

# Financial Regulatory Update

November 2020

Please find below our Financial Regulatory Update for November 2020. 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 in itself.

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## Covid-19

### *Belgium*

20.11.2020 Publication in the Belgian Official Gazette of an **addendum** to the Royal Decree of 16 September 2020 to amend the **Royal Decree of 14 April 2020 to grant a state guarantee** for certain credits in combating the consequences of the corona virus, inserting the **report to the king**, [NL](#) / [FR](#)

### *EU*

20.11.2020 Banks published a newsflash on the assessment of the **use of COVID-19 moratoria and public guarantees**, [ENG](#)

## Brexit

### *Belgium*

17.11.2020 FSMA publishes a communication FSMA\_2020\_16 on the regime applicable to **UK asset managers and UK funds** after Brexit, [ENG](#)

### *EU*

04.11.2020 AFME welcomes FCA clarification on the **Share Trading Obligation**, [ENG](#)

09.11.2020 ESMA updates **Q&As** for **prospectus** and **transparency** rules linked to Brexit, [ENG](#)

09.11.2020 EBA reminds **financial institutions** of the need for **readiness** in view of the Brexit transition period ending on 31 December 2020, [ENG](#)

10.11.2020 ESMA **updates Brexit statements** for the end of the UK's transition period, [ENG](#)

25.11.2020 ESMA sets out its final view on the **derivatives trading obligation** following the end of the UK's transition from the EU on 31 December 2020, [ENG](#)

## General interest

### *Sustainable finance*

03.11.2020 EBA launches a consultation to incorporate **ESG risks** into the governance, risk management and supervision of credit institutions and investment firms, [ENG](#)

05.11.2020 ESMA published its consultation paper containing its draft **advice** to the European Commission on article 8 of the **Taxonomy Regulation** on the obligations on environmentally sustainable activities, [ENG](#)

24.11.2020 ECB publishes an article on the performance and resilience of **green finance instruments**: ESG funds and green bonds, [ENG](#)

## Other

- 18.11.2020 EBA published a report on the benchmarking of **national insolvency frameworks** across the EU, [ENG](#)
- 20.11.2020 Publication in the Belgian Official Gazette of the law of 29 September 2020 to **amend the Code of Economic law** and other laws aiming to enforce the investigative and enforcement powers in accordance with and implementing Regulation (EU) 2017/2394 of the European Parliament and the Council of 12 December 2017 on the **cooperation between national authorities which are competent for the enforcement of the legislation** regarding consumer protection and repealing Regulation (EG) 2006/20004 (1), [NL](#) / [FR](#)
- 20.11.2020 Publication in the Belgian Official Gazette of the law of 4 November 2020 to regulate the **appeal procedure** against the **administrative fine** provided for in book XV, title 1/2 of the **Code of Economic Law**, [NL](#) / [FR](#)

## Banking

### Belgium

- 24.11.2020 Publication in the Belgian Official Gazette of the law implementing the provisions on the **basic banking service for companies** in book VII of the Code of Economic Law, [NL](#) / [FR](#)

### EU

- 02.11.2020 ECB publishes a cost-benefit assessment **questionnaire** on the Integrated Reporting Framework for the banking industry, [ENG](#)
- 03.11.2020 EBF publishes a **Financial Literacy Playbook** for Europe, [ENG](#)
- 04.11.2020 EBA publishes revised final draft regulatory technical standards on methodology and disclosure for global **systemically important institutions**, [ENG](#)
- 06.11.2020 ESMA updates its **Q&A** on the European **Benchmarks Regulation** (BMR), providing clarification on the transitional provisions of the Regulation regarding critical benchmarks, [ENG](#)
- 13.11.2020 EBA publishes the **methodology** for the EU-wide **stress test**, [ENG](#)
- 13.11.2020 EBA updates its Single Rulebook Q&A on CRD/CRR regarding:
- **Liquidity risk**, see question [2019\\_4786](#) (on the treatment of securitization class A notes guaranteed by a member state)
  - **Internal governance**, see question [2019\\_4782](#) (on termination rights – distinguishing between guidelines which are directed towards all outsourcing arrangements from those that are directed towards outsourcing arrangements for critical and important functions)
  - **Operational risk**, see question [2018\\_3969](#) (on the meaning of “the

last three twelve monthly observations in articles 315(1) and 317(4) CRR regarding the calculation of operational risk requirements)

- **Large exposures**, see question [2017\\_3621](#) (on the recognition for large exposure purposes of a guarantee granted by the central government on an equity exposure)
- **Credit risk**, see question [2019\\_4721](#) (on the eligibility of mortgage mandates under Belgian law)

18.11.2020 ECB publishes **Anacredit Validation Checks** which supplements the AnaCredit Reporting Manual by explaining the main set of validation checks that will be performed in order to ensure that the quality of the data is satisfactory, [ENG](#)

19.11.2020 EBA published a report on the effect of the unwind mechanism of the **liquidity coverage ratio** under Commission Delegated Regulation 2015/61, [ENG](#)

20.11.2020 EBF published a paper concerning the **Benchmarks Regulation**: the cross-industry request for the extension of the third country benchmarks transition period, [ENG](#)

23.11.2020 ECB launches a public **consultation** by the working group on euro risk-free rates **on €STR-based Euribor fallbacks rates**, [ENG](#)

23.11.2020 ECB launches a public **consultation** by the working group on euro risk-free rates on **Euribor fallback trigger events**, [ENG](#)

26.11.2020 BCBS publishes the technical amendment setting out **capital requirements for non-performing loan securitisations**, [ENG](#)

27.11.2020 EBA updates its Single Rulebook Q&A on CRD/CRR regarding supervisory reporting, see:

- Question [2020\\_5368](#) (on weighted average of the CCD)
- Question [2020\\_5339](#) (on PD-/PD+ for RWA-/RWA+)

## Lending

### *Belgium*

04.11.2020 FSMA **warns** against the activities of unauthorized lenders offering **false credit offers** to consumers, [ENG](#)

### *EU*

25.11.2020 **Court of Justice**: judgment in case C269/19 on the consequences of **unfair terms** in consumer credit contracts, [ENG](#)

## Insurance

### Belgium

- 13.11.2020 Chamber of Representatives: draft law to amend the law of 4 April 2012 on insurances aiming to extend the **right to be forgotten**, to occupational disability insurances, [NL](#) / [FR](#)
- 13.11.2020 FSMA publishes Communication FSMA\_2020\_14 to remind credit institutions and insurance distributors of the **product governance rules** that apply when offering structured products in Belgium, [ENG](#)
- 18.11.2020 NBB publishes Communication NBB\_2020\_043 on the valuation of **technical provisions** for individual health insurance, [NL](#) / [FR](#)

### EU

- 10.11.2020 Publication in the Official Journal of the EU of the Commission implementing regulation (EU) 2020/1647 of 9 November 2020 laying down technical information for the calculation of **technical provisions and basic own funds** for reporting with reference dates from 30 September 2020 until 30 December 2020 in accordance with Solvency II, [ENG](#)
- 12.11.2020 EIOPA launched a **survey** on the application of the **Insurance Distribution Directive**, [ENG](#)
- 25.11.2020 EIOPA publishes a **consultation** on the Statement on supervisory practices and expectations in case of **breach of the Solvency Capital Requirement**, [ENG](#)
- 30.11.2020 EIOPA **consults** on insurers' key performance indicators on sustainability for **non-financial reporting**, [ENG](#)

## MiFID II / MiFIR

### Belgium

- 23.11.2020 FSMA publishes a consultation on Q&A's regarding **advertisements for investment instruments**, [NL](#) / [FR](#)

### EU

- 03.11.2020 EBA published its second report on the implementation of the industry of the EBA guidelines on **Product Oversight and Governance Arrangements** in which it encourages financial institutions to put the required **focus on consumers' interest** when applying POG Arrangements, [ENG](#)
- 06.11.2020 ESMA publishes a new **Q&A** on **product governance** more specifically on the costs and charges, [ENG](#)
- 06.11.2020 ESMA launched a **consultation** to draft its guidelines on the MiFID II/MiFIR obligations on **market data**, [ENG](#)

- 09.11.2020 ESMA issues latest **double volume cap** (DVC) data under MiFID II, [ENG](#)
- 20.11.2020 ESMA launches a consultation on derogation criteria for **data reporting services providers**, [ENG](#)
- 20.11.2020 ESMA consults on **supervisory fees** for **data reporting services providers**, [ENG](#)

## Asset management

### *Belgium*

- 03.11.2020 FSMA publishes guidelines on **liquidity stress testing** in UCITS and AIFS in its communication FSMA\_2020\_13, [ENG](#)
- 17.11.2020 FSMA publishes a **warning** concerning the activities of **Concord Financial Consult**, a company providing investment services without being authorized as an investment firm in Belgium, [ENG](#)

### *EU*

- 05.11.2020 ESMA publishes **translations for guidelines on performance fees** in UCITS and certain types of AIFS, [ENG](#)
- 09.11.2020 ESMA launches a **consultation** on guidance for funds' **marketing communications**, [ENG](#)
- 12.11.2020 ESMA publishes its **2019 report** on the use of **supervisory sanctions** for UCITS, [ENG](#)
- 12.11.2020 ESMA publishes its first **annual report** on the **use of supervisory sanctions** under the AIFM directive, [ENG](#)
- 13.11.2020 ESMA published a **report** on the preparedness of **investment funds** with significant **exposures** to corporate debt and real estate assets, for potential future adverse liquidity and valuation shocks, [ENG](#)
- 13.11.2020 ESMA **identified** (i) costs and performance for retail investment products and (ii) market data quality as the **Union Strategic Supervisory Priorities** for national competent authorities, [ENG](#)
- 20.11.2020 EFAMA publishes **guide** to demystify **exchange-traded products** for European investors, [ENG](#)
- 26.11.2020 EFAMA publishes its **annual asset management report**, [ENG](#)

## Compliance/AML

### *EU*

- 02.11.2020 ECB publishes an overview on the **Eurosystem Integrated Reporting Framework**, [ENG](#)
- 04.11.2020 EBA published an opinion setting out how prudential supervisors should take **money laundering and terrorist financing risks** into account in the

## Supervisory Review and Evaluation Process, [ENG](#)

### Capital markets

#### *General*

- 03.11.2020 ICMA Electronic Trading Council (ETC) publishes a paper on **Axe Distribution Best Practice Standards**, [ENG](#)
- 10.11.2020 FSMA approved the **modified market rules** of Alternext Brussels (Euronext Growth), [ENG](#)
- 10.11.2020 FSMA approved the **modified market rules** of the regulated markets organized by Euronext NV/SA, [ENG](#)
- 10.11.2020 ESMA releases a report on **Post Trade Risk Reduction** services under **EMIR**, [ENG](#)
- 13.11.2020 ICMA prepared **a checklist** for non-European firms to help them assess their reporting obligations under the EU's SFT Regulation as well as the UK's SFT Regulation post-Brexit, [ENG](#)
- 13.11.2020 FSMA publishes a warning concerning the **late publication of the half-yearly financial reports** by issuers of financial instruments admitted to trade on a regulated market, [NL](#) / [FR](#)
- 19.11.2020 FSMA updates its **list of suspicious sites** for fraudulent online trading platforms, [ENG](#)
- 23.11.2020 ESMA publishes **translations** for **guidelines** on the enforcement of **financial information** under the **Transparency Directive**, [ENG](#)
- 23.11.2020 FSMA welcomes the launch by ISDA of its 2020 **IBOR Fallbacks Protocol** and **IBOR Fallbacks Supplement**, [ENG](#)
- 23.11.2020 ESAS published a report proposing to **adapt** the **EMIR implementation timelines** for intragroup transactions, equity options and novations to EU counterparties, [ENG](#)

#### *Securitization*

- 11.11.2020 ESMA publishes **translations of its guidelines** on securitization repository data completeness and consistency thresholds, [ENG](#)
- 23.11.2020 EBA calls on the European Commission to **harmonise** the **significant risk transfer assessment** in securitization, [ENG](#)

### Market Infrastructures

- 05.11.2020 ESMA published its first two **reports** on the **implementation** of the Central Securities Depositories Regulation (**CSDR**) covering central securities depositories' (CSDs) cross-border services and handling of applications as well as internalized settlement, [ENG](#)

05.11.2020 ESMA published its first **Q&As** relating to **reporting under** the Securities Financing Transactions Regulation (**SFTR**), [ENG](#)

## Agenda

04.01.2021 End of the consultation of the FSMA on Q&A's regarding advertisements for investment instruments, [NL](#) / [FR](#)

04.01.2021 Public Consultation on DRSP criteria for derogation, [ENG](#)

04.01.2021 Public Consultation on fees for data reporting service providers, [ENG](#)

11.01.2021 Consultation paper on the guidelines on the MiFID II/MiFIR obligations on market data, [ENG](#)

08.02.2021 Consultation on draft guidelines on marketing communication, [ENG](#)

## DISCLAIMER

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