

SAFE Finance Blog

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The SAFE Regulatory Radar in December

Improvements for securities settlement, reforms of regulatory framework for insurance companies, and new requirements on sustainability disclosure for financial service providers



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.

CSDR – New rules to improve securities settlement:

New rules aim to improve the efficiency of securities settlement in the EU and the provision of cross-border services by central securities depositories (CSDs). On 27 November 2023, the Council of the European Union adopted a regulation amending the Central Securities Depositories Regulation (CSDR), which updates the requirements for CSDs operating securities settlement systems across the EU. This review, which aims to ensure an efficient and resilient post-trading infrastructure and thus a well-functioning capital markets union, is one of the key points of the Commission's [Capital Markets Union Action Plan](#).

The review will focus on the passporting regime applicable to CSDs based in one member state that offer their services in another member state. In particular, it will clarify and simplify this procedure to reduce barriers to cross-border settlement, especially the administrative and financial burdens. To further support cross-border services, the regulation promotes the establishment of supervisory colleges to facilitate and improve the cooperation between competent authorities of member states where the activities of a CSD are considered to be materially important for the functioning of the securities markets and the protection of investors in at least two other member states. In addition, supervisors will be better informed about the activities of non-EU CSDs operating in the EU.

Furthermore, the regulation allows CSDs to access banking-type services, including through other CSDs, to offer services in a wider range of currencies and across borders.

To prevent settlement failures and increase settlement efficiency, the updated rules target the settlement discipline, in particular, the conditions for the application of mandatory buy-ins. These occur when a transaction is not settled as agreed and the buyer of the securities is forced to repurchase them elsewhere. Because of their potential negative effects, mandatory buy-ins should be a measure of last resort. They should only apply when other measures, such as fines, have not worked as intended and, at the same time, the level of settlement failures has or is likely to have a negative impact on financial stability.

The adoption by the Council completes the decision-making procedure. The regulation will enter into force twenty days after its publication in the Official Journal.

Solvency II/IRRD – Enhancing the role of the (re)insurance sector:

The new rules aim to enhance the role of the (re)insurance sector in providing long-term private sources of investment for European companies, to improve the protection of policyholders, and to better prepare insurers and competent authorities for situations of significant financial distress. On 14 December 2023, the Council and the Parliament reached a provisional agreement to strengthen the insurance regulatory framework by amending the [Solvency II Directive](#) and introducing a new Directive on the recovery and resolution of (re)insurance undertakings (IRRD).

In line with the objectives of the Capital Markets Union, the amendments to Solvency II provide incentives for the insurance and reinsurance sector to invest more in long-term capital. In addition, the new rules improve the management of certain risks in the insurance sector, in particular the sensitivity to climate change and short-term market fluctuations, as well as systemic risks, which are addressed by a new macroprudential toolkit. To reduce the administrative burden for small and non-complex insurance companies, the agreement introduces simplified and proportionate rules.

Concerning the cross-border activities of (re)insurers, the framework will strengthen the coordination and cooperation between national supervisory authorities, which, among other things, aims to improve the protection of policyholders when buying insurance in another country.

The new [IRRFD](#) aims at an orderly resolution of insurers in case of insolvency. With the European Insurance and Occupational Pensions Authority (EIOPA) in a coordinating role, member states will have to establish national insurance resolution authorities and ensure effective cross-border cooperation. These resolution authorities will have tools to intervene in the case of failing (re)insurers, e.g. by taking them out of the market in an orderly manner while aiming to preserve the insurance cover. The directive will require larger and systemically important entities to prepare and submit pre-emptive recovery plans.

Once finalized and approved by the representatives of the member states and the European Parliament, the Council and the Parliament will have to formally adopt the texts of the provisional agreement.

SFDR – Additional disclosure requirements on sustainability-related topics:

The European Supervisory Authorities (ESAs) are proposing additional disclosure requirements on sustainability issues for financial service providers. On 4 December 2023, the [ESAs](#) published [Regulatory Technical Standards \(RTS\)](#) on the content and presentation of disclosures under the Sustainable Finance Disclosure Regulation ([SFDR](#)).

At the request of the Commission, the [ESAs](#) present in their final report several new indicators for the principal adverse impact (PAI) of investment decisions on sustainability factors, with a focus on adverse social impacts. They refine the content, respective definitions, applicable methodologies, metrics, and presentation of several other adverse impact indicators. In addition, the draft [RTS](#) include new disclosure requirements on greenhouse gas emission reduction targets, including interim targets and milestones where applicable, and actions being taken. The draft [RTS](#) simplify the templates for financial products, including with respect to language and the avoidance of repetition. A [SAFE White Paper](#) examines in detail the impact of previous regulatory changes to the [SFDR](#) on the classification of funds into [SFDR](#) classes and on the funds' proportion of sustainable investments.

Within three months of publication, the European Commission will decide whether or not to endorse the draft [RTS](#).

Public consultations

- **European Supervisory Authorities (ESAs):** public [consultation](#) on joint guidelines on the system for the exchange of information relevant to fit and proper assessments. The deadline is 15 January 2024.
- **ESAs:** public [consultation](#) on second batch of policy mandates under the Digital Operational Resilience Act (DORA). The deadline is 4 March 2024.
- **European Securities and Markets Authority (ESMA):** public [consultation](#) on draft guidelines on enforcement of sustainability information. The deadline is 15 March 2024.
- **ESMA:** public [consultation](#) on technical advice on CSDR penalty mechanism. The deadline is 29 February 2024.
- **European Banking Authority (EBA):** public [consultation](#) on draft technical standards on market and counterparty credit risk. The deadline is 14 March 2024.
- **EBA:** public [consultation](#) on the amendments to the Pillar 3 disclosure and supervisory reporting frameworks. The deadline is 14 March 2024.
- **EBA:** public [consultation](#) on draft technical standards specifying the requirements for policies and procedures on conflicts of interest for issuers of ARTs under the Markets in Crypto-Assets Regulation (MiCAR). The deadline is 7 March 2024.
- **EBA:** public [consultation](#) on standards for assessing the materiality of extensions and changes to the new market risk internal models under the Fundamental Review of the Trading Book. The deadline is 29 February 2024.
- **European Insurance and Occupational Pensions Authority (EIOPA):** public [consultation](#) on its methodology for setting value-for-money benchmarks. The deadline is 15 March 2024.
- **EIOPA:** public [consultation](#) on the prudential treatment of sustainability risks. The deadline is 22 March 2024.
- **EIOPA:** call for [feedback](#) on its proposed approach to tackle greenwashing in the insurance and occupational pension sectors. The deadline is 12 March 2024.
- **European Central Bank (ECB):** public [consultation](#) on draft recast Regulation on investment fund statistics. The deadline is 12 February 2024.
- **International Organization of Securities Commissions (IOSCO):** call for [feedback](#) on proposed good practices to improve trading venues' resilience in case of market outages. The deadline is 1 March 2024.
- **Single Resolution Board (SRB):** public [consultation](#) on the future review of minimum requirements for own funds and eligible liabilities. The deadline is 13 February 2024.

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