



*"We get financial firms to regulatory compliance rapidly and cost-effectively."*

## European Regulatory Summary - January 2016

MiFID II —the new Markets in Financial Instruments Directive is a key regulatory focus currently. The FCA consultation paper CP 15-43 issued in December 2015 consults on MiFID implementation. The Joint Committee of the three European Supervisory Authorities (ESAs) – EBA, EIOPA and ESMA – has published a Discussion Paper on automation in financial advice. Shadow banking continues to occupy the EBA, which issued guidelines on exposure to shadow banks. ESMA has issued a report on the proxy advisory industry. EIOPA has published its Consumer Trends Report. EBA has issued reports and guidelines covering ICAAP, ILAAP, remuneration and CRD IV.

### Markets in Financial Instruments Regulation (MiFIR)

ESMA has published a consultation paper in connection with MiFIR seeking views regarding:

- Transaction reporting;
- Reference data;
- Order record keeping; and
- Clock synchronisation

[Click here](#) to access the CP.

### MiFID II

- ESMA has published its guidelines on cross-selling Practices under MiFID II to ensure investors are treated fairly when an investment firm offers two or more financial products or services as part of a package. The guidelines apply from 3 January 2017. [Click here](#) to access the guidelines.
- ESMA has published its final report on guidelines for the assessment of knowledge and competence. These guidelines are intended to enhance investor protection by increasing the knowledge and competence of natural persons giving investment advice or providing information about financial instruments, investment services or ancillary services to clients on behalf of investment firms. [Click here](#) to access the guidelines.
- ESMA has published Implementing Technical Standards (ITS) in connection with the implementation of MiFID II. ESMA's ITS translate how the legislation will apply in practice to market participants, market infrastructure and national supervisors. [Click here](#) to access the ITS.
- The FCA has issued CP15/43. [Click here](#) to access the CP.

### ESMA News

- ESMA has published its follow-up report on the development of the 'Best Practice Principles for Providers of Shareholder Voting Research and Analysis' which looks at the proxy advisory industry's progress in establishing and following a self-regulatory code of conduct. [Click here](#) to access the report.
- ESMA is extending its public consultation on its regulatory technical standards on the European Single Electronic Format (ESEF) to 18 January 2016.
- ESMA has published updated questions and answers on the application of the Alternative Investment Fund Managers Directive (AIFMD). The Q&A includes questions and answers on the depositary liability regime. [Click here](#) to access the Q&A.

### Solvency II

- EIOPA has published the technical information on the symmetric adjustment of the equity capital charge for Solvency II from the end of November 2015. [Click here](#) to access the documentation.
- [Click here](#) to access the speech and presentation published at the EIOPA press event under the theme 'Implementation of Solvency II' in Frankfurt on 10 December 2015.
- EIOPA has published the updated coding used to produce the Solvency II relevant risk-free interest rate (RFR) term structures. As of 1 January 2016 the new supervisory framework will be applicable and this code, which underpins the already published technical documentation, will be used for the monthly RFR publications. [Click here](#) to access the RFR document.

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### Banking Union

The Single Resolution Mechanism (SRM) became fully operational on 1 January 2016. The SRM implements the EU-wide Bank Recovery and Resolution Directive (BRRD) in the euro area. The full resolution powers of the Single Resolution Board (SRB) also apply as of 1 January 2016.

### EIOPA Update on consumer trends

- Consumer analytics and big data allow for customised products, but raise privacy issues.
- Low interest rates result in financial risks being borne increasingly by consumers.
- Lack of transparency in complex products, and claims management continue as concerns.
- The report analyses specific consumer trends in the pensions sector.

### The European Banking Authority (EBA)

- EBA has launched a consultation on its draft guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services. The EBA has identified poor remuneration policies and practices as a key driver of mis-selling of financial products and services. The guidelines are aimed at protecting consumers and reducing conduct costs to firms. The consultation runs until 22 March 2016. [Click here](#) to access the CP.
- EBA has published its eighth semi-annual report on risks and vulnerabilities in the EU banking sector. The report shows that EU banks have continued to strengthen their capital position and to improve asset quality. However, the level of non-performing exposures remains high and profitability is still weak. The report also analyses exposures to emerging market (EM) countries and non-bank financial intermediaries. [Click here](#) to access the report.
- The EBA has published its final guidelines on sound remuneration policies together with its opinion on proportionality, recommending exemptions from the remuneration principles in the **Capital Requirements Directive (CRD IV)**. The guidelines ensure that institutions calculate correctly and consistently the so called 'bonus cap' by setting out specific criteria for mapping all remuneration components into either fixed or variable pay and detailing how specific remuneration elements such as allowances, sign-on bonuses, retention bonuses and severance pay are to be recognised over time.
- The EBA has published a consultation on its draft guidelines on stress testing. [Click here](#) to access the CP.
- Consultation on the assessment methodology on the use of internal models for market risk. [Click here](#) to access the CP.
- A report recommending a prudential regime for investment firms has been issued. These recommendations aim to provide a more proportionate and less complex prudential regime for investment firms, based on appropriate risk sensitivity parameters.
- Consultation on draft guidelines on ICAAP and ILAAP. [Click here](#) to access the CP.

### CRR exemption extended

Currently some commodity dealers falling within the scope of MiFID II are exempt transitionally from the CRR's (Capital Requirements Regulation) provisions on own funds requirements until 31 December 2017 at the latest if their main business consists exclusively of providing investment services or activities relating to commodity derivatives. The Commission proposed to extend until 31 December 2020 the CRR exemption for firms that trade exclusively in commodity derivatives.

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