DILLON EUSTACE

DUBLIN   CAYMAN ISLANDS   NEW YORK   TOKYO

Insurance

Quarterly Legal and Regulatory Update

Period covered: 1 April 2024 – 30 June 2024

TABLE OF CONTENTS

1. SOLVENCY II

1.1 European Parliament adopts proposed Solvency II amending Directive and IRRD

On 23 April 2024, the European Parliament published a press release announcing that it had voted in plenary to adopt the proposed Directive amending the Solvency II Directive (2009/138/EC) (2021/0295 (COD)) and the proposed Insurance Recovery and Resolution Directive (IRDD) (2021/0296 (COD)).

The changes to the Solvency II rules will free up large sums of money which insurance firms had to keep in reserve, intended to allow the sector to channel more funds into the economic recovery and the European Green Deal more particularly.

Currently the cost-of-capital rate, which determines reserve levels, is assumed to be equal to 6%, whereas the update will take this rate down to 4.75%. The update will also simplify supervision while on the other hand empowering supervisors on systemic risks**.**

The update includes new provisions which will require insurance firms to better take into account sustainability-related risks and to report more about these risks so that policyholders can understand a firm's green credentials.

The proposal of the Commission is notably improved by making the system more selective, targeting the riskier sectors of the industry more, and more focussed on protecting policyholders. Finally, the review clause lays the ground for the introduction of insurance guarantee schemes in all member states. It will help deal with failing insurance undertakings, thereby ensuring that these undertakings can be recovered or wound down without taxpayers footing the bill.

The aim of the Insurance Recovery and Resolution Directive is to ensure that insurers and the relevant authorities in the EU are better prepared in cases of significant financial troubles.

The next step is for the Council of the EU to formally adopt the Directives. The Directives will enter into force 20 days after their publication in the *Official Journal of the European Union*. Member states are expected to apply legislation and regulation implementing the Directives from 24 months and one day after their entry into force.

The European Parliament and the Council reached political agreement on the final compromise text for the Directives in December 2023. The Council published the agreed texts in January 2024.

The press release from the European Parliament can be viewed here.

1.2 EIOPA peer review report on supervision of prudent person principle under Solvency II

On 2 May 2024, the European Insurance and Occupational Pensions Authority **("EIOPA")** published a peer review report following on from a peer review conducted in 2023 on the supervision of the prudent person principle **("PPP")** under the Solvency II Directive (2009/138/EC), together with a factsheet and a press release.

The PPP, which is set out in Article 132 of the Solvency II Directive, requires insurance and reinsurance undertakings to invest only in assets whose risks they can thoroughly understand, monitor and manage. When investing, insurers must also act in the best interests of policyholders while ensuring the overall security, liquidity and profitability of the portfolio.

The peer review focused on the supervision of investments in non-traditional or more complex assets, including derivatives (particularly in the case of their use for efficient portfolio management) and of assets backing unit-linked and index-linked contracts where the risk is borne by policyholders.

Following the peer review, EIOPA issued 49 recommended actions to 22 national competent authorities (NCAs). Some of the more pertinent recommendations from EIOPA to NCAs included:

- Developing internal guidance to ensure a common approach during supervision or publishing guidance to the market on what type of assessments would need to be carried out prior to investing in risky or complex investments.
- Improving their supervision of derivatives through regularly performing detailed off-site analyses and on-site inspections or by providing detailed guidance on the supervision of derivatives used for hedging and efficient portfolio management.
- Developing, maintaining and using risk indicators on the PPP to implement a data-driven supervision.
- Providing specific supervisory expectations to insurers on how to assess whether investments for unit-linked and index-linked contracts are made in the best interests of policyholders.

EIOPA states that it will monitor and assess NCAs' compliance with the recommended actions. It will also consider how to best reflect the overall findings of the peer review in its work on supervisory convergence.

The peer review report can be accessed here.

1.3 Delegated Decision renewing Solvency II equivalence decision for US published in OJ

On 21 June 2024, Commission Delegated Decision (EU) 2024/1763 on the renewal of the determination that the solvency regime in force in the United States applicable to undertakings with their head office in that country is provisionally equivalent to that laid down in the Solvency II Directive (2009/138/EC) was published in the Official Journal of the European Union (**OJ**). The European Commission adopted the Delegated Regulation in March 2024.

Article 227(6) of the Solvency II Directive provides that provisional equivalence granted under Article 227 of the Solvency II Directive is subject to renewals for further periods of ten years where certain specified criteria continue to be met. The provisional equivalence granted to the US (among other non-EU jurisdictions) under Commission Delegated Decision ((EU) 2015/2290) expires on 1 January 2026.

On the basis of the assistance provided by EIOPA and in the light of the solvency requirements applicable in the United States, EIOPA found that the criteria laid down in Article 227(5) of Directive 2009/138/EC continue to be met by the solvency regime in force in the United States applicable to undertakings with their head office in that third country. EIOPA found it appropriate to renew the determination, laid down in Delegated Decision (EU) 2015/2290/EC, that that solvency regime is provisionally equivalent to that laid down in Title I, Chapter VI of Directive 2009/138/EC (Solvency II).

The Delegated Decision will renew the US provisional equivalence for ten years from 1 January 2026 to 31 December 2035.

The Commission Delegated Decision published in the OJ renewing Solvency II equivalence for the US can be viewed here.

2. EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY (EIOPA)

2.1 European Commission requests EIOPA technical advice on Solvency II Delegated Regulation review

On 9 May 2024, the European Commission published its formal request (Ares (2024)3165513) (dated 30 April 2024) for technical advice from EIOPA on the review of specific items in Commission Delegated Regulation (EU) 2015/35 (Solvency II Delegated Regulation), with an accompanying cover letter.

In this mandate to EIOPA, the Commission seeks its technical advice on the following areas:

- The methodology to be used when classifying undertakings as small and non-complex, and the conditions for granting or withdrawing supervisory approval for proportionality measures to be used by undertakings not classified as small and non-complex undertakings.
- The standard formula capital requirements for exposures to central counterparties (CCPs) when they become direct clearing members.
- The standard formula capital requirements for investments in crypto-assets.

The Commission requests that EIOPA deliver its technical advice by 31 January 2025 in relation to the areas summarised in the first two bullet points and by 30 June 2025 in relation to the area summarised in the third bullet point.

The formal request from the Commission to EIOPA relating to technical advice on the review of specific items on Solvency II can be viewed here and the accompanying cover letter, here.

2.2 EIOPA consults on natural catastrophe risk reassessments in the standard formula

On 3 April 2024, EIOPA launched a public consultation on reassessing natural catastrophe risks in the standard formula.

EIOPA's review of these parameters aims to better capture the risks stemming from perils such as earthquake, flood, hail and windstorm, based on new insights, new data and new models that have come online since the last reassessment in 2018.

Natural catastrophes are becoming more frequent and more severe across Europe due to climate change. Against this development – and with a view to ensuring the continued protection of policyholders and the stability of the EU's insurance market – it is important that insurers' capital requirements for natural catastrophe underwriting risk continue to reflect the excepted impact of climate change. EIOPA has therefore reviewed natural catastrophe parameters in the standard formula to see if previous parameters needed recalibrating in light of new evidence, but also to assess whether new perils or regions should be included.

As a result of the 2023/2024 (re)assessment exercise, EIOPA is proposing new risk factors for 25 perils/regions across five perils (flood, hail, earthquake, windstorm, subsidence). Flood risk, for instance, is to be (re)calibrated for 10 countries. Additionally, EIOPA suggests including more countries in the standard formula for which certain natural catastrophe risks were previously not covered. Nine countries including the Netherlands, Ireland and Finland are slated to be added for flood risk.

Beyond the five perils already included in the standard formula, EIOPA is also monitoring emerging perils across Europe that could have a material impact on the region's insurance sector. EIOPA is considering including wildfire, coastal flood and drought in the future as new perils to be covered under the standard formula.

Stakeholders are invited to provide their feedback to the proposals made in EIOPA's Consultation Paper by responding to the questions via the online survey. The deadline for the submission of comments was **20th June 2024.**

The Solvency II Review mandates EIOPA to reassess, and, in case of significant discrepancies, recalibrate these parameters at least every five years. EIOPA therefore performs regular recalibrations of the standard formula's natural catastrophe risk every five years to consider the latest data and scientific evidence.

This reassessment exercise is part of EIOPA's broader work related to natural catastrophes, which, among others, includes the analysis of insurers' exposure to physical climate change, the insurance protection gap dashboard for natural catastrophes and the analysis of insurance-based solutions for natural catastrophe protection gaps.

The press release from EIOPA launching the public consultation can be accessed here.

2.3 Supervision of reinsurance concluded with third-country reinsurers

On 2 April 2024, EIOPA published a supervisory statement on the supervision of reinsurance concluded with third country insurance and reinsurance undertakings and also published an accompanying impact assessment.

The supervisory statement is addressed to national competent authorities (NCAs). The aim is to highlight the risks arising from the use of reinsurance provided by reinsurers operating under regulatory regimes that have not been recognised by the European Commission as equivalent to the Solvency II regime and to propose a risk-based approach limiting their effect. Certain parts of the supervisory statement, where relevant and explicitly stated, also apply to reinsurance arrangements with reinsurers from equivalent third countries.

The supervisory statement outlines supervisory expectations in the following areas:

- Assessment of the business rationale for using third-country reinsurance and early supervisory dialogue.
- Assessment of the insurance undertaking's risk management system regarding the use of third-country reinsurers.
- Assessment of the reinsurance agreement.
- Tools to mitigate any additional risks.

EIOPA expects NCAs to apply the supervisory statement through the use of the principle of proportionality and to follow a risk-based approach.

EIOPA launched a consultation on a draft version of the supervisory statement relating to the supervision of third-country reinsurance in July 2023. It has published a feedback statement on the consultation responses received, together with a resolution of comments document in which it summarises the comments received to the consultation and explains how it has noted, and (where relevant) sought to address them.

In line with its annual work plan for 2024, EIOPA is working on the use of reinsurance, including innovative reinsurance techniques, and expects to provide guidance to NCAs during the course of 2024.

The supervisory statement and the related impact statement can be viewed here and here respectively.

EIOPA's July 2023 public consultation on its supervisory statement on the supervision of reinsurance concluded with third-country reinsurers can be viewed here.

EIOPA's feedback statement on the consultation responses received can be accessed here.

2.4 EIOPA report takes the pulse of digitalisation in the European insurance market

On 30 April 2024, EIOPA published a report on the digitalisation of the European insurance sector.

The report represents the results of a digitalisation market monitoring survey launched by EIOPA in March 2023, as well as insights from a Eurobarometer survey on customers' attitudes to digitalisation. EIOPA received 209 responses to the survey from organisations across 22 EU member states. Their responses were based on their status in 2022 and EIOPA notes, therefore, that the most recent digital developments, such as generative AI, may not have been fully captured in responses.

The report provides a general assessment of the status of digitalisation across the EU and is structured around three focus areas: (1) strategy, channels and partnerships, (2) new technologies and business models, and (3) opportunities, risks and barriers.

EIOPA reports that the level of digitalisation among EU insurers is varied and, in most cases, still at an early stage. Some of the key findings include:

- Digital-only distribution channels still lag significantly behind physical or hybrid ones, with customers still predominantly purchasing insurance products via physical channels, although online tools may be also used for comparison and information purposes.

- Telephone, email and face-to-face are the most popular communication channels used by customers to interact with insurance undertakings to date. The use of chatbots is expected to increase significantly soon, possibly related to the emergence of solutions based on Generative AI.

- Most insurers have active commercial relationships with Big Tech firms, with nearly 80% of the respondents use Big Tech companies for cloud storage services.

- AI is already used by 50% of the respondents in non-life insurance and 24% in life insurance, with its use expected to increase.

- There has been a growth in the cyber insurance market over the past two years, even though many cyber insurance products still exclude certain risks.

EIOPA notes that the trend towards the increasing digitalisation of the insurance sector is expected to progressively continue in the future.

The findings will be used to support EIOPA's evaluation of the risks and benefits of digitalisation for the market and customers, assessing and designing regulatory measures, improving supervisory convergence and oversight, and ensuring that stakeholders can benefit from digitalisation while protecting customers and safeguarding financial stability. The findings will also feed into EIOPA's digital strategy, which it published in October 2023 (see Legal update, EIOPA's digital strategy).

The EIOPA report on the digitalisation of the European insurance sector can be viewed here.

EIOPA’s digital strategy can be viewed here.

2.5 EIOPA launches 2024 EU-wide insurance sector stress test

On 2 April 2024, EIOPA published a press release announcing the launch of the 2024 EU-wide stress test for the insurance sector.

The 2024 stress test will subject insurers in the European Economic Area **(EEA)** to a hypothetical scenario of severe but plausible adverse developments in financial and economic conditions. EIOPA developed the scenario in close co-operation with the European Systemic Risk Board **(ESRB)**. It presumes a renewed build-up or continuation of geopolitical tensions together with a broad range of knock-on effects. As a result of high tensions, the narrative envisages a resurgence of widespread supply-chain disruptions, leading to sluggish growth and reigniting inflationary pressures.

EIOPA has translated this narrative into a set of market and insurance-specific shocks to assess the insurance sector's resilience to them from both capital and liquidity perspectives.

EIOPA explains that the stress test is not a pass or fail exercise. The goal is primarily to assess the resilience of participants to the adverse scenario whose shocks go beyond the regular resilience required under the Solvency II Directive (2009/138/EC) and provide supervisors with information on whether these insurers can withstand severe shocks. EIOPA will also analyse aggregate results to assess potential sector-wide vulnerabilities. This micro-prudential approach will enable EIOPA and national supervisors to issue recommendations to the industry as a whole and, where relevant, to discuss potential follow-up actions with individual insurers to improve their resilience.

The sample for the stress test will include 48 undertakings from 20 member states and cover over 75% of the EEA market in terms of total assets.

Participants have until mid-August 2024 to calculate their results based on the prescribed scenario and submit them to the relevant national supervisor. Once the results are submitted, EIOPA will undertake a quality assurance process to validate the results, which is expected to last until the end of October 2024. The outcome of the 2024 stress test will be published in December 2024.

The press release from EIOPA launching the 2024 EU-wide insurance sector stress test can be accessed here.

3. PRIIPS

3.1 Council of European Union approves negotiating mandate on revisions to the PRIIPS Regulation

As part of its Retail Investment Strategy announced in May 2023, the European Commission has proposed that a number of changes be made to the PRIIPS Regulation.

On 12 June 2024, the Council of the European Union (Council) confirmed that it had reached agreement on its negotiating mandate on the proposed reforms to the PRIIPS Regulation.

This follows the agreement reached by the European Parliament on its negotiating mandate on proposed amendments to the PRIIPS Regulation on 11 May 2024, meaning that inter-institutional negotiations on the revisions to the PRIIPS Regulation can now begin.

A copy of the negotiating mandate agreed by the Council is available here.

The original proposal put forward by the European Commission on amendments to the PRIIPS Regulation is available here.

A Dillon Eustace briefing providing an overview of the European Commission's original proposals to amend the PRIIPS Regulation is available here.

4. CENTRAL BANK OF IRELAND

4.1 Central Bank publishes Quarterly Insurance Newsletter

In March 2024, the Central Bank published its Quarterly Insurance Newsletter.

The Newsletter addresses the following topics:

- Insights into Natural Catastrophe Modelling;
- Individual Accountability Framework;
- Double Materiality – Climate Risk Guidance and the CSRD;
- EIOPA Sustainability Activities;
- Stakeholder Engagement;
- Divided Distributions and Intercompany Loans;
- Getting Ready for DORA;
- EIOPA updates; and
- Central Bank updates.

The Newsletter can be accessed **here**.

5. ANTI-MONEY LAUNDERING (AML) AND COUNTERING THE FINANCING OF TERRORISM (CFT)

5.1 AML Regulation, AMLA Regulation and MLD6

AML Regulation:

On 19 June 2024, the regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing[1] (**AML Regulation**) was published in the Official Journal of the EU. The AML Regulation will apply from 10 July 2027.

Amongst other initiatives, the AML Regulation shall:

- apply to the entire crypto sector, obliging crypto-asset service providers (**CASPs**) to conduct CDD on their customers for any transactions over 1,000 EUR;
- ensure that large transactions are not used for ML/TF by limiting large cash payments to a maximum EU-wide limit of 10,000 EUR;
- clarify beneficial ownership rules to allow for more transparency and harmonisation across the EU. Both ownership and control needs to be assessed to identify natural persons. The beneficial ownership threshold will currently stay at 25%. However, adopting a risk-based approach, Member States can identify categories of corporate entities exposed to higher ML/TF risks, and propose a lower threshold to the Commission provided that such lower threshold shall however not be lower than 15%. The Council has clarified rules applicable to multi-layered ownership and control structures and for the identification of beneficial owners for different types of entities, including non-EU entities;
- new rules on carrying out enhanced due diligence obligations (**EDD**) in certain specified circumstances and a requirement that designated entities will have to conduct EDD measures for occasional transactions and business relationships involving high-risk third countries, based on an assessment to be conducted considering the lists drawn up by FATF; and
- new rules concerning customer due diligence, reporting obligations and record-retention measures.

A copy of the AML Regulation is available here.

AMLA Regulation:

On 19 June 2024, the Regulation establishing the Anti-Money Laundering Authority[2] was published in the OJ. The AMLA Regulation will enter into force on the twentieth day following its publication and will apply from 1 July 2025. The Anti-Money Laundering Authority (**AMLA**) shall start direct supervision of selected obliged entities (**SOEs**) in 2028. The seat of will AMLA has been announced as Frankfurt am Main (Germany).

A copy of AMLA Regulation is available here.

MLD6

On 19 June 2024, the Sixth Money Laundering Directive[3] (**MLD6**) was published in the Official Journal. MLD6 will addresses beneficial ownership information including the requirement for the information submitted to the central register to be verified, the management of the framework relating to bank account registries, the requirement for a single access point to information on real estate, expansion of the powers and role of FIUs, the potential to bring additional sectors into the scope of the 'single rulebook', carrying out national risk assessments, and the on-going role of competent authorities.

[1] Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing
[2] Regulation (EU) 2024/1620 of the European Parliament and of the Council of 31 May 2024 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010
[3] Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849

Member States must transpose the directive into national law by 10 July 2027. However, there are a number of exceptions including:

- certain provisions relating to access to the central registers of beneficial ownership of corporates and trusts and related provisions must be transposed earlier by 10 July 2026.

- provisions relating to the requirement for a single access point to information on real estate must be transposed by 10 July 2029.

A copy of MLD6 is available here**.**

6. SUSTAINABILITY

6.1 ESMA publishes Final Report on Greenwashing

On 4 June 2024, ESMA published its Final Report on Greenwashing (**Final Report**) in response to a request from the European Commission to the European Supervisory Authorities (**ESAs**)[4] for their input on greenwashing risks and the supervision of sustainable finance policies.

This follows the publication of ESMA's Progress Report on Greenwashing in May 2023 which set the ESAs common high-level understanding of the term "greenwashing" and which identified specific areas across the financial sectors which were particularly exposed to greenwashing risks and the drivers of such risks (**Progress Report**). The Progress Report also set down recommendations to market participants, including the investment management sector, on how such risks can be mitigated.

In the Final Report, ESMA re-confirms the ESA's common understanding of the term "greenwashing" and the recommendations made to market participants outlined in the Progress Report.

The Final Report focuses primarily on the role that the European Commission, ESMA itself and each of the NCAs play in supervising and mitigating greenwashing risk in the financial sector.

In it, ESMA sets out actions which each of these should take in order to enhance supervision of greenwashing risk in the financial sector, including both general recommendations and sector-specific recommendations.

Of specific relevance to investment firms and credit institutions providing investment services (hereinafter 'investment service providers'), the Final Report indicates that:

- NCAs are invited to consider minimum requirements for ESG knowledge and competencies of financial advisors;

- NCAs are invited to dedicate resources and develop initiatives to increase retail investors' financial literacy with regards to sustainable products and investments;

- NCAs are invited to complement their assessment of ESG information disclosed or provided by investment service providers with the analysis of third parties and external verifiers, where needed; and

- ESMA will launch a CSA89 on the integration of sustainability in firms' suitability assessment and product governance processes and procedures in 2024.

A copy of the Final Report is available here.

A copy of the Progress Report is available here.

6.2 ESAs publish Joint Opinion on the SFDR

On 18 June 2024, the ESAs published a joint opinion on the SFDR (**Opinion**) in which they put forward a number of proposals on how the SFDR should be reformed.

[4] The ESAs are the EBA, EIOPA and ESMA

This follows a European Commission consultation on the SFDR which closed in December 2023 in which the European Commission sought feedback on the operation of the SFDR and put forward a number of alternative proposals to revising the framework to make it more fit for purpose, including the possibility of introducing a formal product categorisation regime.

While reforms to the SFDR will likely take a number of years to implement, the proposals put forward by the ESAs in the Opinion provide an insight as to what form the revised SFDR framework might take.

The recommendations put forward by the ESAs in their Opinion include:

Introduction of a product categorisation regime

The ESAs have suggested that the Commission could consider the introduction of a product classification system, based on regulatory categories and / or sustainability indicator(s) to help consumers navigate the broad selection of sustainable products and support the full transition to sustainable finance.

They have suggested that such regime should "as a starting point" include at least two categories, namely a "sustainable product" and a "transition" product each of which will be subject to specific disclosure obligations relevant to the category.

- Sustainable products: products that invest in economic activities/ assets that are already environmentally and/or socially sustainable; and
- Transition products: products that invest in economic activities/ assets that are not yet sustainable, but which improve their sustainability over time to become environmentally or socially sustainable.

Introduction of a sustainability indicator regime

The ESAs have also suggested that a "sustainability indicator" regime for all financial products could be introduced which could either operate: (i) instead of the product categorisation regime outlined above: or (ii) in addition to the product categorisation regime above where a product could qualify for a category (if relevant criteria was met) as well as being awarded a sustainability indicator grade.

This indicator would indicate the sustainability features of the product using a scale with products being required to satisfy clear and objective criteria in order to obtain a specific rating. The ESAs have proposed a range of alternative options for such a sustainability indicator, including a grading scale referring to letters or colours.

Other proposals

- The ESAs have recommended that the key parameters of the "sustainable investment" definition under the SFDR should be revised to be made more prescriptive. They have proposed that if an economic activity is Taxonomy-eligible (i.e. covered by the EU Taxonomy), it should only be considered a "sustainable investment" if it meets the relevant technical screening criteria. If an economic activity is not covered by the EU Taxonomy framework (i.e. not taxonomy-eligible as not currently covered by the EU Taxonomy), appropriate metrics and minimum requirements under the SFDR should be complied with. The ESAs note that this could include relying on existing PAI indicators, DNSH and good governance requirements under the SFDR.
- They have also suggested that the European Commission consider whether all financial products, including those which make no sustainability claims, should disclose some "information" on adverse impacts so that investors have a clearer picture about the negative consequences of potential investments.
- Pre-contractual disclosures provided to investors should be tailored depending on the type of investor with only key information being disclosed to retail investors while more comprehensive information should be made available and disclosed to professional investors.

A copy of the Opinion is available here.

6.3 ESG Round-Up

Delay of adoption of sustainability reporting for certain sectors and certain third-country undertakings under the CSRD

On 8 May 2024, the Directive[5] amending Directive 2013/34/EU (**Amending Directive**) was published in the OJ.

The Amending Directive postpones the deadline for entities falling within the scope of the CSRD[6] to adopt sector-specific European sustainability reporting standards under the CSRD framework by two years until 30 June 2026. Under the Amending Directive, the European Commission is required to adopt such delegated acts as soon as each is ready in order to provide in-scope entities with sufficient time to prepare for implementation of those sector-specific reporting requirements.

Entities falling within the scope of the CSRD continue to be required to comply with the "general" sector-agnostic sustainability reporting standards which apply to all in-scope companies regardless of their economic sector in accordance with the timeframes set down in the CSRD and related European Sustainability Reporting Standards (**ESRS**).

The Amending Directive also postpones the adoption of general sustainability reporting standards for in-scope third-country undertakings until 30 June 2026. As already provided for under the CSRD, the first of those in-scope third county undertakings will be required to report under the CSRD for the first time in 2028.

A copy of the Directive is available here.

EU Platform on Sustainable Finance

On 4 April 2024, the EU Platform on Sustainable Finance published an intermediate report on monitoring capital flows to sustainable investments (**Report).**

The Report provides information on the work carried out by the EU Platform for Sustainable Finance on monitoring the extent to which capital flows are actually being redirected towards sustainable investments, and then assessing overall progress towards the objectives of the European Green Deal. It is intended to provide insights on whether: (i) sustainable finance policy has been sufficiently mainstreamed in financing and investment strategies of financial firms, (ii) the necessary investments to transform the EU economy are happening in the real economy; and (iii) relevant entities have access to finance for sustainable investments.

The EU Platform on Sustainable Finance will release a final report at the end of its current mandate.

A copy of the Report is available here.

EFRAG publishes technical explanations on ESRS Sustainability Reporting Standards under the CSRD.

On 30 May 2024, the European Financial Reporting Advisory Group (**EFRAG**) released a new set of technical explanations provided to assist stakeholders in the implementation of the ESRS.

This set of explanations comprises 44 new technical explanations provided in response to questions received by EFRAG as well as 12 Explanations previously released on 5 February 2024 and 12 Explanations previously released on 1 March 2024.

A copy of the set of technical set of explanations is available here.

[5] Directive (EU) 2024/1306
[6] Corporate Sustainability Reporting Directive (CSRD) - 2022/2464/EU

7. MISCELLANEOUS

7.1 DORA Commission Delegated Regulation published in the Official Journal

On 30 May 2024, the following Commission Delegated Regulations supplementing DORA were published in the OJ:

- Commission Delegated Regulation (EU) 2024/1502 supplementing DORA by specifying the criteria for the designation of ICT third-party service providers as critical for financial entities, accessible here; and
- Commission Delegated Regulation (EU) 2024/1505 supplementing DORA by determining the amount of fees to be charged by the lead overseer to critical providers and the way fees are to be paid, accessible here.
- On 25 June 2024, the following Commission Delegated Regulations were published in the OJ;
- Commission Delegated Regulation (EU) 2024/1772 setting out RTS specifying the criteria for the classification of ICT-related incidents and cyber threats, setting out materiality thresholds and specifying the details of reports of major incidents, accessible here.
- Commission Delegated Regulation (EU) 2024/1773 setting out RTS specifying the detailed content of the policy regarding contractual arrangements on the use of ICT services supporting critical or important functions provided by ICT third-party service providers, accessible here.
- Commission Delegated Regulation (EU) 2024/1774 setting out RTS specifying ICT risk management tools, methods, processes and policies and the simplified ICT risk management framework, accessible here.

Each of the above Commission Delegated Regulations entered into force 20 days after publication in the OJ. DORA has an implementation date of 17 January 2025.

If you have any questions in relation to the content of this update, to request copies of our most recent newsletters, briefings or articles, or if you wish to be included on our mailing list going forward, please contact any of the team members below.

Keith Waine
E-mail: keith.waine@dilloneustace.ie
Tel : + 353 1 673 1822

Karen Jennings
E-mail: karen.jennings@dilloneustace.ie
Tel : + 353 1 673 1810

Caoimhe Costello
E-mail: Caoimhe.Costello@dilloneustace.ie
Tel : + 353 1 673 1856

DISCLAIMER:

This document is for information purposes only and does not purport to represent legal advice. If you have any queries or would like further information relating to any of the above matters, please refer to the contacts above or your usual contact in Dillon Eustace.