



## Regulatory Radar

### Newsletter on regulation for the financial services industry

## Regulatory highlights

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### 1. European Commission publishes amendments to Solvency II Delegated Act

On 1 April the European Commission (EC) published in the Official Journal the [amendments to the Delegated Act on the EU prudential rules under Solvency II](#) and these amendments entered into force on 2 April 2016.

Investment in infrastructure projects is essential to support economic activity and growth in Europe. By removing the challenge to invest experienced by insurance companies, the measures coming into force will mobilize private sector investment, which is a key objective of the Investment Plan for Europe. The insurance industry is well-equipped to provide long-term finance by

investing in equity shares as well as loans of infrastructure projects, but currently less than 1% of their total assets are allocated for this purpose. As a result of this change to Solvency II, insurers will have to allocate less capital and find it more attractive to increase investment and play a bigger role in European infrastructure projects.

Based on expert advice from the European Insurance and Occupational Pensions Authority (EIOPA), the Delegated Act lowers certain requirements for investing in so-called qualifying infrastructure projects. In particular, it lowers the risk charges for insurers' equity and debt investments in these projects, under the standard formula for calculating capital requirements in Solvency II. The risk calibration for investment in unlisted equity shares of such projects has been reduced from 49% to 30%. Risk charges for investments in infrastructure debt were also reduced by up to 40%.

In this context EIOPA published a [consultation paper](#) on 15 April, following the request by the EC for further technical advice on the identification and calibration of other infrastructure investment risk categories i.e. infrastructure corporates. Comments on this consultation paper can be submitted until 16 May.

## **2. The Joint Committee of the European Supervisory Authorities (ESAs) publish their final draft regulatory standards on packaged retail and insurance-based investment products (PRIIPs)**

On 7 April the ESAs published their proposal for [regulatory technical standards \(RTS\) on key information documents \(KIDs\)](#) for PRIIPs. The proposed KIDs address mainly the content and presentation and provide retail investors for the first time across the EU with simple and comparable information on investment products in the banking, insurance and securities sectors. A 3-page document increases the transparency and comparability of information about the risks, performance and costs of these products. The new rules will contribute to enhancing the confidence and strengthening the protection of EU consumers of banking, insurance and securities products.

The draft RTS relate to three Articles under the PRIIPs Regulation:

- The presentation and content of the KID, including methodologies for the calculation and presentation of risks, rewards and costs within the document;
- The review, revision, and republication of KIDs; and
- The conditions for fulfilling the requirement to provide the KID in good time.

The new rules have been submitted to the EC for endorsement. They will come into force on the 31 December 2016.

## **3. EIOPA publishes preparatory guidelines on product oversight and governance (POG)**

On 13 April EIOPA published a [final report on public consultation on preparatory guidelines on POG arrangements by insurance undertakings and insurance distributors](#).

POG arrangements relate to the processes which aim to ensure that the interests of the customers are taken into consideration throughout the life cycle of an insurance product, namely the process of designing and manufacturing the product, bringing it to the market and monitoring the product once it has been distributed. They play a key role in customer protection in ensuring that insurance products meet the needs of the target market and thereby mitigating mis-selling. They are an essential element of the new regulatory requirements under the Directive 2016/97/EU of the European Parliament and of the Council of 20 January 2016 on insurance distribution (IDD).

The objective of these preparatory guidelines is to support and to provide guidance to competent authorities in their preparatory steps leading to a consistent implementation of the organisational requirements on POG arrangements of the IDD at an early stage. This allows national authorities to take into account EIOPA's expectations already at the implementation phase, mitigating the risk of different approaches at national level and the need for further alignment for the sake of consistency and a level playing field among member states at a later point of time.

This final report is the follow-up of the two consultation papers launched in 2014-2015. Whereas the first public consultation sought feedback from market participants and stakeholders on guidelines on POG arrangements by insurance undertakings, the second public consultation focused on equivalent arrangements for distributors of insurance products.

The feedback from both public consultations has been thoroughly analysed and considered. The draft guidelines have been modified and amended where it seemed necessary and appropriate. Subsequently, the draft guidelines were submitted to EIOPA's Board of Supervisors. The latter adopted the guidelines at the beginning of April 2016.

## **4. MiFID II delay and publication of draft Delegated Acts**

On 28 April 2016 the permanent representatives Committee (Coreper) agreed, on behalf of the Council of Europe, its negotiating stance aimed at extending by one year the dates of transposition and application of new securities market rules. Both the Directive

(MiFID II) and the Regulation (MiFIR) were to become applicable 30 months after entry into force, i.e. as of 3 January 2017, with Member States having to transpose the new Directive by 3 July 2016.

However, essential data infrastructures will not be in place by 3 January 2017. This would lead to legal uncertainty and potential market disruption. Under the Council's approach, the deadline for the Member States to transpose MiFID II into national legislation would be set for 3 July 2017 and the date of application of both MiFID II and MiFIR would be set for 3 January 2018. The European Council published several drafts enacting this extension, namely a [draft Directive amending MiFID II as regards certain dates](#) and a [draft Regulation amending MiFIR and two other Regulations regarding certain dates](#).

Furthermore, the Commission published a first [MiFID Delegated Directive](#) on 7 April. The Directive contains provisions on investor protection, notably on safeguarding of clients financial instruments and funds, product governance requirements and inducements.

This first Delegated Act was followed by the publication of the second [Delegated Regulation supplementing MiFID II](#) on 25 April. The Regulation aims at specifying, in particular, the rules relating to exemptions, the organisational requirements for investment firms, data reporting services providers, conduct of business obligations in the provision of investment services, the execution of orders on terms most favourable to the client, the handling of client orders, the smaller and medium-sized enterprises growth markets, the thresholds above which the position reporting obligations apply and the criteria under which the operations of a trading venue in a host member state could be considered as of substantial importance for the functioning of the securities markets and the protection of the investors.

The European Parliament and Council will now have a three month scrutiny period of both texts, extendable by a further three months by either institution. If no objections are raised, they will be finalised and published in the Official Journal.

# Financial Services Industry

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## Normative documents

### European Commission (EC)

#### EC publishes Commission Delegated Regulations under the Market Abuse Regulation (MAR)

On 5 April the [Commission Delegated Regulation \(EU\) 2016/522 of 17 December 2015 supplementing Regulation \(EU\) No 596/2014 of the European Parliament and of the Council as regards an exemption for certain third countries public bodies and central banks, the indicators of market manipulation, the disclosure thresholds, the competent authority for notifications of delays, the permission for trading during closed periods and types of notifiable managers' transactions](#) was published in the Official Journal. This Regulation aims to specify an amalgam of subjects such as indicators of manipulative behaviour, the determination of the competent authority for notifications of delays in disclosing inside information, the circumstances under which trading during a closed period may be permitted and a list of manager's transactions that should be notified. This Delegated Regulation entered into force on 24 April and will apply from 3 July 2016.

On the same day, the [Commission Implementing Regulation \(EU\) 2016/523 of 10 March 2016 laying down implementing technical standards with regard to the format and template for notification and public disclosure of managers' transactions in accordance with Regulation \(EU\) No 596/2014 of the European Parliament and of the Council](#) was published in the Official Journal. In order to foster efficiency in the process of notifying managers' transactions and provide comparable information to the public, it is appropriate to lay down uniform rules regarding how the information requested is to be notified and made public through a single template. This Regulation entered into force on 6 March and will apply from 3 July 2016.

## Consultative or informative documents

### European Banking Authority (EBA)

#### **EBA consults on draft regulatory technical standards (RTS) for determining proxy spread and limited smaller portfolios for credit valuation adjustment**

On 6 April EBA launched a public consultation on RTS for determining proxy spread and limited smaller portfolios for credit valuation adjustment under the Capital Requirements Regulation (CRR). These RTS propose limited amendments to Commission's Delegated Regulation (EU) No 526/2014 based on two policy recommendations contained in the EBA's credit valuation adjustments (CVA) - report published on 25 February 2015. Through the proposed amendments the EBA expects to ensure a more adequate calculation of own funds requirements for CVA risk. The consultation runs until 6 July 2016.

#### **EBA publishes report on securitization, risk retention, due diligence and disclosure**

On 12 April EBA published a report on securitization risk retention, due diligence and disclosure requirements under the CRR. The report highlights that institutions are generally undertaking appropriate actions to comply with such requirements, and only a very limited number of non-compliant institutions have been reported since EU rules were introduced in 2011. According to the EBA analysis, it also appears that ensuring compliance with risk retention, due diligence and disclosure requirements has a lower priority in the supervisory processes of competent authorities, although this may be partially justified in light of the expectations on the development of a the new securitization framework at EU level.

Based on these EBA results, the EBA has identified best practices, which will help competent authorities in their supervisory assessments of compliance of these requirements.

#### **EBA publishes final guidelines for disclosing confidential information under the Bank Recovery and Resolution Directive (BRRD)**

On 19 April EBA published its guidelines on the provision of information in summary or collective form for the purpose of Article 84(3) of Directive 2014/59/EU defining how confidential information collected under the BRRD should be disclosed identifying individual institutions or relevant entities. The approach taken in the draft guidelines is intended to strike a balance between the need to achieve an appropriate level of convergence of practices regarding how confidential information should be provided in summary or collective form, and the need to ensure flexibility, considering that there may be many different types of confidential information as well as many different circumstances and situations in which confidential information may need to be disclosed.

#### **EBA consults on disclosures of encumbered and unencumbered assets**

On 25 April EBA launched a consultation on draft RTS on the disclosure of encumbered and unencumbered assets for the provision of transparent and harmonised information on the topic, as laid down in the Capital Requirements Regulation. These draft RTS, which build on the EBA guidelines on the same topic, detail the disclosure requirements and provide additional information. The consultation will run until 25 July 2016.

### European Central Bank (ECB)

#### **ECB publishes its annual report 2015**

On 7 April the ECB published its annual report 2015. This report provides an overview of the economic, financial and regulatory developments of 2015 and the ECB's role in the shaping of these evolutions. From a regulatory point of view, special interest is paid to TARGET2-Securities, the managing of risks related to central counterparties, European Market Infrastructure Regulation and the progress made towards the establishment of a Banking Union.

#### **Announcement of details on the corporate sector purchase programme (CSPP)**

On 21 April the Governing Council of the ECB announced details on the CSPP. In doing so, the Governing Council follows up on the ECB's decision of 10 March 2016 to add a CSPP to the asset purchase programme. Eurosystem's collateral framework – the

rules that lay down which assets are acceptable as collateral for monetary policy credit operations – will be the basis for determining the eligibility of corporate sector securities to be purchased under the CSPP. The ECB also provided a Q&A on the CSPP as to further clarify the applicable regime.

## **European Parliament (EP)**

### **Adoption of the Regulation on financial benchmarks by the European Parliament**

On 28 April, the EP approved the adoption of the proposed Regulation on financial benchmarks, following a political agreement by the EP and the Council in November 2015. The new rules will help to protect investors and consumers as benchmarks determine the value or performance of investments and the level of mortgage payments of millions of households in the EU. The Regulation will enter into force following formal adoption by the Council, which is expected in May 2016, and publication in the Official Journal.

## **European Securities and Markets Authority (ESMA)**

### **ESMA publishes updated Q&A on Market Abuse Directive (MAD)**

On 1 April ESMA has published an update to the [Q&A on MAD](#). The update adds new questions, concerning investment recommendations, more specific whether material intended for distribution channels or for the public, concerning one or several financial instrument containing statements indicating that the concerned financial instruments are “undervalued”, “fairly valued” or “overvalued” fall within the definition of “recommendation” under MAD.

### **ESMA publishes updated Q&A on European Market Infrastructure Regulation (EMIR)**

On 4 April ESMA has published an update to the Q&A on EMIR. The updated document concerns a new question regarding the population of the “clearing obligation” field in the trade reports. In particular, this Q&A explains how the description of the field should be interpreted, how it should be populated during the frontloading period and how long the counterparties are allowed to report value “X” (standing for “not available”).

### **ESMA proposes one-day margin period of risk for CCP client accounts (EMIR)**

On 5 April ESMA has published a [final report amending the RTS under EMIR](#). The amended draft RTS reduces from two-day to one-day the margin period of risk (MPOR) for gross omnibus accounts and individual segregated accounts for exchange traded derivatives and securities. The client account structures together with the conditions that they need to respect for the CCPs to margin on a one-day MPOR basis ensure a sufficient level of protection to the CCPs and a greater protection for clients. After submission to the EC, it has three months for the endorsement of the draft.

### **ESMA issues amended rules on access, aggregation and comparison of data across trade repositories date under EMIR**

On 5 April ESMA has published a [final report on RTS on access aggregation and comparison of trade repositories \(TR\) data under EMIR](#). In order to ensure higher quality of data and to enhance the access to data by authorities and allow for the comparability and aggregation of data across trade repositories, ESMA proposes the following amendments to its RTS:

- Standardised output format of the TR data, based on international ISO (international organisation for standardization) standards, allowing comparison and aggregation across TRs;
- Minimum types of queries that need to be available for the authorities;
- Standardised and secure data exchange, based on ISO standards, between TRs and authorities;
- Standardised frequencies for the provision of direct and immediate access to TR data; and
- Use of secure machine-to-machine connection and of data encryption protocols.

ESMA is aligning the implementation date of the amended RTS with the implementation date of the amended reporting rules under Article 9 EMIR which were submitted to the EC on 13 November 2015.

### **ESMA publishes updated Q&A on contracts for difference (CFD's) and other speculative products**

On 8 April ESMA has published a new [Q&A on CFD's and other speculative products under MiFID](#). The new Q&A concerns questions on authorisation of firms offering CFD's and other speculative products to retail investors and the conflicts of interest arising from business models that may be adopted by investment firms offering speculative products to retail investors. ESMA aims to further update the Q&A in the upcoming months.

## **ESMA announces EU-wide stress test for Central Counterparties (CCP's)**

On 14 April ESMA has announced an [EU-wide stress test for CCPs](#) on 29 April 2016. ESMA is mandated to conduct stress tests of CCP's under EMIR. The stress test assesses the resilience and safety of the European CCP sector and aims to identify possible vulnerabilities.

## **ESMA updates its public register for the clearing obligation under EMIR to include credit derivatives**

On 19 April the [RTS on the clearing obligation for credit derivatives](#) were published in the OJ. The RTS determine the classes of credit default swaps over the counter (OTC) derivative contracts that are subject to the clearing obligation and four different categories of counterparties for which different phase-in periods apply. The RTS will enter into force on 9 May 2016.

Following this publication ESMA updated its [public register for the clearing obligation under EMIR](#) on 19 April, followed by another update on 11 May. This update concerns the addition of credit derivatives, notably for iTraxx main and iTraxx crossover contracts, to the clearing obligation. The public register lists the derivatives that have to be centrally cleared under EMIR.

## **Financial Action Task Force (FATF)**

### **FATF identifies 11 Key goals for an effective system to combat money laundering and terrorist financing**

On 7 April the FATF identified [11 key goals that an effective AML/CFT framework should achieve](#). The purpose of implementing anti-money laundering and counter-terrorist financing (AML/CFT) measures is to protect the financial system from abuse. A country's efforts in developing sound laws and regulations and implementing and enforcing them should focus on one goal, the high-level objective of an effective AML/CFT framework: Financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security. This objective can only be achieved if the components of a country's AML/CFT framework are operating well together. During its mutual evaluations, the FATF will assess the effectiveness of a country's efforts against each of these 11 immediate outcomes.

## **International Capital Markets Association (ICMA)**

### **Five industry associations publish Securities Financing Transaction Regulation (SFTR) information statement**

On 13 April, the Association for Financial Markets in Europe, the FIA, ICMA, the International Swaps and Derivatives Association) and the International Securities Lending Association have jointly published an [information statement in accordance with Article 15 of the SFTR](#) that can be used to help market participants comply with new requirements under the SFTR. The SFTR rules come into force on 13 July 2016, and will affect all existing and future title transfer and security collateral arrangements under a variety of financial agreements. Under the SFTR, all parties that accept collateral are obliged to inform their counterparties of the risks involved in entering a title transfer arrangement or granting a right to reuse collateral under a security arrangement.

## **International Organisation of Securities Commissions (IOSCO)**

### **IOSCO updates information repository for central clearing requirements for OTC derivatives**

On 1 April IOSCO updated its [central clearing requirements information depository](#), which provides regulators and market participants with consolidated information on the clearing requirements of different jurisdictions. By providing this information, IOSCO seeks to assist authorities in their rule making and help participants comply with the relevant regulations in the OTC derivatives market. The repository sets out central clearing requirements on a product-by-product level, and any exemptions from them. IOSCO first made the repository public in August 2014. The information in the repository will be updated periodically.

## **IOSCO issues study of regulatory approaches and tools to deal with cyber risk**

On 6 April IOSCO has published a [report on cyber security in securities markets](#). The report provides a review of the different regulatory approaches related to cyber security and the potential tools available to regulators to respond to the cyber risk. The report also describes some of the practices adopted by market participants.

# Credit institutions and investment firms

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## Normative documents

No relevant documents.

## Consultative or informative documents

### Basel Committee on Banking Supervision (BCBS)

#### **BCBS publishes regulatory consistency assessment programme (RCAP) on risk-weighted assets (RWAs) for credit risk in the banking book**

On 1 April BCBS published its [second report on RWAs in the banking book](#). This report is part of the committee's wider RCAP, which is intended to ensure consistent implementation of the Basel III framework. The study examines the variability of RWA in banks that use internal models to calculate their credit risk regulatory capital requirements. It follows the [Committee's 2013 report](#), which found considerable variation in average RWAs for credit risk in the banking book, and extends that analysis.

#### **BCBS consults on revisions to the Basel III leverage ratio framework**

On 6 April BCBS released a [consultative document on the revisions to the Basel III leverage ratio framework](#). The Basel III framework introduced a simple, transparent, non-risk-based leverage ratio to act as a supplementary measure to the risk-based capital ratio. This consultative document proposes a set of changes to the standard released in January 2014. The proposed changes to the framework are an important element of the regulatory reform programme that the Basel Committee has committed to finalise by end-2016. Responses can be submitted by 6 July 2016.

On 6 April BCBS updated its [frequently asked questions \(FAQ\) on the Basel III leverage ratio framework](#). This FAQ was first released in January 2014. In order to promote consistent global implementation of the Basel standards, the Committee periodically reviews FAQs and publishes answers along with any technical elaboration of the standards text and interpretative guidance that may be necessary. This is the third update of the FAQ, after previous revisions in October 2014 and July 2015. Any FAQs that have been added since the previous version of this document are marked in the text.

#### **BCBS publishes standards on interest rate risk in the banking book**

On 21 April BCBS has issued [standards for interest rate risk in the banking book \(IRRBB\)](#). The standards revise the Committee's 2004 principles for the management and supervision of interest rate risk, which set out supervisory expectations for banks' identification, measurement, monitoring and control of IRRBB as well as its supervision. The standards reflect changes in market and supervisory practices since the principles were first published in 2004, which is particularly pertinent in light of the current exceptionally low interest rates in many jurisdictions. The revised standards are expected to be implemented by 2018.

#### **BCBS publishes tenth progress report on the adoption of Basel III standards**

On 11 April BCBS published its [tenth progress report on the adoption of the Basel III standards](#). This report sets out the adoption status of Basel III standards for each BCBS member jurisdiction as of end-March 2016. It updates the Committee's previous progress reports which have been published on a semi-annual basis since October 2011 under the Committee's RCAP. As of

March 2016, all 27 BCBS member jurisdictions have final risk-based capital rules, liquidity coverage ratio Regulations and capital conservation buffers in force. Further, 24 member jurisdictions have issued final rules for the countercyclical capital buffer and 23 member jurisdictions have issued final or draft rules for their domestic SIBs framework. With regard to the global SIBs framework (G-SIBs), all BCBS members that are home jurisdictions to G-SIBs have the final framework in force. Member jurisdictions are now turning to the implementation of other Basel III standards, including the leverage ratio and the net stable funding ratio.

### **BCBS consults on guidelines for the prudential treatment of problem assets**

On 14 April BCBS has issued a [consultative document on guidelines for prudential treatment of problem assets, including definitions of non-performing exposures and forbearance](#). At present, banks categorise problem loans in a variety of ways and there are no consistent international standards for categorising problem loans. The definitions proposed by the Basel Committee aim to foster harmonisation in the measurement and application of two important measures of asset quality and thereby promote consistency in supervisory reporting and disclosures by banks. Comments will be admitted up until 15 July 2016.

### **Committee on Payments and Market Infrastructures (CPMI) and World Bank Group (WBG) CPMI and WBG publish final report on payment aspects of financial inclusion**

On 5 April CPMI and WBG have issued the [final report on payment aspects of financial inclusion](#). This builds on an earlier version of the report that underwent public consultation in late 2015 and seeks to tackle barriers to the adoption and usage of transaction accounts, which sit at the heart of retail payment services. In addition to outlining guiding principles to help countries advance financial inclusion, the report suggests possible key actions, including providing basic accounts at little or no cost, stepping up efforts to increase financial literacy, and leveraging large-volume payment programmes, such as government payments, by adopting electronic payment services. Financial inclusion efforts are beneficial not only for those who will become financially included, but also for the national payments infrastructure and, ultimately, the economy.

### **European Securities and Markets Authority (ESMA)**

#### **ESMA finds room for improvement in national supervision of investment advice to retail clients**

On 7 April ESMA has published a [peer review report on MiFID suitability requirements](#). The peer review on how national regulators assess compliance with MiFID's suitability requirements when firms provide investment advice, includes requirements that are designed to ensure that firms only recommend suitable investment products, based on the investor's profile. Overall, ESMA found that while most national regulators have a good understanding of the investment advice market in their jurisdictions and regularly review the distribution methods and business models of investment firms, there is scope to adopt more proactive supervisory approaches and strengthen enforcement activities.

### **National Bank of Belgium (NBB)**

#### **NBB publishes circular on the reporting of supervisory financial information**

On 12 April the NBB published its circular NBB\_2016\_06 concerning the execution of Regulation 2015/534 of the European Central Bank of 17 March 2015 on reporting of supervisory financial information (FINREP) ([NL/FR](#)). This circular establishes certain rules for the application of Regulation 2015/534 of the ECB in Belgium. For the execution of FINREP on a statutory basis, as is required by this Regulation, a correlation table is provided, indicating the connection between the Belgian banking accounting law (so-called BGAAP) applicable on a statutory level and the European scheme for the reporting of supervisory financial information.



# Investment products and asset management

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No relevant documents.

## Consultative or informative documents

### European Securities and Markets Authority (ESMA)

#### ESMA publishes updated Q&A on undertakings for collective investment in transferable securities (UCITS)

On 5 April ESMA has published an update to its [Q&A on UCITS](#). The Q&A contains a new question on the investment by a UCITS in a UCITS feeder fund. The purpose of the Q&A document is to promote common supervisory approaches and practices in the application of the UCITS Directive and its implementing measures.

#### ESMA publishes updated Q&A on alternative investment fund managers (AIFM)

On 5 April ESMA has published an update to its [Q&A on AIFMD](#). The Q&A contains a new question on notification requirements relating to additional investment in existing alternative investment funds. The purpose of the Q&A document is to promote common supervisory approaches and practices in the application of the AIFM Directive and its implementing measures.

#### ESMA publishes updated Q&A on prospectus related issues

On 5 April ESMA has published an update to its [Q&A document on prospectus related issues](#). The Q&A contains two new questions and answers on the capitalisation and indebtedness table and the validity of the base prospectus. The purpose of the Q&A document is to promote common supervisory approaches and practices in the application of the Prospectus Directive and its implementing measures.

#### ESMA publishes a discussion paper on UCITS share classes

On 5 April ESMA has published a [discussion paper on UCITS share classes](#). The UCITS Directive recognises the possibility for UCITS to offer different share classes to investors but it does not prescribe whether, and to what extent, share classes of a given UCITS can differ from one another. ESMA has identified diverging national practices in the EU regarding the types of share class that are permitted and therefore proposes establishing a common regulatory framework for share classes in the EU. ESMA is seeking for feedback; responses can be submitted until 6 June 2016. ESMA seeks to take further steps toward the end of 2016.

#### ESMA's opinion on EU framework for loan origination by investment funds

On 12 April ESMA published its [opinion on EU framework for loan origination by investment funds](#). The opinion, which forms part of ESMA's ongoing work on the Capital Markets Union, sets out ESMA's views on elements such as authorisation of loan-originating funds and their managers, eligible investors, organizational requirements and leverage. The input of ESMA aims at

the establishment of a common EU approach and therefore ESMA has addressed this opinion to the European Parliament, the Council and the European Commission.

# Insurance, reinsurance and pensions

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## Consultative or informative documents

### Commission on insurances

#### Commission on insurances publishes advice C/2016/3

On 20 April the Commission on insurances published its advice C/2016/3 on the draft Royal Decree concerning the costs, the percentages, the duration and the modalities for reimbursement of credit agreements subject to Book VII of the Code of Economic Law ([NL/FR](#)). In this advice, the Commission expresses its concern on the goal to expand the scope of the existing texts on

consumer credit as much as possible to mortgage credit. The Commission is of the opinion that the proposed amendments insufficiently take into account the fundamental differences between consumer credit and mortgage credit, as well as the special nature of insurances as an ancillary service, and might lead to disinformation of the consumer.

This advice denounces parts of the [Act of 22 April 2016 concerning the change and introduction of provisions on consumer and mortgage credit in several books of the Code of Economic Law](#), published in the Belgian Official Journal on 4 May 2016. The Act's main purpose is to transpose the provision of the Mortgage Credit Directive (MCD) into Belgian law. Amongst other provisions, the Act also covers, contrary to the MCD, certain aspects of consumer credit order to ensure an equal protection of borrowers both under the mortgage credit regime as under the consumer credit regime.

## Commission on supplementary pensions

### Commission on supplementary pensions publishes its advice No. 37

On 25 April, the Commission on supplementary pensions published its advice No. 37 on the adoption of new Articles as referred to in Article 27, §4 of the Act on supplementary pensions for pension contracts or pension schemes existing on 1 January 2016 or introduced since 1 January 2016 ([NL/FR](#)). In this advice, the Commission agrees that it should be possible to introduce new regulations applicable to pension contracts or pension schemes existing on 1 January 2016 or introduced since 1 January 2016 if the participant will be at least 55 years old on 31 December 2016.

## European Insurance and Occupational Pensions Authority (EIOPA)

### EIOPA publishes feedback statement on previous opinion on sales via the internet

On 4 April EIOPA published a [feedback statement](#) of 31 March on its [opinion](#) on sales via the internet. This opinion, published in January 2015, related to sales via the internet of insurance and pension products. At that time EIOPA requested national competent authorities to report to them on the issues raised in the opinion.

### EIOPA consults on methodology to derive ultimate forward rate under Solvency II

On 20 April EIOPA published a [consultation paper on the methodology to derive the ultimate forward rate \(UFR\) and its implementation](#). According to the Solvency II legislative framework the UFR shall be stable over time and shall only change as a result of changes in long-term expectations. The methodology to derive the ultimate forward rate shall be clearly specified and be determined in a transparent, prudent, reliable and objective manner that is consistent over time. Furthermore, the ultimate forward rate shall take account of expectations of the long-term real interest rate and of expected inflation. EIOPA plans to decide on the outcome of the review in September 2016. The currently used UFRs will not be changed until at least the end of 2016. The consultation period will end on 18 July 2016.

## International Association of Insurance Supervisors (IAIS)

### IAIS launches a consultation on cyber risk to the insurance sector

On 14 April IAIS issued a [consultation paper on cyber risk to the insurance sector](#). The objectives of the paper are to raise awareness for insurers and supervisors of the challenges presented by cyber risk, including current and contemplated supervisory approaches for addressing this risk. As an issues paper, the paper represents IAIS supporting material and as such does not set requirements. Building on a 2015 survey of IAIS members on their approaches to cyber risk, it provides background on current practices, identifies examples, and explores related regulatory and supervisory issues and challenges. The consultation period is closed since 13 May 2016.

# Data Protection

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## Deloitte Privacy Newsflash

*The Deloitte Privacy Newsflash is a newsletter that is being developed on a bi-monthly basis by the Deloitte Belgium Security and Privacy team, part of the Enterprise Risk Services business unit. In this regulatory radar, every two months, we include a reference to the latest issue of this newsflash, together with a list of the topics treated in that newsflash.*

### Highlights of the [May issue](#):

- European Data Protection Reform: European Parliament formally adopts the GDPR
- EU-US Privacy Shield: Article 29 WP issues opinion on the EU-US Privacy Shield
- E-Privacy Directive
- Turkey adopted law on the protection of personal data
- 2016 global privacy sweep initiative
- New Information Commissioner in UK
- Dutch DPA prohibits employers to process employee data collected through wearables
- Dutch DPA accepted BREIN's processing of personal data for IP infringement by BitTorrent users
- Dutch DPA publishes policy on data of sick employees
- Italian DPA publishes new manual on privacy and debt collection
- EDPS guidance on information security risk management
- EDPS: Case law overview
- European Parliament refuses to vote on PNR
- Right to be forgotten requests to be directed to Google Inc., not Google Spain
- Binding Corporate Rules of Starwood Hotels and Resorts approved
- Recent breaches and enforcement actions
- Forthcoming interesting events

We are always interested in your feedback. Please let us know what you think of this newsletter and send your comments to [Regulatory Radar](#). Visit our website [here](#).

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