and entered into force on 23 November 2025.

¹ CRR III Regulation ((EU) 2024/1623)

² Markets in Financial Instruments Directive (2014/65/EU)

1.5 European Commission adopts Delegated Regulation on equity transparency under MiFIR

On 24 November 2025, the European Commission adopted a Delegated Regulation³, amending [Delegated Regulation \(EU\) 2017/567](#).

Following a review, the amendments reflect changes to MiFIR⁴, and the MiFID II Directive⁵ made by MiFIR II⁶ and MiFID III⁷. An annex to the draft Delegated Regulation was also published.

The proposed amendments to Delegated Regulation (EU) 2017/567 include the following topics:

- What constitutes a liquid market for equity instruments;
- The obligation to provide market data on a “reasonable commercial basis”;
- Definition of and disclosure for post-trade risk reduction; and
- For the purposes of obligations for systematic internalisers, the size specific to the financial instrument.

Both the Council of the EU and the European Parliament will scrutinise the draft Delegated Regulation. If there are no objections, the Delegated Regulation will enter into force on the third day after its publication within the Official Journal of the European Union.

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

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

1.6 ESMA to launch Common Supervisory Action on MiFID II conflicts of interest requirements

On 2 December 2025, ESMA announced the launch of a Common Supervisory Action (CSA) with National Competent Authorities (NCAs) to address conflicts of interest in the distribution of financial instruments.

This CSA will assess how firms comply with their MiFID II⁸ obligations to identify, prevent and manage conflicts of interest when providing investment products to retail clients.

The focus of the CSA will include:

- Potential impact of staff remuneration and inducements on what products are offered to investors;
- Role played by digital platforms in directing investors towards products, and if this serves their best interests; and
- Ways firms negotiate the balance between the needs of retail investors and generating their own profits, thereby avoiding conflicts.

ESMA expects the CSA to strengthen investor protection across the EU and assist with the consistent application of EU rules. The CSA will be carried out by ESMA and the NCAs in 2026.

The ESMA press release can be accessed [here](#).

³ (C(2025) 7810 final)

⁴ Markets in Financial Instruments Regulation (EU) No. 600/2014

⁵ Markets in Financial Instruments Directive (2014/65/EU)

⁶ Markets in Financial Instruments Regulation (EU) 2024/791

⁷ Markets in Financial Instruments Directive (EU) 2024/790

⁸ Markets in Financial Instruments Directive (2014/65/EU)

1.7 European Commission consults on MiFID II research services

On 4 December 2025, the European Commission published a consultation for a draft Commission Delegated Directive (**Draft Directive**) to amend the [MiFID II Delegated Regulation](#) regarding the conditions under which third-party execution and research services are provided to investment firms which in turn provide portfolio management or other investment or ancillary services.

The Draft Directive is pursuant to [Directive \(EU\) 2024/2811](#) and part of the Listing Act package, which further amended MiFID II⁹ by offering greater flexibility to investment firms in how payment for execution services and research is arranged. The main objective of the Draft Directive is to ensure consistent application of the amendments across the EU and to promote research on companies.

The Draft Directive amends Article 13 of the MiFID II Delegated Directive, and includes:

- New rules allowing for joint or separate payments for investment research and execution services;
- Requirement for firms to inform clients about the way they pay for research and execution services;
- Related transparency requirements.

The deadline for responses to the consultation was 1 January 2026 and the Draft Directive will apply from 6 June 2026.

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

The Draft Directive can be accessed [here](#).

1.8 ESMA finalises technical standards on derivatives transparency and the OTC derivatives tape

On 15 December 2025, ESMA published a final report on three sets of draft RTS in relation to transparency for derivatives, package orders and input and output data for the OTC derivatives consolidated tape under MiFIR.

The final draft RTS provided for within the report are as follows:

- Transparency requirements for derivatives – the RTS deal with the new MiFIR transparency regime for exchange traded derivatives and OTC derivatives
- Treatment of package orders- the report sets out final draft RTS on amendments made to reflect the new scope of derivatives and the liquidity determination
- Input and output data for OTC derivatives consolidated tape – the amendments are to reflect ESMA's new mandate to develop draft RTS which provide data quality requirements for prospective consolidated tape providers and data contributors which cover the OTC derivatives tape.

These final draft RTS were submitted to the European Commission, which has three months to decide whether to endorse them. Each of the draft Delegated Regulations state that they will apply from 1 March 2027.

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

The ESMA press release is available [here](#).

⁹ Markets in Financial Instruments Directive (2014/65/EU)

2 EU SAVINGS & INVESTMENTS UNION

2.1 European Commission adopts legislative proposals on integration of EU capital markets

On 4 December 2025, the European Commission published a communication to the European Parliament, the European Council, the Council of the EU, the ECB, the European Economic and Social Committee (**EESC**) and the Committee of the Regions regarding further development of capital market integration and supervision within the EU under its savings and investment union (**SIU**) package.

The Commission also published the texts of legislative proposals it has adopted which contain certain reforms for EU capital market integration. The proposals are to amend the following Regulations:

- [ESMA Regulation;](#)
- [EMIR;](#)
- [MiFIR;](#)
- [CSDR;](#)
- [SFTR;](#)
- [CCCPR;](#)
- [DLT Pilot Regime Regulation;](#)
- [MiCA;](#)
- [CRA Regulation;](#)
- [Benchmarks Regulation;](#)
- [Securitisation Regulation;](#)
- [Green Bond Regulation;](#) and
- [Regulation \(EU\) 2024/3005.](#)

This proposal can be accessed [here](#).

In addition, the package includes:

- a proposal for a Directive amending the UCITS Directive¹⁰, AIFMD¹¹ and the MiFID II Directive in respect to the further development of capital market integration and supervision within the Union. This proposal can be accessed [here](#).
- a proposal for a Regulation on settlement finality and the repeal of the Settlement Finality Directive¹² and amending the Financial Collateral Arrangements Directive¹³.

The Commission had previously consulted on its proposals for integration of EU capital markets in April 2025.

¹⁰ UCITS Directive (2009/65/EC)

¹¹ Alternative Investment Fund Managers Directive (2011/61/EU)

¹² Settlement Finality Directive (98/26/EC)

¹³ Financial Collateral Arrangements Directive (2002/47/EC)

Further detail in respect to the package is available [here](#).

3 DORA

3.1 European Supervisory Authorities designate critical ICT third-party providers under DORA

On 18 November 2025 the European Supervisory Authorities, which consists of the EBA, EIOPA and ESMA (**ESAs**), published a list of designated critical ICT third-party providers (**CTPPs**) under the Regulation on digital operational resilience for the financial sector (**DORA**), marking a significant step in the implementation of the DORA oversight framework.

Designated CTPPs play a key role within the financial ecosystem of the EU and provide a range of ICT services to a variety of financial entities. The methodology for the designation under DORA was as follows:

- ESAs collected data from the Registers of Information that are maintained by financial entities which outline their contractual arrangements for ICT services;
- ESAs conducted a criticality assessment in cooperation with Competent Authorities (CAs) across the EU in sectors such as banking, securities and markets and insurance and pensions. The assessment was also carried out pursuant to a set of criteria under DORA, requiring a complete evaluation of the systemic importance of providers, the role it plays in supporting critical or important functions for financial entities and the substitutability level of its services; and
- ICT third-party providers that were assessed as critical were formally notified and provided with the right to be heard by providing a reasoned statement. Final decisions were adopted following careful review of all relevant information in order to ensure the integrity of the process.

The full list of CTPPs designated by the ESAs can be accessed [here](#).

The accompanying press release can be accessed [here](#).

3.2 ESAs report on whether statutory auditors should be subject to DORA

On 17 December 2025, the ESAs published a joint report (dated 4 December 2025) to the European Commission which concluded that the scope of DORA should not extend to statutory auditors and audit firms.

The consultation between the Commission and the ESAs took place pursuant to the requirement set out in Article 58(3) of DORA. The resulting report from the ESAs came in response to a letter from the Commission, also published on 17 December 2025, requesting the review. This letter can be accessed [here](#).

The ESAs reviewed the role played by statutory auditors and audit firms in the financial sector and greater economy and the regulatory framework which applies to them. The ESAs concluded that the inclusion under DORA would be unwarranted at this stage.

The joint report from the ESAs can be accessed [here](#).

4 AML & CFT

4.1 Central Bank of Ireland updates its supervisory approach to AML/CFT risk

The Central Bank of Ireland (Central Bank) is adapting its supervisory approach to AML and CFT risk, with regard to the new EU AML framework and the Financial Action Task Force (FATF) standards. The existing AML/CFT Risk Evaluation Questionnaire (REQ) will be replaced over a phased timeline with sector specific REQs, with the objective of capturing more detailed and relevant risk data to allow for better decision making and supervisory strategy.

It is proposed that each institution will be required to submit a sector-specific REQ, and the Central Bank have released revised REQ templates and guidance for the following entities:

- Credit Institutions – the REQ XSD schema, REQ Template and Guidance Note can be accessed [here](#). The submission date is 27 February 2026.
- Payment institutions/electronic money institutions - the REQ XSD schema, REQ Template and Guidance Note can be accessed [here](#). The submission date is 13 February 2026.
- Investment firms - the REQ XSD schema, REQ Template and Guidance Note can be accessed [here](#). The submission date is 30 June 2026.

Sector-specific REQs for the remaining sectors will be introduced in 2026.

The Central Bank have sought to ensure that the revised REQs align with the data requests that will arise from the EU Anti-Money Laundering Authority (AMLA). The completed REQ file should be uploaded to the Central Bank's Portal, and files will be available for submission at least two weeks before the submission date.

4.2 EU list of high-risk third countries (AML)

On 3 December 2025, the European Commission adopted two EU delegated regulations updated its list of high-risk third countries (HRTCs) presenting strategic deficiencies in their national anti-money laundering and countering the financing of terrorism (AML/CFT) regimes. Two delegated regulations were issued by the European Commission:

- Firstly, an EU delegated regulation to delist the following third-country jurisdictions from the list: South Africa, Burkina Faso, Mali, Mozambique, Nigeria, and Tanzania and add Bolivia and the British Virgin Islands to the list of HRTCs. A copy of the delegated regulation is available [here](#).
- Secondly, an EU delegated regulation to add Russia to the list of HRTCs. A copy of the delegated regulation (Russia) is available [here](#).

The EU delegated regulations will enter into force after scrutiny and non-objection of the European Parliament and the Council within a period of one month (which can be prolonged for another month) and publication in the Official Journal of the EU.

4.3 Financial Crime Bulletin (Issue 1)

In December 2025, the Central Bank issued its first Financial Crime Bulletin (issue 1), which seeks to provide an update on key regulatory developments in the areas of Anti-Money Laundering (AML), Combatting the Financing of Terrorism (CFT), Financial Sanctions (FS), and Fraud. The Bulletin provides an update on the following: risk assessment, crypto & payments, fraud and scams, financial sanctions and EU AML developments. The Central Bank intends to issue such bulletins biannually.

A copy of the Bulletin is available [here](#).

5 DATA PROTECTION

5.1 Renewal of the EU-UK Adequacy Decision

On 19 December 2025, the European Commission officially renewed the two 2021 data adequacy decisions for the United Kingdom, ensuring that personal data can continue to flow freely from the EU/EEA to the UK without additional safeguards. These adequacy decisions cover data exchanges under the GDPR and under the Law Enforcement Directive (**LED**).

The new decisions are subject to a sunset clause of six years, running until 27 December 2031, with the possibility to be renewed. The Commission together with representatives of the European Data Protection Board will review the functioning of the adequacy decisions after a period of four years.

A copy of the decision of renewal of the EU adequacy decision for the UK under the GDPR is available [here](#).

6 MISCELLANEOUS

6.1 ESMA Work Programme 2026

In early October 2025, ESMA published its Work Programme for 2026 (ESMA Work Programme).

Please see our briefing paper on this topic [here](#).

A copy of the Work Programme is available [here](#).

6.2 Notice of intention in relation to the application of the ESMA Guidelines on outsourcing to cloud service providers

On 24 October 2025, the Central Bank issued a notice of intention in relation to the application of the guidelines on outsourcing to cloud service providers (**Guidelines**), published by ESMA on 30 September 2025.

The Guidelines apply to competent authorities and to:

- (i) AIF depositaries under AIFMD, which are not financial entities to which DORA applies: and
- (ii) UCITS depositaries under the UCITS Directive, which are not financial entities to which DORA applies.

The Guidelines also set out the relevant legislative provisions to which they apply. The Central Bank have noted that they will consult in due course on the incorporation of a provision within the Central Bank UCITS Regulations¹⁴ and AIF Rulebook which will state that the aforementioned AIF depositaries and UCITS depositaries will adhere to these Guidelines. In the interim, full compliance with the Guidelines is expected from the date of publication.

The ESMA Guidelines can be found [here](#).

6.3 Fitness and Probity Standards - Code issued under Section 50 of the Central Bank Reform Act 2010 - November 2025

In November 2025, the Central Bank issued a code under Section 50 of the Central Bank Reform Act 2010 (Code) which amends the version previously issued in December 2023.

The Code sets out the standards of fitness and probity (**Fitness and Probity Standards**) applicable to any person performing controlled or pre-approval controlled functions. This includes any persons performing controlled functions or pre-approved controlled functions in relation to the business undertaken by credit unions, including by credit unions under their authorisation as a retail intermediary.

The updated Fitness and Probity Standards can be accessed [here](#).

The updated Central Bank Fitness and Probity webpage can be accessed [here](#).

6.4 ICCL Consultation Paper - Funding the Investor Compensation Scheme

On 8 December 2025, the Investor Compensation Company DAC (ICCL) published a consultation paper which reviews funding arrangements in line with its 2024-2028 Strategy and aims to identify appropriate adjustments to the ICCL funding model.

¹⁴ Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2019

As part of the review, a range of quantitative and qualitative data from the ICCL, the Central Bank and evidence from other sources including publicly available evidence from desk-based research was considered and used to inform the ICCL's recommendations.

The consultation has three primary aims:

- To update all stakeholders in relation to funding progress since the last review which took place in 2022.
- To update stakeholders on the proposed changes to the ICCL's funding model, which strive to ensure the sustainability of that model into the future.
- To elicit evidence-based inputs from all stakeholders, especially on the overall approach to funding the Investor Compensation Scheme (ICS) over the next three-year period (August 2026 to July 2029), as proposed by the ICCL.

Responses to the consultation paper can be provided up to 30 January 2026.

The consultation paper can be accessed [here](#).

6.5 ESMA public statement on upcoming reporting obligations under EMIR 3.0

On 11 December 2025, ESMA published a statement on upcoming reporting obligations under EMIR 3.0¹⁵, notably; (i) the reporting under the Active Account Requirement (AAR), and (ii) the reporting of information on clearing activity in CCPs recognised under Article 25 (third country CCPs), (Article 7d of EMIR).

The obligation for in scope counterparties to report information on clearing activity in third country central CCPs became applicable in December 2025. In respect of the reporting on the AAR, ESMA expects the first reporting submission to be provided by July 2026. This first submission should include any backlog data demonstrating compliance with the AAR for the period starting 25 June 2025, along with data for 2026.

In respect of the reporting on activity in third country CCPs, ESMA specifies that counterparties will submit the first reporting on 2025 data with the 2026 reporting cycle, after the relevant Level 2 measures have been implemented.

A copy of the statement is available [here](#).

6.6 ESMA maintains recognition of two UK central counterparties under EMIR

On 16 December 2025, ESMA confirmed that it would continue to recognise two central counterparties established in the United Kingdom under EMIR, LCH Limited and LME Clear Limited.

The decision followed the requirement under Article 25(5)(b) of EMIR to determine whether the conditions under which the counterparties were originally recognised continue to be met. Following consideration of recent regulatory, market and business developments, ESMA concluded that it was appropriate to maintain the recognition of LCH Limited at Tier 2 CCP and LME Clear Limited as Tier 1 CCP. These decisions will remain valid until 30 June 2028.

The ESMA press release setting out the decision is available [here](#).

The list of third-country central counterparties recognised to offer services and activities in the EU is available [here](#).

6.7 Central Bank updates Investments Product Template Guidance

On 18 December 2025, the Central Bank published an updated version of the Guidance for Completion of the Investments Product Template.

¹⁵ Regulation (EU) No. 2024/2987 of the European Parliament and of the Council of 27 November 2024 ("EMIR 3.0")

The Guidance details how to complete the Investments Product Template Version 2, which is applicable to all investment firms authorised under the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017). The reporting date for the return was 31 December 2025 by submission through the Central Bank Portal.

The updated Guidance can be accessed [here](#).

The notice of intention can be accessed [here](#).

Key contacts

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 or your usual contact in Dillon Eustace.

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