



Leibniz Institute for Financial Research SAFE  
Sustainable Architecture for Finance in Europe (<https://safe-frankfurt.de/>)

## SAFE Finance Blog

### The SAFE Regulatory Radar in February

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02/28/2020

New initiatives for sustainable finance, amended rules to harmonize the provision of financial information and recent proposals to trading obligations under MiFIR: a selection of financial regulatory developments from this month



*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.*

## Sustainable finance: New initiatives

On 11 December 2019, the European Commission presented the European Green Deal ([https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en)). It is a roadmap that aims to pave the way for Europe to become “the world’s first climate-neutral continent by 2050”. One of the key components of this deal is to foster more sustainable investments. Following this goal, on 14 January the European Commission and the Council introduced the European Green Deal Investment Plan ([https://ec.europa.eu/info/publications/200114-european-green-deal-investment-plan\\_en](https://ec.europa.eu/info/publications/200114-european-green-deal-investment-plan_en)) (EGDIP) and the Just Transition Mechanism (JTM), including a legislative proposal (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020PC0022>) to establish the Just Transition Fund (JTF).

The EGDIP (European Green Deal Investment Plan) aims to facilitate and incentivize public and private sustainable investments. In total, the plan should mobilize at least one trillion euros over the next decade with key support by the European Investment Bank (EIB).

The JTM (Just Transition Mechanism) consists of three pillars and aims at mitigating distributional concerns of the green transition by concentrating on affected regions and sectors. The JTF (Just Transition Fund) constitutes the first pillar of the JTM (Just Transition Mechanism). It will provide between 30 and 50 billion euros of funding from the EU’s regional policy budget granted to the regions and sectors that are most affected by the transition. The other two pillars of the mechanism are the Just Transition Scheme under the program „InvestEU ([https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_18\\_4010](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_18_4010))“ to mobilize private investments and a public loan facility with the EIB (European Investment Bank). The Commission will hold a Sustainable Investment Summit on an annual basis to monitor the progress on the transition path.

On a related note, promoting sustainability became also a key priority for the European Securities and Markets Authority (ESMA). On 6 February 2020, ESMA (European Securities and Markets Authority) published its strategy on sustainable finance ([https://www.esma.europa.eu/sites/default/files/library/esma22-105-1052\\_sustainable\\_finance\\_strategy.pdf](https://www.esma.europa.eu/sites/default/files/library/esma22-105-1052_sustainable_finance_strategy.pdf)). The strategy explains how environmental, social and governance (ESG) factors will be integrated into activities of the European supervisory authority.

The report highlights several key priorities: i) the completion of the regulatory framework on transparency obligations through the disclosure requirements, including providing technical standards; ii) giving an account of trends, risks and vulnerabilities (TRV) of sustainable finance; iii) analyzing the financial risks stemming from climate change; iv) harmonizing national supervisory practices on ESG (environmental, social and governance) factors; v) helping to develop and maintain the EU sustainable finance taxonomy; vi) ensuring ESG (environmental, social and governance) guidelines are followed by supervised entities.

Also, the European Parliament works on a related topic. On 24 January 2020, it published a provisional agreement ([https://www.europarl.europa.eu/RegData/commissions/econ/inag/2020/01-16/CJ36\\_AG\(2020\)646809\\_EN.pdf](https://www.europarl.europa.eu/RegData/commissions/econ/inag/2020/01-16/CJ36_AG(2020)646809_EN.pdf)) for the proposed Taxonomy Regulation (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018PC0353>). It establishes a unified classification system ('taxonomy') on what can be considered an environmentally sustainable economic activity. The details of the legislative proposal were outlined in the SAFE Regulatory Radar December (<https://safe-frankfurt.de/policy-blog/details/the-safe-regulatory-radar-in-december.html>).

As a next step, the Council of the EU is expected to formally adopt a final compromise agreement at first reading and the European Parliament will adopt it in plenary at the second reading.

## Capital Markets Union: New guidelines to harmonize the provision of financial information

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On 4 February 2020, [ESMA \(European Securities and Markets Authority\)](#) amended its guidelines on the enforcement of financial information ([https://www.esma.europa.eu/sites/default/files/library/esma32-50-218\\_guidelines\\_on\\_enforcement\\_of\\_financial\\_information.pdf](https://www.esma.europa.eu/sites/default/files/library/esma32-50-218_guidelines_on_enforcement_of_financial_information.pdf)) under the Transparency Directive (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32013L0050>). The amendments' goal is to harmonize the provision of financial information across member states of the European Economic Area (EEA). The guidelines require national competent authorities (NCAs), such as the Federal Financial Supervisory Authority (BaFin) for Germany, to harmonize how to select issuers for an examination, how to undertake examinations, as well as the duration of the examination. Moreover, [ESMA \(European Securities and Markets Authority\)](#) points out that [NCAs \(national competent authorities\)](#) should ensure the effectiveness of financial information enforcement as well as adequate independence from the government, issuers, auditors, and other market participants.

The updated guidelines aim to strengthen supervisory convergence across the [EEA \(European Economic Area\)](#). They are designed to prevent regulatory arbitrage and thus contribute to investor protection. The amendments will enter into force on 1 January 2022.

### **Financial supervision: [ESMA \(European Securities and Markets Authority\)](#) suggests amendments to the trading obligation under MiFIR**

On 7 February 2020, [ESMA \(European Securities and Markets Authority\)](#) published a final report (<https://www.esma.europa.eu/press-news/esma-news/esma-publishes-final-report-mifir-alignments-following-introduction-emir-refit>) proposing several amendments to the Markets in Financial Instruments Regulation (MiFIR (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1582188030883&uri=CELEX:32014R0600>)). [ESMA \(European Securities and Markets Authority\)](#) recommends aligning the scope of entities subject to the clearing obligations for derivatives under EMIR (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1582640454004&uri=CELEX:32012R0648>) and the trading obligations for derivatives under [MiFIR \(Markets in Financial Instruments Regulation\)](#).

This report is a consequence of EMIR Refit (<https://eur-lex.europa.eu/eli/reg/2019/834/oj?locale=en>) that changed the scope of counterparties subject to clearing obligations for derivatives, while the scope of entities subject to the trading obligation for derivatives under [MiFIR \(Markets in Financial Instruments Regulation\)](#) has not been adopted.

In detail, [ESMA \(European Securities and Markets Authority\)](#) makes three recommendations to the European Commission based on the results of its public consultation: i) aligning the scope of non-financial counterparties, ii) aligning the scope of financial counterparties and iii) creating a stand-alone suspension mechanism for the Derivatives Trading Obligation.

Based on the [ESMA \(European Securities and Markets Authority\)](#) report, the European Commission will submit its report to the European Parliament and the Council by 18 December 2020.

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#### **Current public consultations**

- European Central Bank: **Public consultation**

([https://www.bankingsupervision.europa.eu/legalframework/publiccons/html/egam\\_202002.en.htm](https://www.bankingsupervision.europa.eu/legalframework/publiccons/html/egam_202002.en.htm)) the ECB guide on assessment methodology (EGAM). The EGAM outlines the methodology the ECB uses to assess the internal models which banks apply to calculate their exposure to counterparty credit risk (CC). The deadline is Wednesday, 18 March 2020.

- European Banking Authority: Public **consultation** (<https://eba.europa.eu/eba-consults-revised-guidelines-money-laundering-and-terrorist-financing-risk-factors>) on revised guidelines on factors and financial institutions should consider when assessing money laundering and terrorist financing risk. deadline is Tuesday, 5 May 2020.

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