

# Financial Regulatory Update

March 2019

Please find below our Financial Regulatory Update for March 2019. With these updates, K law aims to make your life a little easier by flagging relevant regulatory developments per sector. Because we understand that managing regulatory change is a major business issue in itself.

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## Brexit

### Belgium

28.03.2019 Chamber of Representatives: amendments to **draft Brexit law** adopted by all relevant parliamentary commissions (no significant changes to financial provisions, see our [previous update](#)), [NL](#) / [FR](#)

### EU

01.03.2019 **EBF** launches a **dedicated website** that brings together information from across Europe needed to support preparations for Brexit, [ENG](#).

01.03.2019 EBA calls on the Deposit Guarantee Schemes Designated Authorities (DGSDAs) to ensure that depositors in the branches of UK credit institutions in the EU are adequately protected by the **EU deposit guarantee schemes** (DGSs), in case of a no-deal Brexit, [ENG](#)

01.03.2019 ESMA announces that the **Central Securities Depositories** (CSDs) established in the UK (i.e. Euroclear UK and Ireland Limited) will be recognized as a third country CSD to provide its services in the EU, in case of a no-deal Brexit, [ENG](#)

05.03.2019 EIOPA and its members agree on **no-deal Brexit Memoranda of Understanding** with the Bank of England and the Financial Conduct Authority, [EIOPA](#) / [FCA](#)

07.03.2019 ESMA sets out its approach to the application of some key **MiFID II/MiFIR** and **Benchmark (BMR)** provisions in case of a no-deal Brexit. In its public statement, ESMA sets out details on the following aspects in case of a no-deal Brexit, [ENG](#):

- **MiFID II:**
  - *Section C(6) - derivatives carve-out:* in order not to qualify as a MiFID II financial instrument, a derivative must (i) qualify as a wholesale energy product, (ii) be traded on an OTF and (iii) be physically settled. In case these conditions are no longer met post-Brexit, a derivative contract based on electricity or natural gas may become a financial instrument under MiFID II;
  - *Article 28 MiFIR trading obligation for derivatives:* ESMA notes that most UK trading venues that offer trading in derivatives subject to the trading obligation, are establishing new trading venues in the EU27 and plan to offer the same portfolio;
  - *Post-trade transparency and position limits;* and
  - *Post-trade transparency for OTC transactions* between EU investment firms and UK counterparties.
- **BMR:** ESMA [register](#) of administrators and 3rd country benchmarks. In the event of a no-deal Brexit, and subject to a transitional period:
  - (i) UK administrators will qualify as 3d country administrators and
  - (ii) 3d country benchmarks recognized or endorsed in the UK will be deleted from the ESMA register on the date of no-deal Brexit.

- 07.03.2019 The European Payments Council (EPC) Board approves the **continued participation of UK PSPs in the SEPA schemes**, ensuring an unhindered euro payment traffic between the EU and the UK in the event of a no-deal Brexit, [ENG](#)
- 15.03.2019 ESMA issues statement which sets out the implications for **credit rating agencies** (CRAs) based in the UK (including the endorsement of UK credit ratings) in case of a no-deal Brexit, [ENG](#)
- 19.03.2019 ESMA issues statement on the impact of Brexit on the [Article 23 MiFIR trading obligation \(TO\) for shares](#) in the absence of an equivalence decision in respect of the UK by the European Commission, [ENG](#).
- The TO applies to all shares traded on a venue in the EU unless the trading is “non-systematic, *ad-hoc*, irregular and infrequent” (i.e. shares subject to a lack of liquidity). In its statement, ESMA considers that GB shares (i.e. ISINs starting with the prefix “GB”) are deemed to have their main pool of liquidity in the UK and are therefore traded in a non-systematic, *ad-hoc*, irregular and infrequent way in the EU27, unless those shares qualify as liquid in the EU27 (on the basis of 2018 trading volumes excluding UK data). To this effect, ESMA also publishes a non-exhaustive [list](#) of GB shares which would be subject to the TO for shares.
- 27.03.2019 **Insurance Europe** published a **checklist** on the implications of different types of insurances in case of a **no-deal Brexit**, [ENG](#)
- 28.03.2019 **ESMA** publishes a statement updating on its preparations for a no-deal Brexit scenario in view of recent developments on timing (i.e. references to the date of 29 March 2019 in statements should now be read as 12 April 2019), [ENG](#).

## UK

- 04.03.2019 FCA issues Statements of Policy on the operation of the **MiFID transparency regime** in the event of a no-deal Brexit, [ENG](#)
- 05.03.2019 The Bank of England and the ECB decided to activate a **standing swap line** through which the Bank of England will offer to lend euro to UK banks on a weekly, [ECB / BoE](#)
- 11.03.2019 FCA statement on the **reporting of derivatives under the UK EMIR regime** in case of a no-deal Brexit. In its statement, the FCA explains what Trade Repositories (TRs), and UK counterparties that use them, should do to make sure they are compliant with their EMIR reporting obligations in case of a no-deal Brexit, [ENG](#).
- 15.03.2019 FCA finds the EU regulatory and supervisory regime to be ‘as stringent as’ the UK’s regime for the purposes of allowing **UK-registered Credit Rating Agencies** (CRAs) to endorse credit ratings into the UK from affiliated EU CRAs for regulatory use under the Credit Rating Agencies Regulation, [ENG](#)
- 26.03.2019 FCA intends to extend the deadline for submitting the **temporary permission regime** (“TPR”) application from 28 March 2019 to 11 April 2019, [ENG](#)

## General interest

### General legislation

14.03.2019 Draft law adopted amending the **Code of Economic Law** on abuse of economic dependency, unfair terms and unfair market practices between businesses, [NL](#) / [FR](#)

The draft law must be published in the Belgian Official Gazette and provides that the contractual relationship between businesses will also be subject to rules on:

- **unfair contract terms:** introduction of a general prohibition on clauses that create a 'significant imbalance', accompanied by a "black list" and a "grey list". Please note that these provisions do not apply to financial services (unless otherwise provided for by means of Royal Decree).
- the abuse of the "**economic dependence**" of a business.
- **unfair market practices:** introduction of a distinction between misleading and aggressive market practices for unfair market practices between businesses.

27.03.2019 Chamber of Representatives: draft law containing several financial provisions adopted by the Finance Committee comprising amongst others provisions on the **supervisory powers of the NBB** and changes to **several financial laws** (e.g. the financial supervision law of 2 August 2002, the financial collateral law of 15 December 2004, the bank mediation law of 22 March 2006, the UCITS law of 3 August 2012, the AIFM law of 19 April 2014, the investment services law of 25 October 2016, the MiFID II law of 21 November 2017, etc.), [NL](#) / [FR](#)

### Crypto-assets and ICOs

07.03.2019 The UK's FCA reveals findings from its first **crypto-assets consumer research**, [ENG](#)

13.03.2019 BIS issues statement on crypto-assets. In its statement, the Basel Committee sets out its expectations for **banks' exposures to crypto-assets**, given financial stability concerns, [ENG](#)

### Supervision

14.03.2019 ESMA publishes findings of its analysis of the **regulatory and supervisory technologies** (RegTech and SupTech) currently being developed in response to various demand and supply drivers in an article published in the [Trends, Risks and Vulnerabilities Report](#), [ENG](#).

The findings show that regulatory pressure and budget limitations are pushing the market towards an increased use of automated software to replace human decision-making activities. With these new tools come challenges and risks (notably operational risk), but ESMA believes that with appropriate implementation and safeguards, RegTech and SupTech may help improve a financial institution's ability to meet regulatory demands in

a cost-efficient manner and help regulators to analyse increasingly large and complex datasets.

- 21.03.2019 The Council and the European Parliament reach a provisional agreement on a set of proposals to **review** the functioning of the current **European system of financial supervision** (ESFS), [ENG](#). The agreement reached includes proposals to reform the functioning of both the [ESAs](#) and the [ESRB](#).

#### *Sustainable finance*

- 04.02.2019 ESMA publishes a presentation on the **inclusion of ESG factors** in the **CRA Regulation**, including a proposal for improved disclosure of ESG factors, [ENG](#)
- 25.02.2019 Political agreement reached by the European Parliament and Member States today on a new generation of **low-carbon benchmarks** needed to help boost investment in sustainable projects and assets, [ENG](#)
- 06.03.2019 ESMA's Securities Markets Stakeholder Group ("**SMSG**") publishes its **advice** on integrating sustainability risks and factors in **MIFID, the UCITS-D and AIFMD**, [ENG](#)
- 26.03.2019 FSMA publishes **study on the compliance** of Belgian listed companies **with their obligations to publish a non-financial statement** covering their impact on environmental, social, human rights and anti-corruption matters, [ENG](#)
- 26.03.2019 ESMA responds to the European Commission's [consultation](#) on its proposal to update the non-binding [Guidelines on non-financial reporting](#) with the introduction of a specific supplement addressing climate-related disclosures, [ENG](#)

#### *Whistleblowing*

- 12.03.2019 European Parliament and the Member States reach a provisional agreement on new rules that will guarantee a high level of protection for **whistleblowers** who report breaches of EU law, [ENG](#)
- 27.03.2019 Chamber of Representatives: draft law containing several financial provisions adopted by the Finance Committee which, amongst others, further strengthens the **whistleblower protection** ("*klokkenluidersbescherming*" / "*protection des informateurs*") provided for by article 36/7/1 of the law of 22 February 1998, [NL](#) / [FR](#)

## Banking

### *Belgium*

- 18.03.2019 Royal Decree of 1 March 2019 amending Royal Decree of 23 September 1992 on the annual **accounts of credit institutions**, investment firms and management companies of collective investment schemes, [NL](#) / [FR](#)
- 19.03.2019 Chamber of Representatives: draft law introducing in the banking law of 25 April 2014 a **banker's oath** for employees of credit institutions, [NL](#) / [FR](#)
- 26.03.2019 NBB Circular letter (2019\_07) providing guidelines to financial institutions on **stress testing**, [NL](#) / [FR](#)
- 27.03.2019 Chamber of Representatives: draft law introducing a **basic banking service for enterprises**, [NL](#) / [FR](#)

### *EU and international*

- 01.03.2019 EBA updates its Single Rulebook **Q&A** on **CRD/CRR** regarding:
- risk **weighted assets calculation** under Article 119(2) of the CRR (Question 2018\_3753), [ENG](#)
  - **exposures to regional governments**, local authorities or public sector entities which are treated as exposures to central governments under Articles 115 and 116 CRR (Question 2017\_3517), [ENG](#)
  - **exposures to unrated institutions** (Question 3765), [ENG](#)
- 05.03.2019 EBA launches consultation to update guidelines on harmonized definitions and templates for **funding plans** of credit institutions, [ENG](#)
- 06.03.2019 EBA publishes its final guidelines specifying how institutions should quantify the estimation of **loss given default** (LGD) appropriate for conditions of an economic downturn, [ENG](#)
- 11.03.2019 EBA publishes its annual **high earners report**. The data shows that the number of high earners in EU banks receiving a remuneration of more than EUR 1 million slightly increased from 4.597 in 2016 to 4.859 in 2017. The average ratio between the variable and fixed remuneration for high earners continued to fall from 104% in 2016 to 101.08% in 2017, [ENG](#)
- 12.03.2019 FSB's publishes letter from the Co-chairs of the FSB's Official Sector Steering Group (OSSG) which encourages the International Swaps and Derivatives Association (ISDA) to continue its work on derivatives contractual robustness in the context of the **LIBOR transition**, [ENG](#)
- 13.03.2019 ESAs' Joint Board of Appeal (BoA) decides on four appeals under the **Credit Rating Agencies Regulation** (CRA Regulation). On 11 July 2018, ESMA decided to fine five Nordic banks for negligently infringing the CRA Regulation by issuing credit ratings without being registered. The BoA confirms the infringements but accepts the appellants' claims of having

acted non-negligently and remits the case to ESMA's Board of Supervisors to adopt amended decisions based on the BoA findings, [ENG](#)

- 14.03.2019 **EBA** publishes its **annual Report** on the **convergence of supervisory practices** in the EU, [ENG](#)
- 14.03.2019 BIS' **Basel Committee** on Banking Supervision publishes the results and analysis of its survey on the **interaction of regulatory instruments**, [ENG](#)
- 15.03.2019 EBA updates its Single Rulebook **Q&A** on **supervisory reporting** under CRD/CRR, [ENG](#)
- 18.03.2019 ESMA **registers Beyond Ratings SAS as a (French) CRA** under the CRA Regulation, bringing the total number of CRAs [registered in the EU](#) to 28, [ENG](#)
- 19.03.2019 EBA publishes update of its list of **other systemically important institutions** ("O-SIIs") in accordance with [article 131\(3\) CRD](#) and its 2014 [Guidelines](#), [ENG](#)
- 22.03.2019 EBA updates its Single Rulebook **Q&A** on **CRD/CRR** regarding:
- the scope of application of the term "securitisation" and risk retention obligation in article 405 CRR (Question 2018\_3806), [ENG](#)
  - the application of the Supervisory Formula Method under article 262 CRR (Question 2018\_4262), [ENG](#)
  - the application of the margin period of risk scalars for cleared transactions as laid out in article 304(4) CRR (Question 2018\_3756), [ENG](#)
  - the risk weight set out in article 39(2) CRR applied to deferred tax assets that do not rely on future profitability (Question 2018\_4269), [ENG](#)

## Lending

### Belgium

- 29.03.2019 Chamber of Representatives: draft law adopted by the Economic Affairs Committee on diverse economic provisions, [NL](#) / [FR](#). The draft law proposes amongst others the following changes to the Belgian Code of Economic Law:
- the prohibition to grant a (new) **mortgage credit** the purpose of which is not to acquire or retain immovable property ("*crédit hypothécaire avec une destination mobilière*" / "*hypothecair krediet met roerende bestemming*") to a consumer who is registered in the central individual credit register for arrears exceeding EUR 1.000.
  - a fixed 6 month period within which the FPS Economy must pronounce itself on (changes to) **model credit agreements**.



## Insurance

### Belgium

- 20.02.2019 NBB Circular letter (2019\_05) on the **insurance and reinsurance-submission** of figures relating to the remuneration of Identified Staff through OneGate, [ENG](#).
- 01.03.2019 Chamber of Representatives: draft law on the **mandatory insurance of the civil professional liability insurance** of architects, surveyors-experts, safety and health coordinators and other **service providers in the construction sector** of works on immovable property and amending diverse legal provisions regarding the insurance civil liability in the construction sector, [NL](#) / [FR](#).
- 13.03.2019 FSMA issues newsletter on intermediaries, following IDD and the Belgian law of 6 December 2018 transposing IDD, focusing on a new category of insurance intermediaries introduced by IDD, the **ancillary insurance intermediary** ("*nevenverzekeringstussenpersoon*" / "*intermédiaires d'assurance à titre accessoire*") [NL](#) / [FR](#).
- 19.03.2019 Chamber of Representatives: draft law adopted by the Finance Committee on **facilitating access to legal expenses insurance** ("*rechtsbijstandsverzekering*" / "*assurance protection juridique*") by way of a tax reduction for premiums, [NL](#) / [FR](#).
- 25.03.2019 FSMA issues newsletter on IDD, following IDD and the Belgian law of 6 December 2018 transposing IDD, focusing on the changes that have been made to the **CABRIO online app for insurance intermediaries**, [NL](#) / [FR](#).
- 27.03.2019 Chamber of Representatives: draft law adopted by the Economic Affairs Committee amending the law of 4 April 2014 on insurance, regarding the **notice of termination/non-renewal of the insurance contract** in order to better protect consumers, [NL](#) / [FR](#).
- 28.03.2019 Chamber of Representatives: draft law amending the insurance law of 4 April 2014, introducing a **right to be forgotten for ex-cancer patients** when buying specific types of **personal insurance** ("*persoonsverzekeringen*" / "*assurances de personnes*"). An amended version of the draft law was adopted during the plenary session of 28 March 2019 and is currently awaiting publication in the Belgian Official Gazette, [NL](#) / [FR](#).
- 28.03.2019 Chamber of Representatives: draft law amending amongst others the insurance law of 4 April 2014 to implement new rules on the activities of and the supervision on insurance intermediaries acting as **underwriting agents** ("*gevolmachtigd onderschrijvers*" / "*souscripteur mandate*") adopted by all relevant parliamentary commissions, [NL](#) / [FR](#)
- 29.03.2019 Chamber of Representatives: draft law adopted by the Economic Affairs Committee on diverse economic provisions, [NL](#) / [FR](#). The draft law proposes amongst others:
- amendments to the law of 21 November 1989 on the **mandatory civil**



**liability insurance of motor vehicles**, with regard to the green card and regarding the insurance obligation of electrical bikes, motorized locomotive products, electrical wheelchairs and the exclusion of their drivers of the automatic legal compensation mechanism;

- amendments to the law of 24 July 2008 on diverse provisions, with regard to **dormant insurance agreements**;
- amendments to the law of 4 April 2014 on insurance, with regard to the **payout period of life insurances**, the composition and powers of the Commission for Insurances, the Insurance Ombudsman, and some improvements regarding the outstanding balance insurance; and
- amendments to the law of 13 March 2016 on the statute and the supervision of insurance and reinsurance undertakings, in order to enable the **NBB to take action** in case the **surrender** ("afkoop" / "rachat") of insurance contracts can have an **influence on the financial position** of the insurance undertaking.

## EU

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|------------|--|
| 18.03.2019 | EIOPA updates its <b>Q&amp;As</b> on Commission Delegated Regulation (EU) 2015/35 supplementing Solvency II, <a href="#">ENG</a> .   |
| 18.03.2019 | EIOPA requests <b>insurance undertakings</b> to <b>submit information</b> on (i) Long-Term Guarantees (LTG) measures, (ii) dynamic volatility adjustment, and (iii) long-term illiquid liabilities, in light of its 4th Long-Term Guarantees Report and the <b>2020 Solvency II Review</b> , <a href="#">ENG</a> . |
| 25.03.2019 | EIOPA updates its <b>Q&amp;As</b> on Commission Implementing Regulation (EU) 2015/2450 laying down implementing technical standards with regard to the <b>templates for the submission of information to the supervisory authorities</b> according to Solvency II, <a href="#">ENG</a> .                           |
| 27.03.2018 | EIOPA analyses <b>licensing approaches to InsurTech</b> : EIOPA publishes its Report on "Best Practices on Licensing Requirements, Peer-to-Peer Insurance and the Principle of Proportionality in an InsurTech Context", <a href="#">ENG</a> .   |

## Investment services

### Belgium

- 21.02.2019 FSMA Communication (2019\_07) on the provision or supply of **investment services** and/or activities in Belgium on a **cross-border** basis by foreign investment firms, [ENG](#)
- 01.03.2019 FSMA **warns** for unlicensed companies offering a wealth management or savings plan promising rates of return far higher than market rates, and often even guaranteed. When in doubt about the regularity of such offers, consumers are urged to contact the FSMA directly through the consumer contact form, [ENG](#)
- 18.03.2019 Royal Decree of 1 March 2019 amending Royal Decree of 23 September 1992 on the **annual accounts of** credit institutions, **investment firms** and management companies of collective investment schemes, [NL](#) / [FR](#)

### EU

- 26.02.2019 ESMA's Securities Markets Stakeholder Group ("**SMSG**") publishes its **advice** on draft RTS amending the **PRIIPs Delegated Regulation**, [ENG](#)
- 06.03.2019 ESMA publication of the results of the annual transparency calculations for equity and equity-like instruments, [ENG](#)
- 08.03.2019 The ESAs propose amendment to **PRIIPs KID** to clarify application to investment funds where these are offered as underlying investment options to a PRIIP (so-called "**multi-option products**" or "MOPs"), [EBA](#) / [ESMA](#)
- 11.03.2019 ESMA staff participated in a **webinar** explaining the **LEI requirements** under MiFID II and the upcoming LEI requirements under other sectoral legislation such as EMIR and SFTR, [ENG](#)
- 14.03.2019 ESMA includes **MiFID II/MiFIR** in its **Interactive Single Rulebook** (ISRB). Relevant MiFID I/CESR Guidance is currently under review and will be integrated in the ISRB at a later stage, [ENG](#)
- 20.03.2019 ESMA publishes seven opinions on **position limits** regarding **commodity derivatives** under MiFID II / MiFIR, [ENG](#)
- 21.03.2019 ESMA publishes a list of the national competent authorities who confirmed<sup>1</sup> that they will comply or intend to comply with the ESMA [Guidelines](#) on **transaction reporting, order record keeping and clock synchronization** under MiFID II, [ENG](#)
- 21.03.2019 ESMA updated its **register of derivate contracts** subject to the trading obligation under MiFIR, [ENG](#)
- 27.03.2019 ESMA updates its **Q&As** on **MiFID II commodity derivatives** topics. These Q&As provide clarification on issues related to the MiFID II/MiFIR

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<sup>1</sup> In accordance with Article 16(3) of the [ESMA Regulation](#).

regime for commodity derivatives, providing further clarifications on position limits, position reporting and ancillary activity, [ENG](#)

27.03.2019 ESMA agrees to renew its **ban** on the marketing, distribution or sale of **contracts for differences** ("CFDs") to retail clients for a further 3 month period, [ENG](#),

27.03.2019 ESMA writes to the European Commission proposing a (new) **timetable** for the delivery of various **reports** required under article 90 MiFID II. The proposed timetable considers the uncertainties introduced by Brexit and aims to ensure that enough experience is gathered on the application of MiFID II/MiFIR before beginning the review of the functioning of the various MiFID II provisions, [ENG](#).

27.03.2019 ESMA agrees to renew its **ban** on the marketing, distribution or sale of **binary options** to retail clients for a further 3 month period<sup>2</sup>, [ENG](#)

28.03.2019 ESMA updates its **Q&A on MiFID II and MiFIR investor protection and intermediaries**, [ENG](#)

The updated Q&A contains further clarifications on the following topics: **reverse solicitation** exemption for third country firms / **product governance** (target market of CoCo-bond funds) / **suitability report** (use of generic statements and availability on a firm's website) / information on **costs and charges** / **durable medium** (website) / **best execution** (reporting requirements for market makers and other liquidity providers).

## Fund Management

### *Belgium*

19.02.2019 FSMA Circular letter (2019\_05) on the effective management's report on internal control within **regulated real estate investment companies**, [NL](#) / [FR](#)

18.03.2019 Royal Decree of 1 March 2019 amending Royal Decree of 23 September 1992 on the **annual accounts of** credit institutions, investment firms and **management companies of collective investment schemes**, [NL](#) / [FR](#)

20.03.2019 FSMA communication (2019\_08) on the procedure to be followed by collective investment schemes for the **electronic transfer** of certain types of documents to the FSMA, [NL](#) / [FR](#)

### *EU*

07.03.2019 ESMA publishes its first **statistical report** on EU Alternative Investment Funds or **AIFs** (end of 2017 data, covering 80% of the EU AIF industry market). The report shows amongst others that the EU AIF industry has a net asset value of EUR 4.9trn, is composed of 63% "other" AIFs and has a significant retail participation of 19%, although mainly in Funds of Funds

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<sup>2</sup> In this respect, also see the UK FCA's recent [decision](#) to permanently ban the sale of binary options to retail consumers.

(FoF) & Real Estate funds, [ENG](#).

- 08.03.2019 The ESAs propose amendment to **PRIIPs KID** to clarify application to investment funds where these are offered as underlying investment options to a PRIIP (so-called "**multi-option products**" or "MOPs"), [EBA](#) / [ESMA](#)
- 28.03.2019 ESMA opens **public consultation** regarding draft supervisory technical standards (RTS) under the **European Long-Term Investment Fund (ELTIF)** Regulation, [ENG](#).
- 29.03.2019 ESMA updates its **Q&As** on **AIFMD** providing further clarifications on (i) the treatment of short-term interest rate futures for the purposes of AIFMD leverage exposure calculations and (ii) the required frequency of the calculation of leverage, [ENG](#)
- 29.03.2019 ESMA updates its **Q&As** regarding the application of the **UCITS-D**, further clarifying the UCITS KIID benchmark and past performance obligations, [ENG](#)

## Payments

### *Belgium*

- 01.03.2019 Entry into force (with limited exceptions) of Royal Decree dated 5 February 2019 on the **comparability of fees** for services related to payment accounts and the designation of fees for services not related to payment accounts (further implementing the [Payment Accounts Directive](#) into Belgian law), [NL](#) / [FR](#)
- 04.03.2019 Febelfin announces the introduction by several Belgian banks of **SEPA instant credit transfers**, [NL](#) / [FR](#)
- 19.03.2019 NBB Circular letter (2019\_04) confirming the NBB will integrate in its supervisory practices EBA's Guidelines on the conditions that ASPSPs must meet to obtain an **exemption** from the **fall back mechanism** in accordance with article 33(6) of the [RTS on SCA & CSC](#) and publication of a template **application form**, [NL](#) / [FR](#)
- 21.03.2019 Royal Decree of 21 March 2019 approving the NBB regulation of 2 October 2018 on the **own funds requirements of e-money institutions** and on the investment of cash received in exchange of issuing electronic money, [NL](#) / [FR](#)
- 29.03.2019 Chamber of Representatives: draft law adopted by the Economic Affairs Committee on diverse economic provisions introducing amongst others **new rounding rules for (cash) payments** denominated in euro, [NL](#) / [FR](#).

### *EU*

- 01.03.2019 EBA updates its Single Rulebook **Q&A** on **PSD2** regarding:
- the **applicability of SCA to 'card payments initiated by the payee only'**(Question 2018\_4031), [ENG](#)

- the qualification of subsequent instances of a **recurring card payment transaction** (other than the initial one) as transactions “initiated by the payee” (Question 2018\_4404), [ENG](#)
- **payee-initiated transactions** with irregular period or variable amount (Question 2018\_4131), [ENG](#)
- transactions initiated via **Interactive Voice Response (IVR) solutions** (Question 2018\_4058), [ENG](#)

08.03.2019 EBA updates its Single Rulebook **Q&A** on **PSD2** regarding the application of the exemption to apply SCA to a **trusted beneficiary** (Question2018\_4360), [ENG](#)

15.03.2019 EBA publishes clarifications to the first set of practical issues raised by its **Working Group on APIs** under PSD2, [ENG](#). The EBA’s clarifications relate to:

- **Testing environment:** articles 30(3) and 30(5) of the [RTS on SCA&CSC](#) provide that ASPSPs must amongst others (i) make available a testing facility (including support) and (ii) document the technical specification of their APIs, specifying a set of routines, protocols, and tools needed by TPPs to allow their applications to interoperate with an ASPSP’s systems. EBA clarifies that ASPSPs are not obliged to enable TPPs to use automatic testing programs wherever possible and to make documentation available in a machine-readable format. However, ASPSPs may find it efficient (and in their interest) to do so in order to minimise the need to provide support needed for each TPP using the testing facility and for the purpose of applying for the “fallback exemption” under article 33(6) RTS.
- **Alignment between API initiatives:** some concerns were raised because data and functionalities available through API initiatives are not always aligned between different API initiatives. In its response, EBA states that ASPSPs are in principle obliged to make available the technical documentation of their APIs no later than 14 March 2019 (see article 30(3) of the [RTS on SCA & CSC](#)) which will facilitate transparency in the market regarding the functionalities offered through API’s. In addition, EBA also suggests that API initiatives consider surveying the ASPSPs implementing their respective specifications, software, and/or implementation tools and compare and publish the functionalities supported by these ASPSPs.
- **Qualified Trust Service Providers (QTSPs):** the European Commission’s [website](#) does not specify whether a specific QTSP (intends to) issue(s) eIDAS certificates for PSD2 purposes. Therefore EBA provides in its clarifications an overview of the QTSPs that have already confirmed that they (will) issue eIDAS certificates for PSD2 purposes.

18.03.2019 EBA launches a **central electronic register** that contains information about payment and electronic money institutions authorised or registered within the EU and the EEA countries under PSD2, [ENG](#)

- 21.03.2019 ECJ judgment (no C-245/18) on the (limitation of) liability of a PSP to execute a credit transfer in accordance with an **incorrect unique identifier** provided by the payer, [ENG](#)
- 22.03.2019 EBA updates its Single Rulebook **Q&A** on PSD2 regarding not obtaining an **exemption** from the **fall back mechanism** in accordance with article 33(6) of the [RTS on SCA & CSC](#) (Question2018\_4140), [ENG](#)

## Compliance/AML

### *Belgium*

- 15.02.2019 NBB Circular (2019\_03) on the **periodic questionnaire** on combating money laundering and terrorist financing, [ENG](#)
- 13.03.2019 Belgian Official Gazette: publication of the official **German translation** the Belgian **AML Act** of 18 September 2017, [DE](#)

### *EU*

- 01.03.2019 EBF publishes responses to **ESAs consultation** on the **AML Colleges Guidelines**, [ENG](#)

## Capital markets

- 13.03.2019 The Presidency and the Parliament reached today a provisional agreement on how EU and 3d country **CCPs** should be supervised in the future, taking into particular account the effects of Brexit on the European financial system, [ENG](#)
- 15.03.2019 FSMA approves the [modified market rules](#) of the regulated markets organized by **Euronext NV/SA**, [ENG](#)
- 20.03.2019 The European Council and the European Parliament reach a [political agreement](#) to put in place a new **framework to help SMEs access new sources of funding** as part of the capital markets union, [ENG](#)
- The proposal contains amendments to the market abuse regulation (reducing reporting obligations) and the prospectus regulations (introduction of a “lighter” prospectus) which make the obligations placed on SME growth market issuers more proportionate while preserving market integrity and investor protection.
- 27.03.2019 ESMA publishes its first **Q&A on the Prospectus Regulation**, [ENG](#). The Q&As cover the following topics:
- The scope of the **grandfathering** of prospectuses approved under the national prospectus laws.
  - The applicability of the current **level 3 guidance** concerning the Prospectus Directive after the entry into application of the Prospectus Regulation.

- The process of updating the information included in **registration documents** and universal registration documents.

- 29.03.2019 ESMA updates its **Q&As** regarding the implementation of the **Market Abuse Regulation**. The Q&As also comprise new answers on (i) the meaning of parent and related undertakings and (ii) the disclosure of inside information concerning emission allowances, [ENG](#)
- 29.03.2019 ESMA publishes its technical advice on the **minimum information content** of documents describing a takeover, merger or division necessary to apply for an exemption from the obligation to publish an approved **prospectus**, [ENG](#).
- 29.03.2019 ESMA publishes final **guidelines** on how national competent authorities (NCAs) should review **risk factors** under the **Prospectus Regulation**, [ENG](#)

## Market Infrastructures

- 01.03.2019 ESMA registers DTCC Data Repository (Ireland) PLC as a trade repository under **EMIR**, [ENG](#)
- 08.03.2019 ESMA publishes responses to its consultation on **CSDR guidelines** on (i) on standardised procedures and messaging protocols used between investment firms and their professional clients and (ii) settlement fails reporting, [ENG](#)
- 28.03.2019 ESMA publishes statement on the Implementation of the new **EMIR Refit regime** for the clearing obligation for financial and non-financial counterparties, [ENG](#)
- 28.03.2019 ESMA publishes the official [translations](#) of its **Guidelines on position calculation** by Trade Repositories under **EMIR**, [ENG](#)

## Agenda

- 16.05.2019 **Joint conference** of the European Commission and the ECB on **European financial integration and stability**, [ENG](#)
- 17.05.2019 Deadline for **insurance undertakings** to submit information (on long-term guarantees measures, dynamic volatility adjustment and long-term illiquid liabilities) to national supervisory authorities, in light of **EIOPA's 4th Long-Term Guarantees Report** and the 2020 Solvency II Review, [ENG](#).
- 29.06.2019 Deadline for responding to ESMA's public consultation regarding draft supervisory technical standards (RTS) under the **European Long-Term Investment Fund (ELTIF) Regulation**, [ENG](#)

## DISCLAIMER

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