

July 2016

INVEST

InVest – July 2016

This month's roundup of developments affecting banks, wealth managers, brokers and funds saw the passing of a legislative package delaying the implementation of MiFID 2, delegated legislation published in relation to the Market Abuse Regulation, and the publication of a post implementation review of the UCITS Regulations 2011 by the Treasury.

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General Developments

Top 10 Brexit Myths for Financial Services Firms

The [top 10](#) most common Brexit Myths that are circulating in financial services businesses, listed alongside a full report, [Brexit: A Changing Landscape](#), through our [Brexit Hub](#).
Addleshaw Goddard, 30 June 2016

Memorandum of understanding with FSB of South Africa published by ESMA

ESMA has published the [Memorandum Of Understanding](#) entered into with the Financial Services Board of South Africa relating to the supervision of CRAs (credit rating agencies) in South Africa. A further [press release](#) looks at the regulatory framework for CRAs in South Africa and considers it to be as stringent as EU rules.

ESMA, 30 June 2016

OJ publishes Benchmarks Regulation

The regulation on indices used as benchmarks in financial instruments and contracts or to measure performance in investment funds adopted by the European Parliament in April 2016 has been [published](#) in the OJ. National governments must implement the regulation into national law by 01 January 2018.

Official Journal of the EU, 29 June 2016

ESMA chair gives speech on issues relating to availability of collateral and reporting of repos

The Chair of ESMA, Steven Maijoor, has given a [speech](#) at the 25th Annual Securities Finance and Collateral Management Conference on issues relating to the availability of collateral and the reporting of repos and securities lending trades.

ESMA, 22 June 2016

CEMMI revises documents for evolution of EURIBOR

The European Money Markets Institute has published the following revised documents for the evolution of EURIBOR:

- The [path](#) forward to transaction-based EURIBOR
- Pre-live verification program [guidelines](#) - transaction-based EURIBOR

The European Money Markets Institute, 21 June 2016

Investment and savings industry unite to solve diversity levels

The Investment Association has [announced](#) that a group of investment and savings institutions have come together to launch a new project aimed at solving poor levels of industry diversity.

Investment Association, 20 June 2016

Responses: CPMI and IOSCO consultation on cyber resilience guidance for FMIs

The Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) have [issued](#) responses received to their consultative paper on guidance on cyber resilience for financial market infrastructures (FMIs).

CPMI and IOSCO, 17 June 2016

ESMA 2015 annual report

ESMA has [published](#) its 2015 annual report measuring progress against its mission and objectives for the year as well as reporting on its operations, budget and structure.

ESMA, 15 June 2016

ESMA updates list of third-country central counterparties list

ESMA has [updated](#) its list of third-country central counterparties recognised to offer services and activities in the Union. The European Markets Infrastructure Regulation (EMIR) requires third-country CCPs to be recognised by ESMA in order to operate in the European Union.

ESMA, 14 June 2016

FCA board minutes discussing Europe and retail investment

The Financial Conduct Authority has published its board meeting [minutes](#) from 20 and 21 April 2016 which discussed topics included the EU referendum, retail investment, cyber resilience, and cloud provider contracts.

FCA, 8 June 2016

Order duplication and liquidity measurement in EU equity markets – ESMA Economic Report

ESMA has published an [economic report](#) on order duplication and liquidity measurement in EU equity markets.

ESMA, June 2016

ESMA discussion paper on distributed ledger technology

The European Securities and Markets Authority has [published](#) a discussion paper on the use of distributed ledger technologies in relation to securities markets, and is seeking stakeholders' views on the results of its preliminary assessment following a call for evidence in April 2015. The deadline to comment by is 02 September 2016.

ESMA, 2 June 2016

EMIR & Derivatives

Delay in adopting draft RTS – concern expressed by ESAs

The ESA has published a [letter](#) raising concerns about the delayed adoption of draft RTS on risk mitigation techniques for non-centrally cleared OTC derivatives.

ESA, 01 July 2016

MiFIR supplemented by regulations on obligation on RTS to clear derivatives traded on regulated markets and timing of acceptance for clearing

The European Commission have [adopted](#) Delegated Regulation (C(2016) 3944) with regard to the regulatory technical standards (RTS), specifying the scope in terms of derivative transactions.

European Commission, 29 June 2016

Concerns raised by ISDA over timetable for introducing global margining framework for non-cleared derivatives

ISDA has raised [concerns](#) in relation to the timetable for introducing the global margining framework for non-cleared derivatives.

The International Swaps and Derivatives Association, 27 June

Delegated Regulation on RTS on clearing obligation under EMIR adopted

A Delegated Regulation supplementing EMIR with regards to RTS on the clearing obligation has been [adopted](#) by the European Commission.

European Commission, 10 June 2016

Implementing Regulation extending transitional periods related to own fund requirements for CCP exposures published

The European Commission Implementing Regulation ((EU) [2016/892](#)) on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in the Capital Requirements Regulation and EMIR Regulation has been published in the Official Journal.

European Commission, 8 June 2016

ESMA and CFTC sign MoU

ESMA and the US Commodity Futures Trading Commission have entered into a [memorandum of understanding](#) under EMIR.

ESMA, 2 June 2016

Q&A on EMIR implementation updated by ESMA

ESMA has published a revised version of its [Q&A](#) on the implementation of EMIR.

ESMA, June 2016

Disputes & Enforcement

Five charged by the FCA in alleged investment fraud

The FCA has announced that following an [investigation](#), five individuals have appeared before Southwark Crown Court charged with conspiracy to defraud, together with offences under the Financial Services and Markets Act 2000 and the Fraud Act 2006.

FCA, 16 June 2016

FCA final notice - breaches of PRIN 4, COND and INPRU-INV

The FCA have published a final [notice](#) referring to breaches of PRIN 4, COND and INPRU-INV in relation to threshold conditions in the investment adviser sector. The FCA imposed a cancellation.

FCA, 15 June 2016

FCA final notice – breaches of FIT

The FCA have published a final [notice](#) referring to breaches of FIT relating to a lack of fitness/propriety against an individual in the investment adviser sector. The FCA imposed a prohibition.

FCA, 9 June 2016

Funds

Post implementation review of UCITS Regulations 2011 published by HM Treasury

The government has set out its [views](#) on the effectiveness of the regulatory regime under the Undertakings for Collective Investment in Transferable Securities Regulations 2011 (SI 2011/1613).

HM Treasury, 30 June 2016

ESMA Discussion Paper on UCITS: responses published

Individual [responses](#) to the Undertakings for Collective Investment in Transferable Securities share classes discussion paper by ESMA have been published.

ESMA, 23 June 2016

FSB proposes policy recommendations to address structural vulnerabilities from asset management activities that could lead to financial instability

The Financial Stability Board has published a [consultation](#) on 14 proposed policy recommendations to address the following structural vulnerabilities from asset management activities that could potentially present financial stability risks:

- liquidity mismatch between fund investments and redemption terms and conditions for fund units;
- leverage within investment funds;
- operational risk and challenges in transferring investment mandates in stressed conditions; and
- securities lending activities of asset managers and funds.

The consultation closes on 21 September 2016.

The Financial Stability Board, 22 June 2016

COREPER agrees Council of EU's negotiating mandate on MMF Regulation

The Council of the EU has [issued](#) a press release announcing that the Permanent Representatives Committee (COREPER) has agreed, on behalf of the Council, a negotiating stance on the draft regulation on Money Market Funds (MMF Regulation).

Council of the EU, 15 June 2016

ESMA final report - Draft RTS under ELTIF Regulation

ESMA has published a [final report](#) on the draft RTS under the Regulation on European Long-Term Investment Funds.

ESMA, 8 June 2016

Q&A on the application of AIFMD updated by ESMA

ESMA has [updated](#) its Q&As on the application of the Alternative Investment Fund Managers Directive.

ESMA, 3 June 2016

FCA carries out spot checks at UK fund managers

The FCA has been [visiting](#) asset management firms to review their compliance with existing rules on the unbundling of dealing commissions.

Financial News, 1 June 2016

IMA publishes monthly statistics

The Investment Association has [published](#) new monthly statistics to reflect UK investor behaviour. The April 2016 release highlights the popularity of fixed income funds and tracker funds.

IMA, 1 June 2016

ESMA Q&A on application of EuVECA and EuSEF regulations updated

ESMA has updated its [Q&A](#) on the application of the European Venture Capital Funds Regulation and European Social Entrepreneurship Funds Regulation.

ESMA, 31 May 2016

Investments & Investment Services

Package delaying application of MiFID II published

A legislative package comprising a Directive and Regulation delaying the application of MiFID II has been [published](#) in the Official Journal of the EU.

OJ, 30 June 2016

EC adopts Delegated Regulation supplementing Regulation on key information documents

On 30 June 2016, the European Commission [adopted](#) Delegated Regulation (C(2016) 3999 final), with regard to RTS on key information documents for packaged retail and insurance-based investment products.

European Commission, 30 June 2016

Delegated Regulation on RTS supplementing the MiFID II Directive

The European Commission has [adopted](#) Delegated Regulation (C(2016) 3944) with regard to RTS, specifying the scope in terms of derivative transactions.

European Commission, 29 June 2016

Corrigendum to MiFIR published by the Council of the EU

A [corrigendum](#) to the text of the Markets in Financial Instruments Regulation has been published by the Council of the EU.

The Council of the EU, 27 June 2016

Investment Association launches new sector to accommodate outcome-based funds

The Investment Association has launched a new [Volatility Managed](#) sector to accommodate outcome-based funds in its sector scheme.

Investment Association, 27 June 2016

EC Delegated Regulation on RTS relating to maintenance of relevant data regarding orders in financial instruments adopted

A [Delegated Regulation](#) and [annex](#) (C(2016) 3281 final) supplementing the Markets in Financial Instruments Regulation with regard to RTS for the maintenance of relevant data relating to orders in financial instruments has been adopted by the European Commission.

European Commission, 24 June 2016

EC Delegated Regulation on RTS relating to clearing access in respect of trading venues and central counterparties adopted

A [Delegated Regulation](#) and [annex](#) (C(2016) 3807 final) supplementing the Markets in Financial Instruments Regulation with regard to RTS relating to clearing access in respect of trading venues and central counterparties has been adopted by the European Commission.

European Commission, 24 June 2016

Corrigendum to MiFID II Directive published by Council of EU

A [corrigendum](#) to the text of the MiFID II Directive has been published by the Council of the EU.

The Council of the EU, 24 June 2016

Steven Maijoor gives speech on CCP Recovery and Resolution

The Chair of ESMA, Steven Maijoor, has given a [speech](#) at the Banque de France's policy conference on the Recovery and Resolution of CCPs.

ESMA, 24 June 2016

ESMA - Waivers from pre-trade transparency requirements document updated

ESMA has published an updated [version](#) of its document which sets out CESR positions and ESMA opinions on waivers from pre-trade transparency under MiFID.

ESMA, 20 June 2016

Steven Maijoor gives MiFID II speech

The Chair of ESMA, Steven Maijoor has given a [statement](#) to the European Parliament's Economic and Monetary Affairs Committee (ECON) on MiFID II during a scrutiny session.

ESMA, 20 June 2016

Delegated Regulation on RTS for market-making agreements and schemes supplementing MiFID II adopted

A Delegated Regulation (C(2016) 3523 final) supplementing the MiFID II Directive with regard to RTS specifying the requirements on market making agreements and schemes has been [adopted](#) by the European Commission.

European Commission, 13 June 2016

Delegated Regulation on RTS on effect of derivative contracts within the EU and prevention of evasions of rules and obligations supplementing MiFIR adopted

The European Commission has [adopted](#) a Delegated Regulation (C(2016) 3544 final) supplementing the Markets in Financial Instruments Regulation with regard to RTS on the direct, substantial and foreseeable effect of derivative contracts within the EU and the prevention of the evasion of rules and obligations.

European Commission, 13 June 2016

Delegated Regulation on RTS on volume cap mechanism and provision of information for the purposes of transparency and other calculations supplementing MiFIR adopted

A Delegated Regulation (C(2016) 2711 final) supplementing the Markets in Financial Instruments Regulation with regard to RTS on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations has been [adopted](#) by the European Commission.

European Commission, 13 June 2016

Delegated Regulations on RTS relating to execution venues under MiFID II adopted by the Commission

The European Commission has adopted two Delegated Regulations supplementing the MiFID II Directive (2014/65/EU) with regard to RTS in relation to execution venues.

- A [Delegated Regulation](#) (C(2016) 3333 final)
- A [Delegated Regulation](#) (C(2016) 3337 final)

European Commission, 8 June 2016

Delegated Regulation on RTS for level of accuracy of business clocks under MiFID II adopted

A Delegated Regulation (C(2016) 2216 final) supplementing the MiFID II Directive with regard to RTS for the level of accuracy of business clocks has been [adopted](#) by the European Commission.

European Commission, 7 June 2016

Delegated Regulation on RTS on requirements to ensure fair and non-discriminatory co-location services and fee structures adopted

A [Delegated Regulation](#) (C(2016) 3266 final) supplementing the MiFID II Directive in relation to RTS on requirements to ensure fair and non-discriminatory co-location services and fee structures has been adopted by the European Commission.

The European Commission, 6 June 2016

Commission adopts Delegated Regulation on RTS on data reporting services providers

The European Commission [adopted](#) a Delegated Regulation (C(2016) 3201 final) supplementing the MiFID II Directive (2014/65/EU) with regard to regulatory technical standards (RTS) on requirements on authorisation, organisation and the publication of transactions for data reporting services providers.

European Commission, 2 June 2016

Commission consultation paper on cross-border distribution of investment funds

The European Commission has [published](#) a consultation paper on the main barriers to cross-border distribution of investment funds. The types of funds relevant to the consultation are UCITS, alternative investment funds (AIF), European long-term investment funds (ELTIF), European venture capital funds (EUVECA) and European social entrepreneurship funds (EUSEF).

European Commission, 2 June 2016

Commission adopts Delegated Regulation on RTS on access to benchmarks

The European Commission has [adopted](#) a Delegated Regulation (C(2016) 3203 final) supplementing the Markets in Financial Instruments Regulation (Regulation 600/2014) with regard to regulatory technical standards (RTS) on access in respect of benchmarks.

European Commission, 2 June 2016

Commission adopts Delegated Regulation on RTS on offering data

The European Commission has [adopted](#) a Delegated Regulation (C(2016) 3206 final) supplementing the Markets in Financial Instruments Regulation (Regulation 600/2014) with regard to RTS on the specification of the offering of pre- and post-trade data and the level of disaggregation of data.

European Commission, 2 June 2016

ESMA statement clarifying MiFID requirements when selling bail-in securities

ESMA has issued a [statement](#) (ESMA/2016/902) clarifying how credit institutions and investment firms should apply the requirements under the MiFID Directive (2004/39/EC) governing the distribution to clients of financial instruments subject to the BRRD resolution regime under the Bank Recovery and Resolution Directive (2014/59/EU).

ESMA, 2 June 2016

Regulation extending exemptions for commodity dealers under CRR adopted

The Council of the EU has [adopted](#) a Regulation amending the Capital Requirements Regulation to extend an exemption for commodity dealers under EU bank capital requirements. The exemption is now extended until 31 December 2020.

The Council of the EU, 30 May 2016

ESMA opinion - draft RTS on criteria for establishing when an activity is to be considered ancillary to the main business under MiFID II

ESMA has published an [opinion](#) proposing amendments to its draft RTS in relation to criteria to establish when a non-financial firm's commodity derivatives trading activity is considered to be ancillary to its main business.

ESMA, 30 May 2016

Market Conduct

FMSB publishes draft standard for wholesale FICC markets

The FMSB (FICC Markets Standard Board) has published [draft standard](#) for comment aimed at improving conduct in Fixed Income, Commodity and Currency (FICC) markets. The deadline for commenting on the draft is 8 September 2016.

FMSB, 01 July 2016

End of term report from ESMA's SMSG

The securities and markets stakeholder group (SMSG) of ESMA has published its end of term [report](#) summarising key achievements of the SMSG.

ESMA, 01 July 2016

ICSA, GC100 & QCA guidance: MAR - Dealing code and policy documents

ICSA, GC100 and the QCA have jointly published [guidance](#) on the Market Abuse Regulation including specimen documents on a group-wide dealing policy, dealing code and dealing procedures manual

ICSA, 24 June 2016

Guidance on the application of REMIT updated by ACER

ACER has published revised [guidance](#) (4th edition) on the application of Regulation 1227/2011 on wholesale energy market integrity and transparency (REMIT).

ACER, 17 June 2016

ESMA rejects European Commission amendments to ITS on public disclosure of inside information

ESMA has published an [opinion](#) on draft implementing technical standards (ITS) on the technical means for appropriate public disclosure of inside information and for delaying the public disclosure of inside information required under the Market Abuse Regulation (Regulation 596/2014).

ESMA, 17 June 2016

Delegated Regulation on RTS on abusive practices or suspicious orders or transactions under MAR

The Official Journal of the EU has [published](#) the Commission Delegated Regulation (EU) 2016/957 supplementing the Market Abuse Regulation (Regulation 596/2014) (MAR) with regard to RTS for the appropriate arrangements, systems and procedures as well as notification templates to be used for preventing, detecting and reporting abusive practices or suspicious orders or transactions

OJ, 17 June 2016

Delegated Regulation on RTS on presentation of investment recommendations and disclosure of conflicts of interest under MAR

The Official Journal of the EU has [published](#) Commission Delegated Regulation (EU) 2016/958 supplementing the Market Abuse Regulation (Regulation 596/2014) (MAR) with regard to RTS for the technical arrangements for objective presentation of investment recommendations or other information recommending or suggesting an investment strategy and for disclosure of particular interests or indications of conflicts of interest.

Official Journal of the EU, 17 June 2016

European Commission writes to ESMA on draft ITS under MAR

The European Commission has published a [letter](#) sent to ESMA explaining it intends to endorse the draft ITS on the technical means for appropriate public disclosure of inside information, and for delaying the public disclosure of inside information, under the Market Abuse Regulation once amendments have been introduced.

European Commission, 10 June 2016

European Delegated Regulations under MAR published

Two European regulations under the Market Abuse Regulation have been published in the Official Journal of the EU:

- European Commission Delegated Regulation ((EU) [2016/908](#)) supplementing the Market Abuse Regulation laying down RTS on the criteria, procedure and the requirements for establishing an accepted market practice and the requirements for maintaining it, terminating it or modifying the conditions for its acceptance.
- Commission Delegated Regulation ((EU) [2016/909](#)), supplementing Market Abuse Regulation with regard to RTS for the content of notifications to be submitted to competent authorities and the compilation, publication and maintenance of the list of notifications.

European Commission, 10 June 2016

Law Society and CLLS publish joint letter to EC on implementation of MAR

The Law Society and the and the City of London Law Society (CLLS) have [published](#) a joint letter to the European Commission raising certain issues concerning the interpretation of the Market Abuse Regulation (Regulation 2014/596/EU).

The Law Society / CLLS, 2 June 2016

ESMA publishes responses on MAR guidelines

ESMA has [published](#) the responses it has received to its consultation on draft guidelines relating to information expected, or required, to be disclosed on commodity derivatives markets or related spot markets or the purposes of determining inside information regarding commodity derivatives and triggering the prohibitions for insider dealing under the Market Abuse Regulation (Regulation 596/2014).

ESMA, 1 June 2016

ESMA Q&A – Market Abuse Regulation

ESMA has published a new [Q&A](#) on the Market Abuse Regulation.

ESMA, 30 May 2016

Contact

[David Ellis](#)

020 7160 3352

[Chris Brennan](#)

020 7160 3244

[Brian McDonnell](#)

020 7160 3512

[Zach Milloy](#)

020 7160 3383

addleshawgoddard.com

Doha, Dubai, Hong Kong, Leeds, London, Manchester, Muscat, Singapore and Tokyo*

*a formal alliance with Hashidate Law Office

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