

# Financial Regulatory Update

July 2019

Please find below our Financial Regulatory Update for July 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

09.07.2019 EU Council adopts **contingency measures** on the implementation and financing of the **2019 EU budget** in the event of a no-deal Brexit. [ENG](#)

## General interest

31.05.2019 End of May 2019, the UK FCA published an interesting insight on **AI-decision making in the financial services industry**, [ENG](#)

09.07.2019 The Joint Committee of the European Supervisory Authorities (ESAs) publishes a report on the **cross-border supervision of retail financial services**. In this report, the ESAs identified the main issues that national competent authorities face when supervising financial institutions that provide cross-border retail financial services within the EU, [ENG](#)

12.07.2019 ESMA publishes report on the status of **licensing regimes of FinTech firms** across EU, [ENG](#)

18.07.2019 ESMA publishes its technical advice on **sustainability considerations in the credit rating market**, [ENG](#)

19.07.2019 The NBB publishes circular 2019\_20 regarding its expectations with respect to activities related to **crypto-assets**, [NL](#) / [FR](#)

19.07.2019 EBA publishes its **FinTech regulatory perimeter report** setting out the findings of its analysis on the regulatory framework applicable to FinTech firms accessing the EU market, [ENG](#)

29.07.2019 European Commission issues a communication in which it sets out its **equivalence policy in financial services legislation** with regard to non-EU countries and presents its recent EU equivalence decisions, [ENG](#)

31.07.2019 The UK FCA provides clarity on current **cryptoassets regulation**, [ENG](#)

## Banking

### *Belgium*

02.07.2019 The NBB publishes circular 2019\_14 on the EBA guidelines (EBA/GL/2019/01) on specification of **types of exposures** to be associated with **high risk** under article 128 CRR, [NL](#) / [FR](#)

02.07.2019 The FSMA **authorises EMMI** as the **administrator of EURIBOR** under the Benchmarks Regulation (BMR), [ENG](#)

16.07.2019 Chamber of Representatives: draft law introducing an obligation for financial institutions to **disclose how they use the funds on saving accounts** in book VII of the Code of Economic Law (CEL), [NL](#) / [FR](#)

19.07.2019 The NBB publishes circular 2019\_19 integrating the revised **EBA Guidelines on outsourcing** ([EBA/GL/2019/02](#)) into its supervisory practices, [NL](#) / [FR](#)

19.07.2019 The NBB publishes circular 2019\_18 containing guidelines on sound management practices and reporting concerning **interest rate risk arising from non-trading activities**, [ENG](#)

26.07.2019 The NBB publishes circular 2019\_21 implementing the EBA Guidelines on the **management of nonperforming and forborne exposures** (EBA/GL/2018/06), [ENG](#)

## EU

02.07.2019 EBA presents the **results** of its **Basel III implementation assessment**, [ENG](#)

04.07.2019 EBA publishes its **Risk Dashboard**, which summarizes the main risks and vulnerabilities in the EU/EEA banking sector, [ENG](#)

09.07.2019 EBA publishes a progress report on the roadmap set out in 2016 to repair internal models used to calculate own funds requirements for credit risk under the **Internal Ratings Based (IRB)** approach, [ENG](#)

10.07.2019 European Court of Auditors publishes special **report on EU-wide stress tests for banks**, conducted under the mandate given to EBA, [ENG](#)

11.07.2019 ESMA updates its **Q&A's** on the **Benchmarks Regulation** (BMR), providing clarification on the commodity benchmark definition and the contribution the euro short-term rate, [ENG](#)

12.07.2019 EBA publishes a report on the monitoring of **liquidity coverage ratio** (LCR) implementation in the EU, [ENG](#)

12.07.2019 ESMA publishes responses to its **Consultation on indices and recognized exchanges** under the CRR, [ENG](#)

16.07.2019 EBA publishes an update to its Implementing Technical Standards (ITS) on **benchmarking of internal approaches**. The ITS include all benchmarking portfolios that will be used for the 2020 benchmarking exercise, [ENG](#)

16.07.2019 EBA publishes amendments to the Implementing Technical Standards (ITS) on **supervisory reporting** with regard to **financial information** (FINREP), [ENG](#)

18.07.2019 ESMA publishes its final **guidelines on disclosure requirements** applicable to **credit ratings**, [ENG](#)

22.07.2019 EBA publishes an updated list of **Common Equity Tier 1 (CET1) instruments** of EU institutions, in light of EBA's monitoring of capital instruments, [ENG](#)

26.07.2019 EBA updates its **Single Rulebook Q&A** on CRD/CRR regarding **supervisory reporting**, see

- Question [2019\\_4459](#) (on clarification of negative RWA--, Annex III, Benchmarking exercise)
- Question [2018\\_4428](#) (on EBA ITS package for 2019 benchmarking exercise, correct interpretation of instrument no. 40)
- Question [2018\\_4293](#) (on the definition of numerator for loss rate)

- Question [2018\\_4292](#) (on the definition of PD\*/PD\*\* for RWA\*/RWA\*\*)
- Question [2018\\_4291](#) (on the definition of RWA\* and RWA\*\*)
- Question [2017\\_3222](#) (on supervisory Benchmarking - alternative risk weight)
- Question [2017\\_3221](#) (on undrawn uncommitted credit lines)
- Question [2017\\_3197](#) (on Annex I Template C101.00 – Sovereigns)
- Question [2017\\_3191](#) (on supervisory Benchmarking Exercise, Annex II, C 102, columns 070 and 080 Counterparty types)
- Question [2017\\_3150](#) (on Annex IV, template C 105.01, c060, interpretation of term "case weighted" in column 060 (Case Weighted average default rate for calibration))
- Question [2016\\_3069](#) (on template C 105.01 for 2017 exercise (end 2016 data))
- Question [2015\\_2412](#) (on recovery rate of the foreclosure assets calculation)
- Question [2015\\_2368](#) (on Finrep: counterparty breakdown, households)
- Question [2018\\_4189](#) (on adjustments due to IFRS 9 transitional arrangements included in RWAs and interaction with validation rule v3689\_s in template C5.01.)
- Question [2018\\_4208](#) (on C 17 template)
- Question [2018\\_4276](#) (on development banks in the template C 33.00 General Government Exposure)
- Question [2019\\_4537](#) (on COREP C06.01 template - Consistency of the EBA taxonomy control v6288\_m)

26.07.2019 EBA updates its **Single Rulebook Q&A** on CRR regarding **synthetic securitization** of undrawn revolving credit facilities (question 2018\_4025), [ENG](#)

26.07.2019 EBA updates its **Single Rulebook Q&A** on CRR regarding **credit risk**, see

- Question [2018\\_4207](#) (on treatment of failed SRT under Traditional Securitization)
- Question [2017\\_3576](#) (on timely payment requirement for unfunded credit protection provided under credit risk insurance policies)
- Question [2017\\_3376](#) (on proposals for mortgage credit extension described in Article 14 of the Directive 2014/17/EU as off-balance sheet exposures)
- Question [2018\\_3832](#) (on asset denominated in one currency and funded in a different currency subject to a FX Swap exchanging those two currencies)

26.07.2019 EU Official Journal: publication of ECB Guideline 2019/1265 on the **euro short-term rate (€STR)** (ECB/2019/19), [ENG](#)

## Lending

### *Belgium*

10.07.2019 Chamber of Representatives: draft law **reducing the handling costs for mortgage credits**, [NL](#) / [FR](#)

25.07.2019 FSMA issues a **warning on identity fraud**: the FSMA warns against fake websites that use the website layout and data of a registered credit intermediary, [ENG](#)

29.07.2019 FSMA issues a **warning on fraudulent credit offers**: the FSMA warns the public against the activities of unauthorized lenders who offer fraudulent

credits to consumers, [ENG](#)

*EU*

23.07.2019 ECB publishes "The **euro area bank lending survey** – Second quarter of 2019", [ENG](#)

## **Insurance**

*Belgium*

09.07.2019 The NBB publishes circular 2019\_16 on the guidelines for the application of the **look-through approach** when calculating the **solvency capital requirement** using the standard formula, [NL](#) / [FR](#)

10.07.2019 Chamber of Representatives: draft law amending the law of 4 April 2014 on insurance, to **exclude administrative sanctions from legal expenses insurance**, [NL](#) / [FR](#)

16.07.2019 The NBB publishes circular 2019\_17 on **Commission Delegated Regulation (EU) 2019/981** of 8 March 2019 amending Delegated Regulation (EU) 2015/35 supplementing the **Solvency II** Directive, providing clarification on the amendments made by the delegated regulation and third quarter reporting, [NL](#) / [FR](#)

18.07.2019 FSMA issues a communication on the **transitional period** for the new **system of examinations** in the insurance sector, in light of the new **professional knowledge requirements** laid down in the Royal Decree of 18 June 2019, [NL](#) / [FR](#)

29.07.2019 Belgian Official Gazette: publication of the **Royal Decree** of 16 July 2019 on the **certificates** to obtain a **tax reduction** for the **premiums of legal expenses insurance**, as introduced by the law of 22 April on facilitating access to legal expenses insurance, [NL](#) / [FR](#)

*EU*

01.07.2019 EIOPA publishes its **Financial Stability Report** June 2019, outlining the key financial stability risks of the European insurance and pensions sector, [ENG](#)

01.07.2019 EIOPA launches a **consultation** on **guidelines on outsourcing to cloud service providers**, [ENG](#)

04.07.2019 EIOPA publishes **technical information** on the **relevant risk free interest rate term structures** (RFR) for Solvency II, with reference to the end of June 2019, [ENG](#)

04.07.2019 EIOPA publishes **technical information** on the **symmetric adjustment of the equity capital charge** for Solvency II with reference to the end of June 2019, [ENG](#)

04.07.2019 EIOPA issues a call for **candidates** to join a Consultative **Expert Group on**

## **digital ethics in insurance, [ENG](#)**

- 04.07.2019 EIOPA updates its **Q&A's** on **Commission Delegated Regulation (EU) 2015/35** supplementing **Solvency II**, [ENG](#)
- 04.07.2019 EIOPA updates its **Q&A's** on **Solvency II**, with regard to SCR standard formula calculation, [ENG](#)
- 04.07.2019 EIOPA updates its **Q&A's** on the **guidelines on Health Catastrophe Risk Sub-Module** in light of Solvency II, [ENG](#)
- 04.07.2019 EIOPA updates its **Q&A's** on **the guidelines on basis risk** in light of Solvency II, [ENG](#)
- 23.07.2019 EIOPA updates its **Q&As** on Commission Implementing Regulation (EU) 2015/2450 laying down implementing **technical standards** with regard to the **templates for the submission of information** to the supervisory authorities in accordance with Solvency II, [ENG](#)
- 25.07.2019 EU Official Journal: publication of **Regulation (EU) 2019/1238** of the European Parliament and of the Council of 20 June 2019 on a **pan-European Personal Pension Product (PEPP)**, [ENG](#)
- 26.07.2019 EIOPA publishes its updated "**Risk Dashboard**" based on the first quarter 2019 Solvency II data, [ENG](#)
- 31.07.2019 EU Official Journal: publication of **Commission Implementing Regulation (EU) 2019/1285** of 30 July 2019 laying down **technical information** for the **calculation of technical provisions** and basic own funds for reporting with reference dates from 30 June 2019 until 29 September 2019 in accordance with Solvency II Directive, [ENG](#)

## **MiFID II / MiFIR**

### *Belgium*

- 19.07.2019 The NBB publishes circular 2019\_19 integrating the revised **EBA Guidelines on outsourcing** ([EBA/GL/2019/02](#)) into its supervisory practices with respect to stockbroking firms, [NL](#) / [FR](#)

### *EU*

- 01.07.2019 ESMA issues positive opinions on **product intervention measures** by Cyprus, France, Malta and Sweden relating to **binary options**, [ENG](#)
- 02.07.2019 ESMA issues positive opinions on **product intervention measures** by Sweden, France and the United Kingdom relating to **contracts for differences**, [ENG](#)
- 05.07.2019 EBA publishes a **report** on the **implementation** of its Guidelines on **Product Oversight and Governance Arrangements** (POG). The report identifies a number of good and bad practices and outlines the next steps EBA will take to fulfil its supervisory convergence mandate, [ENG](#)

- 05.07.2019 ESMA **updates** its public register with the latest set of **double volume cap (DVC) data** under MiFID II, [ENG](#)
- 07.07.2019 ESMA updates results of **the annual equity transparency calculations**, as previously published on 21 June 2019, with regard to the application of the tick size regime for third-country shares, [ENG](#)
- 11.07.2019 ESMA updates its **Q&A's** on the implementation of **investor protection topics** under MiFID II/MiFIR, providing clarification on classification of financial instruments under RTS 27, [ENG](#)
- 12.07.2019 ESMA issues a **statement** addressed to **providers** marketing, distributing or selling **contracts for differences (CFDs)** to **retail clients**. ESMA has identified undesirable practices related to professional clients on request, and marketing, distribution or sale by third-country CFD-Providers, [ENG](#)
- 12.07.2019 ESMA updates its **Q&A's** on **market structures and transparency issues** under MiFID II and MiFIR, [ENG](#)
- 12.07.2019 ESMA publishes responses to its call for evidence on **position limits in commodity derivatives**, [ENG](#)
- 17.07.2019 ESMA issues positive opinion on **product intervention measures** by Czech Republic relating to **contracts for differences**, [ENG](#)
- 17.07.2019 ESMA publishes its first **report concerning sanctions and measures imposed under MiFID II** by National Competent Authorities (NCAs), [ENG](#)
- 17.07.2019 ESMA publishes a **call for evidence** on the impact of the **inducement and costs and charges disclosure requirements** under MiFID II, [ENG](#)
- 23.07.2019 ESMA updates the public register of **derivatives** to be **traded on-venue** under **MiFIR**, [ENG](#)
- 24.07.2019 ESMA issues positive opinions on **product intervention measures** by Bulgaria, Denmark and Croatia relating to **contracts for differences** and **binary options**, [ENG](#)
- 29.07.2019 ESMA updates its **Q&A's** on **data reporting** under **MiFIR**, [ENG](#)
- 31.07.2019 ESMA issues positive opinions on **product intervention measures** by Germany, Hungary, Malta and Poland, relating to **contracts for differences**, [ENG](#)

## Asset management

### *Belgium*

- 02.07.2019 ESMA publishes the **responses** received to its **Consultation** on draft **regulatory technical standards** under Article 25 of the **ELTIF** (European Long term Investment Fund) **Regulation**, [ENG](#)
- 11.07.2019 FSMA issues a **warning** against investment firms who are **unlawfully offering binary options** on the Belgian market, [ENG](#)

16.07.2019 FSMA renews its **warning** on **fraudulent offers** related to **asset management** and **investment services**, [ENG](#)

*EU*

12.07.2019 EU Official Journal: publication of **Regulation (EU) 2019/1156** of the European Parliament and of the Council of 20 June 2019 on **facilitating cross-border distribution of collective investment undertakings** and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014, [ENG](#)

12.07.2019 EU Official Journal: publication of **Directive (EU) 2019/1160** of the European Parliament and of the Council of 20 June 2019 amending Directives 2009/65/EC and 2011/61/EU with regard to **cross-border distribution of collective investment undertakings**, [ENG](#)

16.07.2019 ESMA launches a public **consultation** on draft **guidelines on performance fees** under the Undertakings for Collective Investments in Transferable Securities (**UCITS**) Directive, [ENG](#)

19.07.2019 ESMA issues **guidelines** on **stress testing** of money market funds, and on **reporting** on money market funds to national competent authorities, aimed at ensuring a coherent application of the Money Market Fund (**MMF**) **Regulation**, [ENG](#)

## Payments

*Belgium*

14.06.2019 The NBB publishes its 2019 **Financial Markets Infrastructures and Payment Services Report**, [ENG](#)

19.07.2019 The NBB publishes circular 2019\_19 integrating the revised **EBA Guidelines on outsourcing** ([EBA/GL/2019/02](#)) into its supervisory practices with respect to payment institutions and e-money institutions, [NL](#) / [FR](#)

*EU*

08.07.2019 EBA publishes a **report on the impact of FinTech on payment institutions'** and **electronic money institutions'** business models, [ENG](#)

19.07.2019 EBA updates its **Single Rulebook Q&A** on **PSD2** regarding the responsibility for the comprehensive assessment according to Article 95(2) PSD2 (Question 2018\_4231), [ENG](#)

19.07.2019 EBA updates its **Single Rulebook Q&A** on **PSD2** regarding **strong customer authentication** and common and **secure communication**, see

- Question [2018\\_4055](#) (on confidentiality of an offline PIN)
- Question [2018\\_4042](#) (liability for fraud when SCA exemption used)

26.07.2019 EBA publishes **clarifications** to the fourth set of issues raised by its



working group on **APIs under PSD2**, [ENG](#)

These clarifications respond to issues related to a.o.:

- confirmation of payment execution
- biometrics and authentication on mobile apps
- access to non-payment account information

26.07.2019 The two European Third Party Providers associations ETPPA and FDATA and the three European Credit Sector Associations agree on **joint efforts** to **smoothen the transition** to the new security and communication standards under **PSD2**, applicable as from 14 September 2019, [ENG](#)

## Compliance/AML

### *Belgium*

02.07.2019 NBB issues communication 2019\_15 on the expectations regarding the **content of the statutory governing body's report** on the **assessment of the compliance function**, [ENG](#)

04.07.2019 FSMA publishes a newsletter on the **organizational framework** as imposed by the AML/CFT legislation (as discussed more in detail in the FSMA circular 2019\_12 of 27 June 2019), [NL](#) / [FR](#)

11.07.2019 FSMA publishes a newsletter on **new features and modifications in the CABRIO online app**. These new features are related to **anti-money laundering** laws and regulations, and the input of **professional training courses**, [NL](#) / [FR](#)

19.07.2019 The FPS Finance updates its **FAQ** on the **UBO register**, [NL](#) / [FR](#)

### *EU*

24.07.2019 EBA publishes an **opinion** on the **link between money laundering** and terrorist financing concerns and **prudential objectives**. EBA directs this opinion to prudential supervisors, with the aim of sending a common message to the relevant supervised entities on the importance of ML/TF risks for prudential supervision across the single market, [ENG](#)

24.07.2019 European Commission issues a communication and four reports, aimed at supporting European and national authorities in better addressing **money laundering and terrorist financing risks**, [ENG](#)

## Capital markets

12.07.2019 ESMA updates its **Q&A's** on the **Prospectus Regulation**, [ENG](#).

The Q&A's provide clarification on a.o.:

- The application of Article 23(3) Prospectus Regulation in relation to issuers that qualify as financial intermediaries.
- Continuing an offer which has initially been made using a base prospectus approved under the Prospectus Directive after the entry into application of the Prospectus Regulation.

- 17.07.2019 ESMA publishes several additional resources to assist market participants in the **implementation of ESMA's draft technical standards on disclosure requirements for the Securitization Regulation (SR)**. ESMA provides updated Q&A's, XML schema and validation rules, [ENG](#)
- 21.07.2019 Entry into force of the new **Belgian prospectus act** of 11 July 2018, [NL / FR](#)
- 31.07.2019 ECB publishes the June 2019 Survey on **credit terms and conditions in euro-denominated securities financing and OTC derivatives markets (SESFOD)**, [ENG](#)
- 31.07.2019 ESMA publishes **responses** to its **consultation** on **guidelines for reporting** under Articles 4 and 12 SFTR, [ENG](#)

## Market Infrastructures

### *Belgium*

- 14.06.2019 The NBB publishes its 2019 **Financial Markets Infrastructures and Payment Services Report**, [ENG](#)

### *EU*

- 01.07.2019 ESMA updates its **Q&A's** on the implementation of the Central Securities Depository Regulation (**CSDR**), providing clarification on the scope of financial instruments subject to internalized settlement reporting, [ENG](#)
- 11.07.2019 ESMA updates its **Q&A's** on the implementation of **CSDR**, providing clarification on the scope of internalized settlement reporting, [ENG](#)
- 12.07.2019 ESMA issues a public **statement** addressing the **misalignment** between **the scope of** counterparties subject to the **EMIR clearing obligation (CO)** and those subject to the **MiFIR derivatives trading obligation (DTO)**, [ENG](#)
- 15.07.2019 ESMA updates its **Q&A's** on **EMIR**, [ENG](#)
- 22.07.2019 ESMA publishes its annual **peer review report** on the overall supervision of EU Central Counterparties (CCPs) by NCAs. The review focuses on the effectiveness of NCAs supervisory practices to assess CCPs' compliance with **EMIR's** requirements on collateral and funding arrangements, [ENG](#)
- 31.07.2019 ESMA publishes the **responses** received to its **consultations** on tiering, comparable compliance and fees under **EMIR 2.2**, [ENG](#)

## Agenda

- 31.08.2019 FSMA **consultation** on the draft circular on the prudential expectations of the FSMA regarding **governance** for the **institutions for occupational retirement provision**, [ENG](#)
- 06.09.2019 Deadline for submission of feedback to ESMA's **consultation** on **cost of market data and consolidated tape** in light of MiFID II/MiFIR, [ENG](#)

- 22.09.2019 Deadline to fill out EIOPA's **online survey** on its report analyzing national "**General Good rules**", [ENG](#)
- 30.09.2019 Deadline for submission of feedback to EIOPA's **consultation** on guidelines on **outsourcing to cloud service providers**, [ENG](#)
- 30.09.2019 Deadline for submission of feedback to EIOPA's **consultation** on the draft opinion on the supervision of **remuneration principles** in the insurance and reinsurance sector, [ENG](#)
- 04.10.2019 Deadline for submission of feedback to ESMA's **consultation** on **disclosure guidelines** under the **Prospectus Regulation**, [ENG](#)
- 15.10.2019 Deadline for submission of feedback to ESMA's **consultation** on certain aspects of the **compliance function** requirements under MiFID II, [ENG](#)
- 18.10.2019 Deadline for submission of feedback to EIOPA's **consultation** on the harmonization of **national insurance guarantee schemes**, [ENG](#)
- 18.10.2019 Deadline for submission of feedback to EIOPA's **consultation** on **supervisory reporting and public disclosure**, in light of the 2020 Solvency II Review, [ENG](#)
- 18.10.2019 Deadline for submission of feedback to EIOPA's **discussion paper** on the methodological principles of insurance "**stress testing**", [ENG](#)
- 31.10.2019 Deadline for submitting of feedback to ESMA's **consultation** on draft guidelines on **performance fees** under the **UCITS-D**, [ENG](#)

## DISCLAIMER

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