

Investment management update - June 2024

20 June 2024

Welcome to the latest edition of our investment management update. This publication has been tailored to highlight topical news, cases and changes in the law impacting the investment management sector.

UK

- On 31 May 2024, the FCA's general anti-greenwashing rule went live. The rule mandates that all FCA authorised firms must ensure their sustainability claims about products or services are fair, clear and not misleading. The rule has a wide scope, affecting all firms regardless of their direct involvement in sustainable business, and applies to all forms of communication with both professional and retail clients. This is the first part of the Sustainability Disclosure Requirements to be in force and the FCA released accompanying guidance in April.

[Sustainability disclosure and labelling regime | FCA](#)

- On 30 May 2024, the FCA announced that it will delay revoking the UK version of Delegated Regulation (EU) 2017/592 (RTS 20) (which sets out the test for ancillary activities for the purposes of the MIFID commodities exemption). The FCA will not be taking forward its proposals relating to the ancillary activity exemption set out in its December 2023 consultation paper on reform of the regulatory framework for commodity derivatives (CP23/27).

[CP23/27: Reforming the commodity derivatives regulatory framework](#)

- On 28 May 2024, the FCA published a new webpage on insights and observations relating to operational resilience for firms within the scope of the new operational resilience rules (such as enhanced scope Senior Managers and Certification Regime firms). The webpage sets out observations and insights on the preparations that in scope firms have made towards complying with the FCA's final rules on building operational resilience (set out in the FCA's Policy Statement 21/3) ahead of the end of the transition period on 31 March 2025.

[Operational resilience: insights and observations for firms](#)

- On 24 May 2024, the House of Lords Financial Services Regulation Committee published a letter setting out its concerns regarding the FCA's proposals to publicise enforcement investigations and move away from a presumption against publication (proposed by the FCA in CP24/2). The letter follows the committee's announcement on 9 May 2024 that it has launched an inquiry into the FCA's proposals and an exchange of letters between the FCA and the committee on the topic.

[Correspondence: letter from Committee to FCA \(24 May 2024\)](#)

[Committee examining FCA consultation CP24/2 on publicising enforcement investigations - Committees - UK Parliament](#)

- On 16 May 2024, the FCA published a series of sector-specific "Dear CEO" letters including for asset management and consumer investments on the implementation of the Consumer Duty for closed products and services by 31 July 2024.

[Dear CEO letter: Implementing the Consumer Duty for closed products and services - asset](#)

[management](#)

[Dear CEO letter: Implementing the Consumer Duty for closed products and services - consumer investments](#)

- On 14 May 2024, the Financial Services and Markets Act 2000 (Overseas Funds Regime) (Equivalence) (European Economic Area) Regulations 2024 (*SI 2024/635*) were published with an explanatory memorandum. The regulations provide that all EEA states have been determined as equivalent for the purpose of the overseas fund regime under section 271A of the Financial Services and Markets Act 2000, with regards to UCITS that are not authorised as money-market funds. The FCA has confirmed that that relevant funds will be able to apply for recognition from September 2024.

[The Financial Services and Markets Act 2000 \(Overseas Funds Regime\) \(Equivalence\) \(European Economic Area\) Regulations 2024](#)

[The Financial Services and Markets Act 2000 \(Overseas Funds Regime\) \(Equivalence\) \(European Economic Area\) Regulations 2024 – Explanatory Memorandum](#)

- On 9 May 2024, the FCA published Market Watch issue 79 which considers market abuse surveillance failures and the FCA's recent peer review of firms' testing of front-running surveillance models.

[Market Watch 79](#)

- On 8 May 2024, the House of Lords Financial Services Regulation Committee published a press release announcing its inquiry into the secondary international competitiveness and growth objective given to the FCA and PRA under the Financial Services and Markets Act 2023. The deadline for written submissions is 11 July 2024.

[Inquiry into FCA and PRA secondary growth and competitiveness objective - Committees - UK Parliament](#)

- On 2 May 2024, the Bank of England and the FCA jointly published the first set of Q&As on the revised reporting requirements under UK EMIR and published a consultation on the second set of Q&As. The first set of published Q&As will apply from 30 September 2024. The consultation on the second set of Q&As closed on 12 June 2024.

[UK EMIR Reporting Q&As \(applicable from 30 September 2024\)](#)

[Draft UK EMIR Reporting Q&As \(applicable from 30 September 2024\) - part two](#)

- On 1 May 2024, the House of Lords Financial Services Regulation Committee published a letter (dated 30 April 2024) sent to the FCA regarding the costs disclosure regime for investment trusts. The letter highlighted concerns around rules which require investment trusts to report costs in the same way as unlisted open-ended funds. The FCA responded to the questions raised by the committee in a letter dated 10 May 2024.

[Letter from Lord Forsyth of Drumlean to Nikhil Rathi, Chief Executive of the FCA, regarding listed investment companies and cost disclosure \(30 April 2024\)](#)

[Letter from Nikhil Rathi, Chief Executive of the FCA, to Lord Forsyth of Drumlean in response to the Committee's letter of 30 April 2024 regarding listed investment companies and cost disclosure \(10 May 2024\)](#)

- On 1 May 2024, HM Treasury and the FCA published a joint roadmap for implementing the overseas funds regime (OFR). The OFR is intended to be opened to EEA funds authorised under the UCITS Directive (*2009/65/EC*), following the government's decision to grant equivalence to

such EEA funds (excluding money-market funds).

[A roadmap to implementing the Overseas Funds Regime](#)

- On 1 May 2024, the Office of Financial Sanctions Implementation (OFSI) published FAQs which provide short-form guidance and information on financial sanctions in the UK. Separately, on 2 May 2024, OFSI published its updated financial sanctions enforcement and monetary penalties guidance.

[UK Financial Sanctions FAQs](#)

[Financial sanctions enforcement and monetary penalties guidance](#)

Europe ex UK

- On 30 May 2024, ESMA published a public statement on the use of artificial intelligence (AI) in the provision of retail investment services. The statement provides guidance to investment firms on using AI in light of investment firms' obligations under the MiFID II Directive (2014/65/EU) and Markets in Financial Instruments Regulation (600/2014) (MiFIR).

[ESMA35-335435667-5924__Public_Statement_on_AI_and_investment_services](#)

- On 30 May 2024, the Council of the EU published a press release announcing that it has adopted the Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AML Regulation), the Regulation establishing the Anti-Money Laundering Authority (AMLA) (AMLA Regulation) and the Sixth Money Laundering Directive (MLD6).

[Anti-money laundering: Council adopts package of rules](#)

- On 13 May 2024, the European Parliament's Economic and Monetary Affairs Committee (ECON) published a report on proposed regulation on a framework for financial data access (FIDA). FIDA envisages financial data sharing across a wide range of financial services and products and third-party access of such data in line with EU data protection and consumer protection rules.

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