

The SAFE Regulatory Radar in March

Amendments in SEPA regulations, new rules for alternative investment fund managers, and the modernization of the UCITS framework, as well as the upcoming implementation of DORA and MiCA



At 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.

SEPA: Instant payments soon fully available in euro to consumers and businesses in the EU and EEA countries

New rules for instant payments will enter into force in the EU and European Economic Area (EEA) countries after a transitional period. On 26 February 2024, the Council of the EU adopted a regulation amending Regulations (EU) No 260/2012 and (EU) 2021/1230 and Directives 98/26/EC and (EU) 2015/2366, which will make instant payments in euro fully available to consumers and businesses in these countries. The aim is to enhance the strategic autonomy of the European economic and financial sector as the new rules will help to reduce any excessive reliance on third-country financial institutions and infrastructures.

The regulation, which is explained in more detail in the SAFE Regulatory Radar of November 2023, when the agreement was still provisional, aims to improve the possibilities to mobilize cash flows for the benefit of citizens and businesses and to enable innovative value-added services. The new rules will also grant access to payment systems and electronic money institutions (PEMIs) by amending the Settlement Finality Directive (SFD), which will result in the obligation for these entities to offer the service of sending and receiving immediate credit transfers after a transitional period. The regulation also includes appropriate safeguards to ensure that the access of PEMIs to payment systems does not introduce additional risks to the system.

The regulation contains a review clause requiring the Commission to submit a report evaluating the development of credit charges.

AIFMD/UCITS: New rules for alternative investment fund managers and plain-vanilla EU investment funds

On 26 February 2024, the Council of the EU adopted a directive to improve European capital markets and strengthen investor protection in the EU, amending the Alternative Investment Fund Managers Directive (AIFMD), which regulates managers of hedge funds, private equity funds, private debt funds, real estate funds, and other alternative investment funds in the EU. The directive also modernizes the framework for undertakings for collective investment in transferable securities (UCITS), which are plain-vanilla, EU-harmonized retail investment funds such as unit trusts and investment companies. The new directive aims to improve European capital markets and to strengthen investor protection in the EU.

The amendments to the AIFMD and UCITS are part of the Capital Markets Union (CMU) package presented by the Commission on 25 November 2021. The CMU is the EU's initiative to create a true single market for capital across the EU. It aims to allow for investments and savings to flow across all member states for the benefit of citizens, businesses, and investors.

The directive, which was discussed in detail in the SAFE Regulatory Radar of August 2023 when the agreement was still provisional, aims to enhance the integration of asset management markets in Europe and to modernize the framework for key regulatory aspects. It also aims to improve the availability of liquidity management tools, with new requirements for managers to provide for the activation of these tools. This will help to ensure that fund managers are well equipped to cope with significant outflows in times of

financial turmoil.

Furthermore, the directive is intended to provide an EU framework for loan origination funds, i.e. funds that provide loans to companies, supplemented by a number of requirements to mitigate risks to financial stability and to ensure an appropriate level of investor protection. The rules on delegation by investment managers to third parties are also strengthened by the new directive. This will allow them to make better use of the best resources of market specialists, subject to enhanced supervision and the preservation of market integrity.

Finally, the directive includes provisions to improve data sharing and cooperation between authorities, and to identify excessive costs that could be imposed on funds, and hence their investors, and to prevent potentially misleading names to better protect investors.

The directive will enter into force 20 days after its publication in the EU's Official Journal. Member states will have 24 months from the date of entry into force to transpose the rules into national law.

DORA/MiCA: Adoption of milestone delegated acts (DORA and MiCA) and milestone technical regulatory standards (only DORA)

The EU is moving closer to the implementation of the Digital Operational Resilience Act (DORA) and the Regulation on Markets in Crypto-Assets (MiCA) after on 22 February 2024, the Commission adopted two delegated acts under DORA and four delegated acts under MiCA. These delegated acts are the first in a series to complement and complete the EU regulatory framework on cybersecurity issues for the financial sector and crypto-assets.

The European Parliament and the Council have a period of three months to raise objections, which they can extend for a further three months. If no objections have been raised by the end of this period, the act will enter into force.

Following the delegated acts package, the Commission adopted three new regulatory technical standards (RTS) for DORA on 13 March 2024. For more details on the technical standards see the [SAFE Regulatory Radar of January 2024](#), when the European Supervisory Authorities had published them as a set of draft technical standards.

The [RTS](#) complement the EU regulatory framework on cybersecurity issues for the financial sector by specifying

1. rules for the classification of cyber incidents,
2. rules harmonizing information and communication technology (ICT) risk management tools, methodologies, processes, and security policies for the financial institutions, and
3. rules to define the risk elements to be taken into account by financial institutions when developing their policies for the use of ICT services supporting critical or important functions provided by third-party ICT service providers.

It is now up to the European Parliament and the Council to consider and adopt the legislation.

Public consultations

- European Banking Authority (EBA): The EBA consults on [draft technical standards under the Capital Requirements Regulation \(CRR3\)](#) regarding off-balance sheet items under the standardized approach of credit risk. The deadline is 4 June 2024.
- EBA: The EBA consults on [guidelines on redemption plans under the Markets in Crypto-Assets Regulation \(MiCAR\)](#). The deadline is 10 June 2024.
- Single Resolution Board (SRB): The SRB consults on the [minimum bail-in data template](#). The deadline is 8 May 2024.
- European Commission (EC): The Commission calls for evidence and consults on the [Technical Support Instrument \(TSI\) \(mid-term evaluation\)](#), the successor to the Structural Reform Support program. The deadline for both is 10 June 2024 (midnight Brussels time).

Wolfram Stein is Research Assistant in the SAFE Research Department Financial Intermediation and the SAFE Policy Center.



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Leibniz Institute for
Financial Research SAFE

Theodor-W.-Adorno-Platz 3
60323 Frankfurt am Main

Phone: +49 69 798 30080

Fax: +49 69 798 30077

Email: info@safe-frankfurt.de

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