

# Financial Regulatory Update

September 2019

Please find below our Financial Regulatory Update for September 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

- 04.09.2019 European Commission issues **6<sup>th</sup> Brexit preparedness Communication** as a final call to all EU citizens and businesses to prepare for the UK's withdrawal on 31 October 2019, [ENG](#)
- 04.09.2019 European Commission publishes a **Brexit preparedness checklist** for companies doing business in the EU, [ENG](#)
- 12.09.2019 The ESAs publish a **report** on "**Risks and Vulnerabilities in the EU Financial System**" addressing the risks of a no-deal Brexit, the continued low interest environment and climate change, [ENG](#)

## General interest

- 27.08.2019 FMSA publishes communication 2019\_27 re the **questionnaire on the professional reliability and appropriate expertise** of candidates for regulated functions, [NL / FR](#)
- 03.09.2019 The Dutch National Bank (DNB) warns **crypto service providers** that they will become subject to the DNB's integrity supervision as of 10 January 2020, [ENG](#)
- 03.09.2019 Chamber of Representatives: draft law implementing book V "*verbintenissen*" / "*obligations*" in the **new Civil Code**, [NL / FR](#)
- 16.09.2019 BIS Working Paper on **blockchain and "embedded supervision"** (i.e. creating a framework that allows compliance with regulatory goals to be automatically monitored by reading the market's ledger), [ENG](#)
- 22.09.2019 The BIS issues a paper on the opportunities and challenges that are facing central bank reserve managers who seek to incorporate **environmental sustainability objectives** into their portfolios, [ENG](#)
- 22.09.2019 The UN General Assembly launches the **Principles for Responsible Banking**, [ENG](#)
- 23.09.2019 The Council of the EU publishes its mandate for negotiation with the European Parliament regarding the **proposal for a Regulation** on the establishment of a **framework to facilitate sustainable investment**<sup>1</sup>, [ENG](#)
- 27.09.2019 European Commission issues **guidance** on the interpretation and application of the **Unfair Consumer Terms Directive** ([Directive 93/13/EEC](#)), [ENG](#)
- 27.09.2019 Chamber of Representatives: draft law introducing **double voting rights** for dematerialized registered shares, [NL / FR](#)

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<sup>1</sup> The proposal aims at creating an EU-wide classification system ("taxonomy") which will provide businesses and investors with a common language to identify what economic activities can be considered environmentally sustainable. The procedural file is available on European Parliament's website (see: [2018/0178 COD](#)).

30.09.2019 **Entry into force** of EBA's [revised outsourcing guidelines](#) with respect to all outsourcing arrangements entered into, reviewed or amended on or after 30 September 2019, [NL](#) / [FR](#)

## Banking

### *Belgium*

09.09.2019 FSMA confirms the implementation into its supervisory practice of the ESAs' 2014 [guidelines on complaints handling](#) , [NL](#) / [FR](#)

### *EU*

06.09.2019 EBA updates its **Single Rulebook Q&A** on CRD/CRR regarding **supervisory reporting**, see

- Question [2018 3950](#) (on incorrect validation rule v4456\_m)
- Question [2018 3962](#) (on double counting of intra-group funding in C68.00)
- Question [2018 4072](#) (on the conditions for completing template C 33.00)
- Question [2018 4193](#) (on validation rule v5903\_s)
- Question [2018 4282](#) (on the counterparty classification of the ESM and the ESFS)
- Question [2018 4218](#) (on the treatment of liquidity generated by the overnight maturity of withdrawable Central Bank reserve)
- Question [2019 4550](#) (on reporting of template C71.00 by significant currency)
- Question [2019 4549](#) (on the classification of multilateral development banks (MDBs) for the purpose of the reporting of the Additional Liquidity Monitoring Metrics)

09.09.2019 EBA announces its intention to clarify the **prudential treatment of own funds** with respect to 'legacy instruments' at the end of the grandfathering period on 31 December 2021, [ENG](#)

23.09.2019 ESRB issues recommendation on **medium-term vulnerabilities** in the **real estate sector** in Belgium, [ENG](#)

30.09.2019 EBF publishes **statement** of the **European Credit Sector Associations** on the upcoming migration to the reformed EURIBOR methodology and the migration from EONIA to €STR, [ENG](#)

30.09.2019 **Entry into force** of EBA's [revised outsourcing guidelines](#) with respect to all outsourcing arrangements entered into, reviewed or amended on or after 30 September 2019 by credit institutions, [NL](#) / [FR](#)

## Lending

### *Belgium*

05.09.2019 NBB establishes new **supervisory expectations** for Belgian banks and insurance companies offering **mortgage loans**, [NL](#) / [FR](#)

06.09.2019 FPS Economy publishes a (new) online **annotated consumer credit and mortgage credit code**, [NL](#) / [FR](#)

09.09.2019 Chamber of Representatives: draft law amending the law of 20 December 2002 on the **amicable recovery of consumer debts**, in order to avoid misuses, [NL](#) / [FR](#)

## EU

11.09.2019 ECJ judgement (case C-383/18) explaining that the right of a consumer to a **reduction in the total cost** of the credit in the event of **early repayment** in accordance with Article 16(1) [Directive 2008/48/EC](#) includes all the costs imposed on the consumer, [ENG](#)

23.09.2019 European Parliament: interinstitutional negotiations opened regarding a proposal for a directive amending Directive 2014/65/EU on markets in financial instruments with respect to **crowdfunding service providers** (2018/0047 COD), [ENG](#)

23.09.2019 European Parliament: interinstitutional negotiations opened regarding a proposal for a regulation on **European Crowdfunding Service Providers** (ECSP) for business (2018/0048 COD), [ENG](#)

## Insurance

### Belgium

04.09.2019 NBB issues communication 2019\_22 on the **periodic reports** to be submitted by the insurance and reinsurance sector in 2020 via eCorporate, [NL](#) / [FR](#)

09.09.2019 FSMA develops a tool to assess the qualification as an **ancillary insurance intermediary** under IDD, [NL](#) / [FR](#)

09.09.2019 FSMA confirms the implementation into its supervisory practice of EIOPA's 2013 [guidelines on complaints handling by insurance intermediaries](#), [NL](#)

09.09.2019 Chamber of Representatives: draft law amending the insurance law of 4 April 2014, to limit the **use of data collected via devices connected to the internet** in the context of in illness and life insurances, [NL](#) / [FR](#)

09.09.2019 Chamber of Representatives: draft law amending the motor vehicle liability insurance law of 21 November 1989 regarding the reintroduction of a **"bonus-malus" system**, [NL](#) / [FR](#)

## EU

05.09.2019 EIOPA publishes monthly technical information for **Solvency II Relevant Risk Free Interest Rate Term Structures**, [ENG](#)

05.09.2019 EIOPA publishes monthly update of the **symmetric adjustment** of the **equity capital charge** for Solvency II, [ENG](#)

17.09.2019 EIOPA establishes Consultative Expert Group on **Digital Ethics in Insurance**, [ENG](#)

- 17.09.2019 EIOPA publishes [report](#) on **Cyber risk for insurers** – challenges and opportunities, [ENG](#)
- 29.09.2019 EIOPA issues opinion on **sustainability within Solvency II**, [ENG](#)

## MiFID II / MiFIR

### *Belgium*

- 09.09.2019 FSMA publishes [questionnaire](#) for the appointment as **compliance officer** of a portfolio management and investment advice company, [NL](#) / [FR](#)
- 09.09.2019 FSMA confirms the implementation into its supervisory practice of the ESAs' 2014 [guidelines on complaints handling](#) , [NL](#) / [FR](#)
- 30.09.2019 FSMA issues **warning** against **investment offers** made through **social media**, [ENG](#)

### *EU*

- 06.09.2019 ESMA issues latest **double volume cap** data under MiFID II, [ENG](#)
- 11.09.2019 ESMA publishes **responses** to its [call for evidence](#) "*Impact of the inducements and costs and charges disclosure requirements under MiFID II*", [ENG](#)
- 11.09.2019 ESMA publishes the **responses** to its [consultation paper](#) "*MiFID II/MiFIR review report on the cost of market data and consolidated tape for equity instruments*", [ENG](#)
- 19.09.2019 The UK FCA publishes findings of its review on how firms in the UK have implemented the MiFID II **research unbundling rules**, [ENG](#)
- 23.09.2019 ESMA publishes updated results of the **annual transparency calculations for equity and equity-like instruments**, [ENG](#)
- 24.09.2019 ESMA updates its **financial instrument reference database** (FIRDS), [ENG](#)
- 30.09.2019 ESMA launches **call for evidence** on the effects of the MiFID II **product intervention measures** regarding contracts for differences (CFDs) and binary options on market participants and clients, [ENG](#)

## Asset management

### *Belgium*

- 09.09.2019 FSMA confirms the implementation into its supervisory practice of the ESAs' 2014 [guidelines on complaints handling](#) , [NL](#) / [FR](#)
- 09.09.2019 FSMA publishes [questionnaire](#) for the appointment as **compliance officer** of the external manager of a public UCITS/AIFs, [NL](#) / [FR](#)
- 11.09.2019 FSMA publishes [Circular 2019 23](#) on the **report** of the effective management on **internal control** of self-managed public

UCITS/AIFs, [NL](#) / [FR](#)

11.09.2019 FSMA publishes [Circular 2019 24](#) on the **statement of the effective management** on the **periodic reports** and **statistical statements** of UCIs, [NL](#) / [FR](#)

11.09.2019 FSMA publishes [Recommendation 2019 25](#) on the **periodic questionnaire** for externally managed public UCI's, [NL](#) / [FR](#)

*EU*

09.2019 EFAMA publishes its 2019 [Asset Management Report](#), [ENG](#)

02.09.2019 ESMA publishes its final [guidance](#) regarding **liquidity stress tests** in UCITS and AIFs, [ENG](#)

05.09.2019 ESMA publishes **stress simulation** framework for **investment funds**, [ENG](#)

06.09.2019 EFAMA publishes its response to ESMA's call for evidence on the impact of the **inducements** and **costs and charges disclosure requirements** under MiFID II, [ENG](#)

30.09.2019 ESMA publishes results of a study on the **use of derivatives by UCITS equity funds**, [ENG](#)

## Payments

*Belgium*

27.08.2019 NBB publishes announcement NBB\_2019\_23 setting out its **expectations** regarding the market implementation of **strong customer authentication** in the framework of **e-commerce** (agreeing on the establishment of a reasonable migration plan as soon as reasonably possible after the 14 September 2019 deadline), [ENG](#)

*EU*

02.09.2019 European Payments Council issues recommendations on the operational implications of a "**no-deal Brexit**" on SCT and SDD transactions, [ENG](#)

05.09.2019 ECJ judgement (case C-28/18) on the **scope of application of the SEPA Regulation** with respect to SEPA Direct Debit mandates, [ENG](#)

06.09.2019 EBA updates its **Single Rulebook Q&A** on **PSD2** regarding strong customer authentication and common and secure communication, see:

- Question [2018\\_4233](#) on the geographical scope of the RTS on SCA and CSC in case of 'one-leg in' and 'two-leg in' transactions
- Question [2018\\_4030](#) on the geographical scope of the RTS on SCA and CSC in case of 'two-leg in' transactions.

06.09.2019 EBA updates its **Single Rulebook Q&A** on **PSD2** regarding the implementation of the **electronic communications exclusion** in the

voiced-based premium rate services market (Question 2018\_4181), [ENG](#)

12.09.2019 European Payments Council publishes **Q&A** on the **SEPA Instant Credit Transfer Scheme**, [ENG](#)

13.09.2019 EBA updates its **Single Rulebook Q&A** on **PSD2** regarding the definition of **Account Information Service** (Question\_2018\_4098), [ENG](#)

14.09.2019 **Entry into force** of the PSD2 **RTS on SCA and CSC**<sup>2</sup> with respect to strong customer authentication and common and secure open standards of communication, [ENG](#)

30.09.2019 **Entry into force** of EBA's [revised outsourcing guidelines](#) with respect to all outsourcing arrangements entered into, reviewed or amended on or after 30 September 2019 by payment institutions and e-money institutions, [NL](#) / [FR](#)

## Compliance/AML

### *Belgium*

04.09.2019 FSMA issues Opinion 2019\_03 on the calculation method for the three-year cycles within the framework of the **retraining obligation of the compliance function**, [NL](#) / [FR](#)

09.09.2019 FSMA publishes [questionnaire](#) for the appointment as **compliance officer** of (i) the external manager of a public UCITS/AIFs or (ii) a portfolio management and investment advice company, [NL](#) / [FR](#)

30.09.2019 FPS Finance implements a period of **administrative tolerance** until 31 December 2019 during which period no sanctions will be applied for not **registering UBO's**, [NL](#) / [FR](#).

### *EU*

09.09.2019 EBA Chair Calls for more **EU Action on Money Laundering**, [ENG](#)

19.09.2019 European Parliament issues resolution on the **state of implementation** of the Union's **anti-money laundering legislation**, [ENG](#)

25.09.2019 The Council of Europe's MONEYVAL publishes its 2018 **annual report** in which it calls on states to ensure that they have appropriate measures in place to combat "dirty money", [ENG](#).

## Capital markets

### *General*

11.09.2019 FSMA publishes Circular 2019\_26 on the **acquisition and disposal of own securities** under the new Companies and Associations Code, [NL](#) / [FR](#)

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<sup>2</sup> Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication.

- 16.09.2019 Chamber of representatives: draft law introducing the obligation for **listed companies** to draw up a **transparency report**, [NL/ FR](#)
- 27.09.2019 ICMA publishes updated memorandum outlining recommendations for **repo market best practice** to address **transition from EONIA to €STR** on 1 October 2019, [ENG](#)

### Securitization Regulation

- 04.09.2019 EBA adds the **Securitisations Regulation** to its [Interactive Single Rulebook](#) and [Single Rulebook Q&A](#), [ENG](#)
- 13.09.2019 EBA updates its **Single Rulebook Q&A** on **Securitisations Regulation** regarding the **obligations of an originator** (Question\_2018\_4368), [ENG](#)
- 24.09.2019 EBA publishes a [discussion paper](#) on the feasibility of a **framework** for **Simple, Transparent and Standardised (STS) synthetic securitization** limited to balance sheet securitisation, [ENG](#)

### Market Infrastructures

- 30.09.2019 ICMA launches **CSDR buy-in impact study** for bond markets, [ENG](#)

### Agenda

- 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 submission of feedback to ESMA's **consultation** on draft guidelines on **performance fees** under the **UCITS-D**, [ENG](#)
- 04.11.2019 Deadline for submission of feedback to ESMA's call for evidence on the effects of **product intervention measures**, [ENG](#)

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