Deloitte. 2018 Regulatory agenda - Top priorities

IN THIS SPECIAL EDITION OF THE TOP 2018 REGULATORY PRIORITIES:

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- European Market and Infrastructure Regulation (EMIR) / Securities Financing Transaction Regulation (SFTR)
- General Data Protection Regulation (GDPR)
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- Markets in Financial Instruments Directive and Regulation (MiFID II/MiFIR) / Packaged Retail and Insurance based Investment Products (PRIIPs)
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Anti-money laundering and counter-terrorist financing IV (AML IV)

Scope

- Credit institutions
- Investment firms
- Investment funds & hedge funds
- Insurance companies
- Management companies
- Central counterparties
- Central securities depositories

Background

The draft law 7128 transposing the main part of the 4th AML Directive into Luxembourg law is expected to be voted on in Q1 2018.

Pursuing the implementation of the fourth directive, two additional draft laws (7216 and 7217) have been submitted to the Chamber of Deputies on 6 December 2017, introducing two distinct registers of Ultimate Beneficial Owners (UBOs):
- A central register for the UBOs of legal entities (REBECO)
- A central register for trusts and fiduciaries

The beneficial owner register requires Luxembourg entities:
- To obtain and keep information on their beneficial owners at their place of business
- To register the information concerning their beneficial owners with REBECO
- To provide information on their legal owners and beneficial owners to national authorities upon request and to self-regulatory bodies in the exercise of their AML/CFT supervisory duties as well as professionals in the context of their vigilance toward customers if both have justified motivations

The trustees register requires Luxembourg entities:
- To obtain and keep information on the beneficial owners of any trust for which they act as trustee at their place of business
- To provide information to national authorities, upon request, regarding these trusts
- To declare their status as trustees to professionals and provide them with certain information when, as a trustee, they enter into a business relationship with them or perform occasional transactions for an amount exceeding the thresholds set out in the AML Act of 12 November 2004
- To register any trust that generates tax consequences in the national trust register

Next steps

- **Q1 2018:** Expected adoption of the draft law 7128
- **Q2 2018:** Expected adoption of the two distinct registers of UBOs

Benchmark Regulation (BMR)

Scope

- Credit institutions
- Investment firms
- Management companies

Background

The EU Benchmark Regulation (BMR) was issued on 29 June 2016; its entry into application is set for 1 January 2018. This regulation introduces a regime for benchmark index administrator, contributor, and user that will ensure the accuracy and integrity of benchmarks across the EU.

The BMR will impose new requirements for firms:
- Administrating (creating) a benchmark
- Contributing to the elaboration of a benchmark
- Using a benchmark to reference the price of a financial instrument or contract, or measure the performance of an investment fund

The key implications of the BMR are the following:
- No financial instruments, financial contracts, or measurements of the performance of an investment fund will be able to add a reference to the "existing EU benchmark" after 1 January 2020 unless the administrator is authorized or registered if it is a third country entity.
- Non-EU benchmark administrators need to meet one of the three options under the third country regime in order for those non-EU benchmarks to be used in the EU.

Throughout 2017, ESMA published a series of RTS and Q&As to define certain aspects of the BMR, such as:
- The definition of benchmark and notably the meaning of a "benchmark made available to the public"
- The transitional arrangements applicable to benchmarks existing prior to 1 January 2018 ("existing benchmarks").

However, some aspects of the benchmark regulation are yet to be clarified, regarding the register of administrators and benchmarks that ESMA must establish and maintain under Article 36. Moreover, no specification was issued on the format of the written plans that set out the actions that benchmark users would take in the event that a benchmark they are using in their contracts materially changes or ceases to be provided, as set under article 28(2).

Next steps

- **1 January 2018:** The regulation becomes applicable to "new" benchmarks, created after 1 January 2018
- **Q2 2018:** The ESMA register of administrators and benchmarks will be operational
- **1 January 2020:** End of the transitional arrangements. The regulation applies to all the benchmarks. "Existing" benchmarks, or administrators providing benchmarks before 1 January 2018 have until 1 January 2020 to apply to their EU NCA for authorization or registration

Capital Markets Union (CMU)/ ESA Review

Scope

- Credit institutions
- Investment firms
- Investment funds & hedge funds
- Insurance companies
- Management companies
- Central counterparties
- Central securities depositories
- National Competent Authorities

Background

The Capital Markets Union (CMU) is a program initiated in 2015 by the European Commission to foster "growth and jobs." This plan focuses on mobilizing capital and facilitating investment across the EU. In order to achieve this goal, several actions have been pursued at the European level, namely:
- Make the supervisory framework more effective and consistent
- Increase competition and lower costs for businesses and investors
- Re-engineer the financial system to make investments more sustainable
- Foster investment by insurance companies and pension funds
- Make savers and businesses in all member states benefit from capital markets
- Revise the rules for securitization

In September 2017, in compliance with the CMU's objectives, the EC took several initiatives aiming to increase the powers of the four EU supervisory authorities (ESAs): ESMA, EBA, EIOPA, and the ESRB, the underlying idea being a single rulebook, and a single supervisory approach.

The EC made a suggestion to define a cross-EU supervisory framework to support the enhanced convergence of local authority practices (single rulebook). The proposal marks a significant change in the allocation of prerogatives between National Competent Authorities (NCA) and ESAs. One of the main points of focus for ESAs is on cross-border delegation for banks, fund managers, and investment firms. The proposal provides for the enhanced power of ESMA in the monitoring of compliance of these delegation setups. Moreover, the draft increases the role of EIOPA and ESRB in the monitoring of systemic risks under Solvency II.

For the next steps of the CMU, to reinforce the single market approach, the EC has requested several European institutions, including ESMA, to issue reports on the cost and past performance of the main categories of retail investment, insurance, and pension products. This mandate is in line with the upcoming implementation of MIFID II and PRIIPS in early 2018, which will both require transparency in terms of costs and charges. ESMA will now embark on a large-scale study assessing the reporting of costs and past performance of retail investment products, in order to increase investors' awareness of the net return of these products, and the impact of costs and charges.

The EC proposal to reinforce the role of ESAs might introduce more powers at the EU level, and redefine the entire EU supervisory architecture, reviewing the delegation and outsourcing rules as well as ensuring that the responsibilities of each supervised entity is appropriately discharged.

The EC has also been recently focused on venture capital rules, pan-European personal pensions, and securitization.

Next steps

Find below a highlight about selected measures of the CMU action plan:
- **Q1 2018:** Legislative framework for covered bonds
- **1 March 2018:** Application of the amended regulation on EuVECAs and EuSEFs
- **2018:** Final text for new Pan-European Personal Pensions/Reviewed Delegated Regulation supplementing Solvency II
- **Q1 2020:** Expected final text to review and enhance the powers of ESAs
- **2020:** - Expected application of new ESA powers
  - Completion of CMU program

Directive on Administrative Cooperation (DAC5 and DAC6)

Scope

- Investment funds & hedge funds
- Credit institutions
- Insurance
- PSF (Financial Sector Professionals)
- CSP (Corporate Service Providers)

Background

DAC5

On 6 December 2016, the EU Council has adopted Directive 2016/2258, also known also as DAC5. That directive amends the EU Directive 2011/16/ EU regarding access to anti-money-laundering information by the tax authorities.

Following the transposition of the directive into the national systems, the tax authorities will be able to access mechanisms, procedures, documents, and information referred to in Articles 13, 30, 31, and 40 of the Council Directive 2015/849.

The information exchange will concern:
- Customer due diligence information
- Beneficial ownership for trusts and corporate entities
- Records of transactions
- Other documents specified in Articles 13, 30, 31, and 40 of EU Directive 2015/849

DAC6

On 21 June 2016, the EC published Proposal 2017/0138 DAC6 to further amend the Council Directive 2011/16/EU. The proposal aims to set new transparency rules for intermediaries such as accountants, banks, lawyers, and tax advisers, who design and promote tax-planning schemes for their clients. In order to achieve this goal, DAC6 introduces a set of obligations on the member states that will have to transpose it to their national systems in case DAC6 is adopted.

The obligations include:
- Duty on the intermediaries to report cross-border arrangements that contain specific indicators (hallmarks) that may suggest the arrangement has been set up for tax avoidance purposes
- Duty on the Member States to automatically share the information received from intermediaries with all other Member States on a quarterly basis
- Information sharing in a standardized format through a centralized database

Next steps

- **1 January 2018:** Application date of DAC5 and deadline for transposition
- **2018:** DAC6 should be adopted at the EU level

European Market and Infrastructure Regulation (EMIR)/ Securities Financing Transaction Regulation (SFTR)

Scope

- Credit institutions
- Investment firms
- Investment funds & hedge funds
- Insurance companies
- Management companies
- Central counterparties
- Central securities depositories
- Non-financial counterparties in derivatives trades

Background

EMIR

On 3 May 2017, the EC released its proposed draft update of the European Market Infrastructure Regulation (EMIR II). The EC intends to improve the transparency of OTC derivative positions and exposures as well as simplify and balance the clearing and reporting obligations for market participants.

Among the main updates of the proposed new regulations, we have the following aspects:

Definitions: AIFs and SPVs will be considered financial counterparties. UCITS ManCos and AIF managers will be liable for ensuring EMIR reporting is done for the funds they manage.

Clearing: The calculation of the clearing thresholds for Non-Financial Counterparties (NFCs) will be based on the aggregate month-end average positions for the months March, April, and May both for FCs and NFCs. New concepts are introduced for Small Financial Counterparties (SFCs), with the same thresholds as NFCs regarding the clearing threshold. For NFCs, the clearing obligation will only concern the classes of derivatives that breach the clearing threshold. The front loading obligation for new OTC contracts onto a clearing platform is removed; clearing will start at the live date of the first clearing; and the pension scheme exemption is further extended by three years.

Reporting: Intra-group transactions where at least one of the counterparties is an NFC will be exempt from the reporting obligation, the CCP becomes responsible and liable for reporting on behalf of both the trading parties for ETD, and FCs are responsible and liable for reporting the transactions they perform, with NFCs not subject to the clearing obligation.

SFTR

The Securities Financing Transactions and Reuse (SFTR) entered into force on 12 January 2016. Under the SFTR regime, the reporting usually follows the model for derivatives reporting under the European Market Infrastructure Regulation (EMIR). The reporting regime requires both parties to a trade (financial or non-financial counterparties) to report new, modified, or terminated SFTs to a registered trade repository by T+1. SFT records must be kept for at least five years after termination of the transaction.

Next steps

- **3 May 2017:** Release of EMIR review, text pending regulatory process at EU level, expected finalization end 2018
- **12 February 2019:** EMIR new backloading deadline
- **Q1 2019:** SFTR reporting start date for investment firms and credit institutions
- **Q2 2019:** SFTR reporting start date for other financial counterparties, insurance, UCITS, and AIFs
- **Q3 2019:** SFTR reporting starting date for NFCs

General Data Protection Regulation (GDPR) & Network and Information Systems Directive (NIS)

Scope

GDPR scope

Any organization processing personal information, including credit and large investment firms

NIS scope:
- Operators of Essential Services (OoES)
- Digital Service Providers (DSP)

Background

GDPR

The EU Regulation on General Data Protection (GDPR) will enter into force in 2018. GDPR creates a unified and coherent data protection framework in the EU, which protects individuals and allows the development of the digital economy across the internal market.

Organizations will be required to:
- Adopt technical and organizational measures such as designating a Data Protection Officer in certain cases
- Keep records of data processing
- Conduct Privacy Impact Assessments (PIAs) and if required consult the Data Protection Authority (DPA)
- Organize training and awareness sessions
- Reviewing privacy compliance (e.g., audits)
- Report data breaches to the local DPA within 72 hours

Under the new regulation, DPAs have investigative, corrective, advisory, and authorization powers. They are entitled to impose administrative fines ranging from two to four percent of the group's worldwide annual turnover of the preceding financial year, or up to 10 to 20 million euro, whichever is higher. These fines will be applied in cases where data subjects have had their rights infringed upon, or non-compliance with an order of the DPA or with the obligations of the controller and processor.

One of the key elements of the new regulation is the introduction of the notion of "accountability," which means that a data controller has to be able to demonstrate how he intends to be compliant with GDPR.

Additionally, GDPR implements and creates:
- The right to be forgotten. A consumer or data subject can request to erase the data held by companies at any time, even if it has been passed on to third parties
- In certain cases, companies must appoint a Data Protection Officer (for public authorities, when large scales of sensitive data are processed as a core activity, or when data subjects are regularly and systematically monitored on a large scale as core activity). The DPO is responsible for creating a data security policy and report any breaches.

NIS

The NIS Directive establishes security and incident notification requirements for Operators of Essential Services in critical sectors such as banking and financial market infrastructure; and for Digital Service Providers, including online marketplaces, online search engines and cloud services. In addition, the Directive lays down obligations for Member States of the EU, it creates a cooperation group to facilitate strategic cybersecurity information sharing and it establishes a CSIRTs network to boost operational cybersecurity cooperation.

Next steps

- **25 May 2018:** GDPR Application date
- **Q2 / Q3 2018:** Expected transposition of NIS in Luxembourg

Insurance Distribution Directive (IDD)

Scope

- Insurance undertakings
- Insurance intermediaries
- Ancillary insurance intermediaries (a lighter regime applies)

Background

On 20 January 2016, the Insurance Distribution Directive (IDD) was adopted. It will be implemented on 23 February 2018 and will replace the 2002 Insurance Mediation Directive (IMD I).

IDD intends to significantly raise the minimum standards compared to IMD I and ensure a level playing field between all participants involved in selling insurance products. IDD offers a similar level of protection to insurance product buyers as offered by MiFID II for other investment products.

For general/non-life products, IDD requires the use of a standardized product information document (IPID), summarizing the main features of the proposed contract (for insurance-based investment products a Key Information Document (KID) will be required under the PRIIPs regulation).

Other key requirements of IDD:
- Information and conduct of business
- Conflict of interest and remuneration
- Standard insurance product information document (IPID)
- Professional knowledge and competence requirements
- Cross-border passporting
- Bundled products
- Product governance (POG)
- Sanctions

Next steps

- **Q4 2017 / Q1 2018:** On 20 December 2017, the college of commissioners adopted a quick fix package delaying the application date of IDD. This quick fix package should be adopted by the end of Q1 2018
- **23 February 2018:** Deadline for the transposition of IDD in national law
- **1 October 2018:** The application date of the directive and its delegated acts on IDD-POG and IDD-IBIPs

Investment fund initiatives: Money Market Funds (MMF/Omnibus initiative on cross-border barriers to the distribution of funds/Private Placement Regimes (PPR) revision under AIFMD

Scope

- Investment funds & hedge funds

Background

Money Market Funds

Regulation EU 2017/1131 of 14 June 2017 on Money Market Funds (MMF) was published in the Official Journal of the EU on 30 June 2017. The regulation aims at harmonizing the EU legal framework for MMFs to safeguard the integrity of the internal market. The MMF regulation will apply to all MMFs using the designation "Money Market Fund" or "MMF" that are established, managed, or marketed in the EU. The regulation covers authorization, eligible investments, portfolio composition, internal credit quality assessment, valuation rules, transparency and reporting, as well as liquidity risk management.

Cross-border barriers to the distribution of funds

The EC has launched an initiative to reduce barriers to the cross-border distribution of investment funds. The EC has identified six categories of national barriers:
- Lack of harmonization of what constitutes marketing and of marketing requirements and practices
- Regulatory fees
- Administrative requirements (the need to appoint a local agent differs from one member state to another)
- Notification requirements
- Online distribution (lack of clarity over application rules for online distribution)

In June 2017, the EC launched an impact assessment of these barriers to evaluate the opportunity to adopt a legislative proposal to facilitate the cross-border distribution and supervision of UCITS and AIFs. The results of this impact assessment are planned for the first quarter of 2018.

Private Placement Regimes (PPR) revision

Pursuant to AIFMD, European managers are required to obtain authorization in order to "passport" the AIFs they manage throughout the EU. Until a "third country passport" is introduced, non-European managers can market their AIFs in the EU using national placement regimes.

AIFMD includes a provision stating that by 22 July 2017, the EC should start a review on the application and the scope of the directive. However, the EC's review has been delayed.

Next steps

- **Q1 2018:** Expected draft for reducing barriers to the cross-border distribution of investment funds
- **21 July 2018:** MMF regulation enters into application for "new" MMFs (created after 21 July 2018)
- **21 January 2019:** "Existing" MMFs (created before 21 July 2018) will have to comply with the regulation

Markets in Financial Instruments Directive and Regulation (MiFID II/MiFIR)/ Packaged Retail and Insurance-based Investment Products (PRIIPs)

Scope

- Investment firms
- Market operators
- Data reporting services providers
- Third-country firms providing investment services or performing investment activities through the establishment of a branch in the EU

Background

MiFID II/MiFIR

The Directive 2014/65/EU and Regulation n°600/2014 on markets in financial instruments (MFID II & MiFIR) were published in the Official Journal of the EU on 12 June 2014. MiFID II seeks to improve the transparency and regulation of opaque markets like derivatives. The key themes include the following:
- Increased investor protection, transparency requirements on product and service costs
- Inducements
- Robust requirements for corporate governance
- Market structure: additional financial instruments in scope for non-equity instruments and third-country firms have to establish a branch in each EU country (when serving retail clients) or register with ESMA to gain an EU passport (for professionals)
- Extended reporting to prudential authorities and additional publication rules apply
- Reinforced supervisory powers to permanently ban financial products or activities and impose dissuasive administrative sanctions, fines and penalties that will be made public

With its application on 3 January 2018, several challenges still need to be addressed by MIFID firms:
- Knowledge and certification of financial advisers by 3 January 2018.
- Prohibition of inducements requiring most firms to review their business model.
- Systematic internalizer (SI) regime applying from 1 September 2018, however it is possible to opt-in for the SI regime from 3 January 2018.
- Disclosure of costs and charges to investors at any point in time.

PRIIPs

The implementation of Regulation N°1286/2014 on Key Investor Information Documents for Package Retail and Insurance based (PRIIPs) has also been delayed by one year and aligned to MiFID II/MiFIR. PRIIPs aims to provide investors with sufficient information prior to making their investment decision. Insurance companies and banks will soon be required to use a similar document to the Key Investor Information Document (KIID) introduced under the UCITS IV Directive.

Next steps

- **3 January 2018:** Application date of MiFID II & MiFIR
- **1 January 2018:** Application date of PRIIPs

Revised Directive on Payment Services (PSD2)

Scope

- Credit institutions
- Payment institutions
- E-money institutions

Background

On 23 December 2015, the Revised Directive on Payment Services (PSD2) was published in the Official Journal of the EU. PSD2 replaces PSD, in place since 2007.

The aim of PSD2 is to foster innovation and competition in the financial services industry, and introduce higher security standards for online payments.

On 20 September 2017, the Luxembourg Government Council approved the draft bill for the transposition of PSD2 in the internal market.

On 27 November 2017, the EC adopted the Regulatory Technical Standards (RTS) on Strong Customer Authentication (SCA) and Common and Secure Communication (CSC), drafted by the European Banking Authority:
- Elaborate a secure interface to allow third-party providers to access payment account information of the bank's client
- Ensure compliance with the new client authentication rules
- Support third-party providers to use the new XS2A interface accounts of their clients before Q2-Q3 2019

This RTS will enter into force 18 months after its publication in the Official Journal.

Further to this recent adoption, banks will have to implement an access-to-accounts API (XS2A) to allow third-party providers to access the payment accounts of their clients before Q2-Q3 2019.

In addition to this technical solution, they will also have to support third-party providers and ensure the security of the transmitted information through SCA while managing customer consent (overlapping with GDPR).

Next steps

- **13 January 2018:** Entry into force of PSD2. Concerned financial institutions should comply with strengthened customer protection rules, including putting in place an operational and security risk management framework, and reviewing the additional transactions in scope
- **By mid-2019:** Ensure compliance with RTS on Strong Customer Authentication and Common and Secure Communication

Shareholder's Rights Directive (SHRD)

Scope

- EU-listed companies
- Investment firms
- Institutional investors
- Asset managers
- Proxy advisers

Background

The Directive (EU) 2017/828 on Shareholders' Rights was published in the Official Journal of the European Union on 20 May 2017.

The new directive establishes specific requirements in order to encourage shareholder long-term engagement and increase transparency.

The Shareholders' Rights Directive recast adds new requirements on:
- **Identifying shareholders:** Companies must be able to identify their shareholders and obtain information regarding shareholder identity from any intermediary in the chain that holds the information. Member states may provide that companies in their territory be only allowed to request identification with respect to shareholders holding more than a certain percentage of shares or voting rights, which will not exceed 0.5 percent.
- **Exercising shareholders rights:** Intermediaries, such as banks, are required to spread the information from the company to the shareholders and vice-versa.
- **Disclosing information:** Intermediaries must publicly disclose any charges related to the new rules for processing such information.
- **Remunerating directors:** The remuneration policy will be submitted to the shareholders who will vote based on the performance of the directors regarding financial and non-financial criteria.
- **Transparency for institutional investors, asset managers, and proxy advisers:** They must either develop and publicly disclose a policy on shareholder engagement or explain why they have chosen not to do so. This policy will describe how they integrate shareholder engagement in their investment strategy and the engagement activities they carry out.

Many institutional investors and asset managers use the services of proxy advisers who provide research, advice, and recommendations on how to vote in general meetings of listed companies. In view of their importance, proxy advisers will be subject to transparency requirements and a code of conduct.

Next steps

- **10 June 2019:** Application date of the Shareholder's Rights Directive

Prudential Framework

AnaCredit

Scope

- Credit institutions

Background

On 18 May 2016, the European Central Bank (ECB) adopted Regulation (EU) 2016/867 on the collection of granular credit and credit risk data (AnaCredit).

The ECB aims to set up a dataset containing granular credit and credit risk data about the exposures of credit institutions and other loan-providing financial firms within the Eurozone.

To meet this objective, AnaCredit aims to collect high-quality and timely information on:
- Debtor identity and their respective credits
- Risk mitigation measures securing the credits

The initial scope of AnaCredit covers loans and placements exceeding 25,000 euro granted to legal entities only. Reporting requirements might be extended to a larger scope.

Next steps

- **September 2018:** AnaCredit enters into force. The first reporting is due by 19 October 2018
- **23 April 2018:** Deadline for the first transmission of counterparty reference data for the reporting test phase conducted by the Banque Centrale de Luxembourg (BCL). Subsequent submission of the other data templates must be completed before 19 October (eight templates) and 12 November (one template), respectively

CRR II / CRD V and Basel III / SREP - Stress-Test / IFRS 9 - transitional arrangement and credit risk adjustment / Prudential requirements for investment firms/ Resolution and recovery – BRRD/MREL/TLAC/Bail-in

Scope

- Credit institutions
- (Large) investments firms

Background

Subsequent to the developments of 2017, the following prudential matters should be under close monitoring for the year to come:

CRR II/CRD V

The EC proposed amendments to the banking prudential requirements directive and regulation. The stated objective is to further strengthen the resilience of the banking sector by introducing more risk-sensitive capital requirements. At the same time, the new measures should make CRD/CRR rules more proportionate and less burdensome for smaller financial institutions, and improve banks' lending capacity to support the EU economy.

The negotiations at the EU level regarding CRD V/ CRR II are delayed, postponing the implementation of binding measures such as the NSFR and leverage ratio.

Finalization of Basel III

On 7 December 2017, the BCBS has announced that a deal has been reached on the "finalization" of Basel 3 (referred to as Basel IV). This version restores credibility in the calculation of risk-weighted assets (RWAs) and improves the comparability of banks' capital ratios. The implementation of the Basel IV measures will start in 2022.

FRTB

Along the finalization of Basel III, the BCBS formalised the decision to delay the implementation of the Fundamental Review of the Trading Book (FRTB) from 2019 to 2022. This reflects widespread delays already announced in most jurisdictions. Still, ongoing BCBS-level work in 2018 on several aspects of the FRTB, which have proven most difficult, particularly the P&L attribution test, could still have a material effect on banks with significant trading activities. Also, the treatment of sovereign risk on bank balance sheets, on which the BCBS chose not to consult, will continue to linger as a long-outstanding reform initiative that regulators in many countries would like to see the BCBS or the EU move to address.

SREP Review

The European Banking Authority (EBA), in accordance with its Pillar 2 Roadmap, will review three guidelines aimed at further enhancing institutions' risk management and supervisory convergence in the supervisory review and examination process (SREP):
- The EBA guidelines on common procedures and methodology for Supervisory Review and Evaluation Process (SREP Guidelines)
- The EBA guidelines on the management of interest rate risk arising from non-trading activities (IRRBB Guidelines)
- The EBA guidelines on institutions' stress testing

In its Pillar 2 Roadmap, the EBA shared its intention to implement these three revised guidelines by 1 January 2019.

IFRS 9 & NPLs

In 2017, the EU IFRS 9 framework was completed with the amendment of the supervisory reporting requirements.

On 7 December 2017, the Parliament and the Council agreed on the text of the regulation on the transitional arrangements under IFRS 9. This regulation sets a five-year phase-in period, during which banks will be allowed to add a portion of the additional provisions due to the application of IFRS 9 back to regulatory capital (common equity tier 1, CET1).

Prudential requirements for investment firms

On 20 December 2017, the EC adopted proposals for a regulation and a directive to amend the prudential rules for EU investment firms. This addresses the view among EU regulators that the current CRD IV prudential regime is not appropriate for the majority of investment firms.

The proposal will establish three different classes of investment firms:
- Class 1 - Full application of CRD IV requirements
- Class 2 - Partial application of CRD IV requirements
- Class 3 - MiFID II requirements only

This new framework will need to go through the full European legislative process before it becomes effective.

BRRD

In November 2016, The EC proposed amendments to the Bank Recovery and Resolution Directive (BRRD). The amendments include measures that will further strengthen the European resolution framework and the ability of relevant authorities to achieve resolution outcomes that are effective in safeguarding financial stability and public funds.

Notably, these amendments would implement the Total Loss-Absorbing Capacity (TLAC) for G-SIIB and amend the Minimum Requirement for own funds and Eligible Liabilities (MREL).

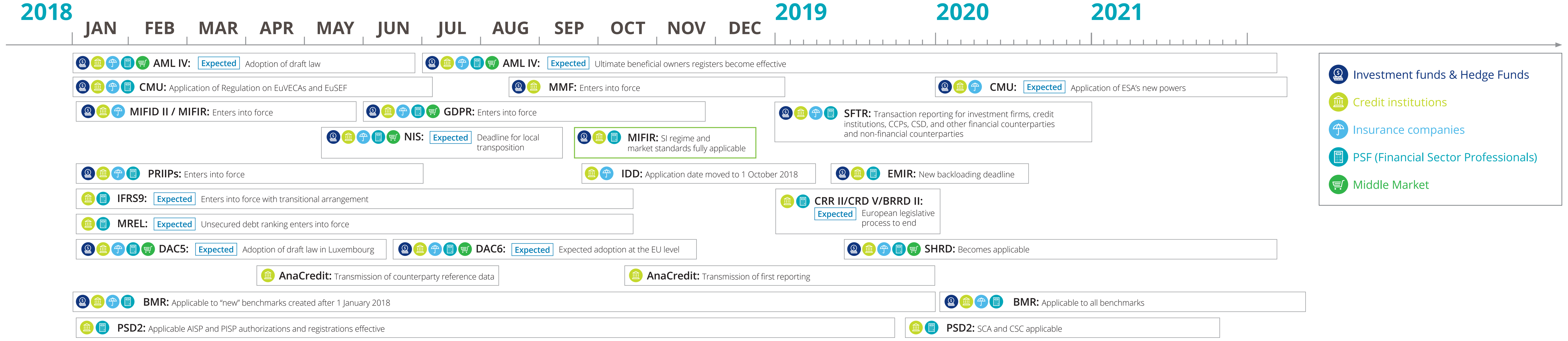
In October 2017, the parliament endorsed the EC's proposal on ranking unsecured debt instruments in insolvency hierarchy. This proposal introduces a new asset class of "non-preferred" senior debt that should be bailed in after other capital instruments, but before other senior liabilities. Only this "non-preferred" senior class would be eligible for the minimum TLAC requirement or any subordination requirement that could be imposed by resolution authorities on a case-by-case basis.

The Parliament agreed to fast track this proposal so that the framework could be applicable for 2018 and ensure the implementation of a stable framework.

Next steps

- **Q2/Q3 2019:** Expected finalization of CRD5/CRR2
- **January 2018:** The SREP stress-test exercise will be formally launched and the results are to be published by 2 November 2018
- **1 January 2019:** Expected date for the finalization of the EBA guidelines on SREP review
- **1 January 2018:** Entry into force of IFRS 9 standards, including the transitional arrangements
- **By end of Q1 2018:** ECB will present its consideration of further policies to address the existing stock of NPLs, including appropriate transitional arrangements
- **1 January 2018:** Expected entry into force of the directive on ranking unsecured debt instruments in insolvency hierarchy
- **Q1 2019:** Expected finalization of the European Council and European Parliament legislative process. At that point, secondary rulemaking by the European Banking Authority (EBA) and national regulators must also occur
- **2022:** Implementation of the Fundamental Review of the Trading Book (FRTB)

Indicative timeline



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