



**Regulatory developments  
in June 2018**

Key regulatory developments  
during the June 2018

**EU**      **ECB**      **Updated its guide to fit and proper assessments in line with the joint ESMA and EBA guidelines on suitability.**

The updated guide introduces additional minimum information requirements to be provided by institutions in order to conduct the suitability assessment for members of the management body.

**EU**      **ECB**      **Published a disclosure report on the TARGET2 real-time gross settlement system operated by the Eurosystem.**

Since the last assessment, TARGET2 has been enhanced through minor technical and functional releases and the 2017 introduction of the "ASI-6 real-time" settlement model, which supports ancillary systems offering real time payments.

**EU**      **ESMA**      **The EBA and ESMA published a joint statement on the treatment of retail holdings of debt financial instruments.**

It states that the large volumes of liabilities eligible for bail-in held by retail investors in the Eurozone may act as an impediment to resolvability. Under MiFID II, firms will be required to disclose information to existing and new holders of MREL-eligible debt.

**EU**      **ESMA**      **Issued final guidelines on anti-procyclicality of margin measures for central counterparties (CCPs) under EMIR.**

The guidelines seek to ensure consistent EMIR application in order to limit procyclicality, enable national competent authorities to better supervise their CCPs in this respect, and guide CCPs in adapting their models and processes.

**EU**      **ESMA**      **Published final guidelines on MiFID II suitability requirements, which build on ESMA's 2012 MiFID I guidelines on suitability.**

In particular, ESMA set out that it aims to consider recent technological developments of the advisory market, the results of supervisory activities by NCAs on the implementation of the suitability requirements and the outcome of its studies on behavioural finance. ESMA also included good practice for firms in response to the European Commission's recent proposal to include sustainability preferences in the provision of finance advice.

**EU**      **ESMA**      **[Adopted](#) temporary product intervention measures on the provision of contracts for differences (CFDs) and binary options to retail investors in the EU.**

Specifically, these measures include a prohibition on the marketing, distribution or sale of binary options and several restrictions on the marketing, distribution or sale of CFDs to retail investors. Following the publication of the ESMA measures, EIOPA issued a [statement](#) stating that it expects insurance undertakings to avoid instruments which have been banned or restricted by ESMA.

**EU**      **ESMA**      **Published updates to a number of its guidelines.**

These include: (i) MiFID II [Q&As](#) on investor protection and intermediaries topics, including updated clarifications around best execution, client categorisation and the provision of investment services and activities by third-country firms; (ii) UCITS [Q&As](#) regarding the application of disclosure requirements on remuneration of delegates; (iii) Short-selling Regulation [Q&As](#) in relation to the easy-to-borrow list and locate arrangement for uncovered short sales; (iv) EMIR [Q&As](#) on the reporting of energy derivatives, the reporting of deliverable currencies and the reporting of effective date; (v) guidance on data reporting under [MiFIR](#); (vi) MiFID II / MiFIR [Q&As](#) on transparency and market structures; and (vii) [Q&As](#) on the implementation of the Central Securities Depository Regulation (CSDR).

**ECB**      **EU**      **Pentti Hakkarainen, a member of the ECB Supervisory Board, [spoke](#) on digitalisation in banking.**

He offered an optimistic view on how technology will shape the sector, but warned that outsourcing key IT services to third parties poses an increasing risk to the industry. Among the risks he flagged was the fragmentation of banks' services across a range of external providers, as well as the risk of concentration if many banks are outsourcing core elements of digital banking to a single provider.

**EIOPA**      **EU**      **Gabriel Bernardino, Chairman of EIOPA, gave a [speech](#) on Pan-European Pension Products (PEPPs).**

He focused on the benefits PEPPs could bring, such as stimulating more savings and channeling them into long-term investments, and the role that EIOPA could have, such as promoting supervisory convergence and further developing consumer-friendly pension related disclosures.

**FSB**      **Int'l**      **Launched its third thematic peer review on bank resolution planning**

The review will assess the implementation of requirements for resolution planning and the action taken to develop resolution plans. It will specifically focus on resolution planning frameworks, development of resolution strategies and the removal of barriers to resolvability, and cross-border cooperation.

**FSB**      **Int'l**      **Published a call for feedback on the technical implementation of the TLAC standard.**

The call for feedback covers cross border implementation, distribution of TLAC instruments, and issuance strategies. The FSB has said it may consider the development of further implementation guidance in the future.

**ECB**      **EU**      **Published its revised assessment methodology for payment systems.**

The updated methodology includes the expectations introduced by the revised ECB Regulation on Oversight Requirements for Systemically Important Payment Systems, which entered into force in December last year. It also covers the Eurosystem's Cyber Resilience Oversight Expectations, based on the CPMI and IOSCO guidance on cyber resilience from June 2016.

**EIOPA**      **EU**      **Gabriel Bernardino, Chairman of EIOPA, gave a speech on European supervision in a changing environment.**

He focused on further enhancing supervisory convergence, reinforcing consumer protection in an era of digital transformation, and maintaining financial stability in a changing environment, for which building a minimum harmonized approach to insurance guarantee schemes in the European Union is an important step, and noted that EIOPA would be publishing a Discussion Paper on the subject before summer.

**EIOPA**      **EU**      **Published its 2017 annual report.**

The report highlighted EIOPA's activity in: consumer protection, with the publication of consumer trends reports; supervisory convergence, for example in addressing the risk of inconsistencies between supervisory practices and identifying undertakings where the quality of modelling seems lower than its peers; and financial stability, with work on a framework for macroprudential policy in insurance.

**SRB**      **EU**      **Announced further detail on the resolution of Banco Popular following completion of the Valuation 3 report.**

The SRB will publish the expected timeline for providing affected shareholders and creditors with the right to be heard by mid-July, and will publish the draft decision and the Valuation 3 report shortly after.

**FSB**      **Int'l**      **Dietrich Domanski, Secretary General of the FSB, spoke on global resolution regimes.**

He highlighted several upcoming publications, including the final principles on bail-in execution and guidance on funding in resolution, which will be published in the next few weeks. The FSB's report on public disclosure of resolution planning and the report on the FSB's stock-take of approaches for trading book wind-down will be published towards the end of 2018.

**EBA**      **EU**      **Published its 2017 Annual Report, highlighting key publications, decisions and achievements in 2017.**

Andrea Enria, Chairperson of the EBA, highlighted that "while a lot is changing for the EBA, the regulatory framework is now stabilising." Notable events in 2017 included the EBA making important progress in finalising aspects of the Single Rulebook for banking, and committing to the effort to clean banks' balance sheets and reduce non-performing loans, through its ongoing support of the European Council's action plan.

**EBA**      **EU**      **Issued a final report on its recommendations on the equivalence of third country confidentiality regimes.**

Notably, the EBA added three non-EU supervisory authorities to the current list of third country supervisory authorities whose confidentiality regimes can be regarded as equivalent, including the Guernsey Financial Services Commission, the Superintendence of the Financial Services of the Central Bank of Uruguay and the Bank of Korea.

**EBA**      **EU**      **Launched a public consultation on guidelines on outsourcing.**

The guidelines specify the internal governance arrangements that in-scope institutions should implement when they outsource functions, including with regard to the outsourcing of critical or important functions. The guidelines are expected to supersede the existing CEBS guidelines on outsourcing issued in 2006 and will cover all financial institutions that are within the scope of the EBA's mandate (credit institutions, investment firms subject to CRD, payment and electronic money institutions). The recommendation on outsourcing to cloud service providers, published in December 2017, has been integrated in the guidelines.

**EBA**      **EU**      **[Consulted](#) on the conditions to allow institutions to calculate capital requirements of securitised exposures (KIRB).**

In accordance with the purchased receivables approach, the draft RTS include specifications on internal credit and models for calculating KIRB for securitisations, the use of different risk factors, and due diligence requirements. The consultation closes on 19 September 2018.

**ECB**      **EU**      **The working group on euro risk-free rates [launched](#) a consultation on its assessment of three candidate euro risk-free rates against key selection criteria.**

The new euro risk-free rate will replace EONIA, which will no longer meet the criteria of the EU Benchmarks Regulation as of 2020.

**ECB**      **EU**      **Pentti Hakkarainen, Member of the Supervisory Board of the ECB, [gave](#) an interview to Les Echos newspaper.**

He highlighted the importance of supervising FinTech firms in the same way as traditional banks. He also mentioned that, although the ECB does not see FinTech firms as presenting compelling financial stability risks, it needs to remain vigilant, especially regarding cyber risks.

**ECB**      **EU**      **Daniele Nouy, Chair of the Supervisory Board of the ECB, gave a [speech](#) on "Good governance - an asset for all seasons".**

She recalled the tools the ECB uses to address governance, such as the SREP, fit and proper evaluations of Board members, and benchmarking. She also highlighted areas where banks could improve, such as on oversight of senior management by the board or improving the data quality of risk reports submitted to boards.

**ESMA**      **EU**      **ESMA [issued](#) a statement announcing that the temporary 6-month extension period allowed for the introduction of the legal entity identifiers (LEIs) will not be further extended**

The extension period will terminate on 2nd July 2018, and NCAs' activities regarding LEI requirements will shift from monitoring to ongoing supervisory actions.

**EIOPA**      **EU**      **Published an expanded set of Solvency II statistics on the European insurance sector.**

The statistics now contain information about types and location of exposures, clear asset classification, and real estate exposures (differentiating residential and commercial exposures).

**BIS**      **Int'l**      **Published a progress report on banks' adoption of its Principles for effective risk data aggregation and risk reporting.**

It found that only three G-SIBs have fully complied with the Principles, and that challenges have stemmed from the complexity and interdependence of IT improvement projects.

**FSB**      **Int'l**      **Updated its Guiding Principles on the temporary funding needed to support the orderly resolution of a G-SIB.**

Changes include the need to identify correspondent banks in resolution plans, the need for authorities to consider how the circumstances leading to the potential failure of a firm may affect funding needs, and the need for authorities to consider how to address impediments to the mobilisation of collateral located in different jurisdictions.

**FSB**      **Int'l**      **Published its Principles on bail-in execution to assist authorities when developing resolution strategies.**

The Principles cover disclosure on the instruments within the scope of bail-in; valuations; processes to suspend or cancel the listing of securities; securities law and exchange requirements during bail-in; processes for transferring governance and control rights to a new board; and communications to creditors and the market.

## This quarter

### List of regulatory publications and events expected this quarter

Bank prudential Framework			Due Date
Int'l	FSB	Progress report on shadow banking	Q3/Q4 2018
Insurance prudential framework			
Int'l	IAIS	Second consultation on the first International Capital Standard for insurers	Mid-2018
Conduct and competition			
EU	ESMA	ESMA to publish guidance on fund performance fees	Q3 2018
Payments, technology and innovation			
EU	ESMA	Initial Coin Offering market analysis	Q2 2018
UK	FCA	Feedback statement on the use of technology for regulatory reporting	Q3 2018
Economic and Monetary Union			
EU	ESMA	Expected guidance on performance fees	Q3 2018
EU	EC	Expected communication on corporate bond market liquidity	Q3 2018
Capital market structures			
EU	ESMA	ESMA to consult on a procedure for imposing leverage limits on investment funds	Q2 2018
EU	ESMA	ESMA to consult on guidance on the use of liquidity management tools for investment funds	Q2 2018
EU	EC	Consultation on corporate bond market liquidity	Q2 2018
EU	ESMA	ESMA to publish fund stress testing principles	Q3 2018

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