

### The SAFE Regulatory Radar in May

Amendments for investment firm consolidations, agreement on a common European data space relevant for capital markets, and a new retail investment package



**A**t the end of each month, the SAFE Regulatory Radar highlights a selection of important news and developments on financial regulation at the national and EU level.

#### IFR/IFD: Specifications for the consolidation and liquidity measurements of investment firms

The European Banking Authority (EBA) proposes proportionate and consistent prudential requirements for the consolidation of an investment firm. On 12 May 2023, the EBA published draft Regulatory Technical Standards (RTS) specifying the scope and methods of consolidation of an investment firm group under the Investment Firm Regulation (IFR) completing its Roadmap on Investment Firms, published in June 2020.

The draft RTS cover four main elements of consolidation:

- the scope of consolidation (types of entities in the scope and types of relationships that bring entities in the scope);
- the methods thereof;
- the methodology for the prudential capital consolidation; and
- the rules applicable for minority interest and additional Tier 1 and Tier 2 instruments issued by subsidiaries in the context of prudential consolidation.

The draft RTS will be submitted to the European Commission for endorsement prior to formal publication.

The European Commission also provides harmonization and clarification in relation to investment firms. On 17 May 2023, the European Commission published a Commission Delegated Regulation supplementing the Investment Firm Directive (IFD) with regard to RTS for the specific liquidity measurement of investment firms. In particular, it provides for a harmonized approach to the assessment of an investment firm's liquidity risk and the materiality of that risk. In this regard, the competent authorities of the Member States must consider all services provided by an investment firm, including ancillary services, as well as all specific aspects of an investment firm's funding, external events, operational and reputational events, internal governance, and group structure, where these are relevant to liquidity risks.

The draft Delegated Regulation will enter into force 20 days after being published in the Official Journal of the European Union.

#### ESAP: Creating a Single Access Point for relevant financial and non-financial information

The EU plans to create common data spaces for relevant information on capital markets, financial services, and sustainable finance. As part of the Capital Markets Union (CMU) Action Plan, negotiators from the Council and the European Parliament reached a preliminary agreement on the creation of the European Single Access Point (ESAP) on 23 May 2023.

By providing access to financial and non-financial information on companies, the platform aims to improve investment decision-making, enhance the efficiency of EU capital markets, increase the visibility of small and medium-sized enterprises, and support the green transition.

ESAP is expected to be available from summer 2027 and will be phased in over a time of four years and in three steps. In phase 1, ESAP will include information required by the Short Selling Regulation, the Prospectus Regulation, and the Transparency Directive. In the second phase, among others, information according to the Sustainable Finance Disclosure Regulation (SFDR), the Credit Rating Agencies (CRA) Regulation, and the Benchmark Regulation will be included. Finally, in phase 3, ESAP will include information according to 20 additional pieces of legislation, such as the Capital Requirements Regulation (CRR), the Markets in Financial Instruments Regulation (MiFIR), and the EU Green Bonds Regulation (EUGBR).

The provisional agreement must now be confirmed by the Council and the European Parliament before it can enter into force.

## Retail Investment Strategy: Further step in completing the Capital Markets Union

The aim of the Retail Investment Package proposed by the European Commission on 24 May 2023 as part of the completion of the Capital Markets Union is to improve the ability of households to make informed decisions about their assets and to reap the benefits of investing in capital markets.

The Commission is responding to the fact that only 17 percent of household assets in Europe were held in securities in 2021, which it attributes to low confidence in capital markets and uncertainty about risk, while also pointing to high fees and commissions that negatively affect returns on investments. The package proposes amendments to a number of legislative texts regulating the manufacture and distribution of investment and insurance products.

An important aspect of the package is the standardization of investment products and services, digitization, and transparency. Among other things, it introduces annual statements on cost and investment performance and adds a summary dashboard, a digital interface, interactive features, and a sustainability section to the Key Information Document (KID) under the Packaged Retail and Insurance-based Investment Products (PRIIP) Regulation.

A second aspect focuses on value-for-money assessment to detect products that do not provide benefits for retail investments. For example, the product will not be approved if it deviates from a public cost and performance benchmark provided by ESMA and EIOPA, and if the manufacturer cannot show that costs and charges are justified.

The package builds on consultation with industry and other stakeholders and an impact assessment. It is now handed over to the European Parliament and European Council for deliberation.

### Public consultations

- **European Supervisory Authorities** (EBA, EIOPA and ESMA – ESAs): public consultation on draft implementing technical standards amending the mapping of External Credit Assessment Institutions' (ECAIs) credit assessments. The deadline is 26 June 2023.
- **European Securities and Markets Authority:** public consultation on draft regulatory technical standards under the revised European long-term investment fund (ELTIF) regulation. The deadline is 24 August 2023.
- **European Commission:** call for feedback on measures to increase consumer participation in capital markets (Retail Investment Strategy). The deadline is 25 July 2023.

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