

# RegWatch – February 2019 Issue

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## Key events to come in 2019

*“The focus of activity for supervisors will shift to **examining how key regulatory reforms and associated new requirements have been implemented**. Implementation of MiFID II is likely to be at the vanguard of this scrutiny, in particular transaction reporting, payment for research and inducements”*

*“Supervisors continue to want firms to improve their understanding of the strengths and weaknesses of models used for regulatory capital calculations and strategic decision making; and the governance and oversight of such models. **Firms will need to apply model risk standards, oversight and governance to a broader range of existing financial models** such as IFRS 9 and IFRS 17 reserving models, as well as other model-like algorithms and approaches to managing non-financial risks”*

Deloitte's Financial Markets Regulatory Outlook 2019

Go to | [\[CRR/CRD\]](#) | [\[Solvency II\]](#) | [\[IORP2\]](#) | [\[MiFID II\]](#) | [\[EMIR\]](#) | [\[AIFMD\]](#) | [\[CSDR\]](#) | [\[PRIIPs\]](#) | [\[Others\]](#)

### CRR/CRD

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**01/01/2019** Securitization Regulation and CRR Amendment Regulation both apply

See [ESMA's introduction to the Securitization Regulation](#) and [the official CRR Amendment concerning Securitization](#)

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**Early 2019** Finalization of the CRD V/CRR II package, which will likely not be adopted before 2020

See [the EU Parliament's Briefing on the CRDV/CRRII package](#) for a summary of the current context and key changes to come, and [Wolters Kulwer's article](#) (package may be adopted end of 2019)

### Solvency II

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**01/01/2019** Solvency II Delegated Regulation amendment concerning the inclusion of the STS framework into SII comes into force

See [the Solvency II review entry on the Legislative Train portal](#)

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**08/03/2019** Adoption of Solvency II Delegated Regulation Amendment following EIOPA's advice

See [EIOPA's first set of advice \(Oct. 17\)](#), [EIOPA's second set of advice \(Feb. 18\)](#) (the provided advice can be easily found by searching the “3. EIOPA's advice” keyword throughout the document), and [the adopted amendment to Solvency II delegated regulation](#) (see pages 1 to 5 for an introduction to the context and a summary of changes made)

## IORP2

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**13/01/2019** IORP2 Directive to be transposed into national regulations

See [Pensions Europe's introduction to IORP2](#) and [Claeys & Engels' introduction to IORP2 \(Jan. 17\)](#)

## MiFID II

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**03/01/2019** First full ex-post costs and charges disclosures are due

See [ISC's article](#)

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**01/03/2019** Mandatory SI (Systematic Internalisers) Regime applies for a number of products: (securitized) derivatives, ETCs, ETNs, SFPs, and emission allowances

See [ICMA's article on the SI Regime](#) and [ESMA's update \(June 18\)](#) on the subject

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**31/03/2019** Transitional transparency calculations for equities are no longer applied

See [ESMA's introduction to transparency calculations](#)

## EMIR

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**Early 2019** REFIT amendments expected to come into force

See [the REFIT entry on the Legislative Train portal](#) and [Société Générale's article \(Sept. 18\)](#)

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**09/05/2019** CDS clearing obligation in effect for category 4

See [the introduction to clearing obligations on EMIR website](#)

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**21/06/2019** CDS clearing obligation applies for category 3 firms

See [the introduction to clearing obligations on EMIR website](#)

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**01/09/2019** Phase 4 entities are subject to initial margin requirements for uncleared derivatives

See [DDL's blog article](#)

## AIFMD

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**10/01/2019:** EU Commission released report on AIFMD impact:

*"Today's report confirms that current rules ([the Alternative Investment Fund Managers Directive, AIFMD](#)) have significantly contributed to creating a single market for alternative investment funds by establishing a harmonised regulatory and supervisory framework. Most of the AIFMD provisions are assessed as having achieved their objectives, but the report also identifies areas that require further analysis, such as diverging interpretations of the rules by national competent authorities and overlaps in reporting requirements and with other EU disclosure rules. The report, which has been prepared by an external contractor, represents the first*

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*step in the AIFMD review process. The Commission will continue its review of the AIFMD and next year will report to the European Parliament and the Council, as required by the directive. Access today's [report](#)."*

See [the EU Commission press release \(Jan. 19, See art. 4\)](#)

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**May 2019** Directive amending AIFMD on pre-marketing activity to be adopted

See [the Cross-Border Distribution of Funds directive entry on the Legislative Train portal](#)

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**15/05/2019** EBA guidelines on STS criteria in securitization apply

See [\[PDF\] Simmons & Simmons - The Securitisation Regulation: Key points for EU AIFMs](#)

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**10/06/2019** SRD II is to be transposed in national regulations

See [Pershing's introduction to SRD II \(Feb. 19\)](#)

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## **CSDR**

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For an introduction to CSDR, See [Pershing's introduction to CSDR \(Jan. 19\)](#)

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**10/03/2019** RTS on internalised settlement applies

See [Pershing's introduction to CSDR \(Jan. 19\)](#)

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**12/07/2019** First Internalised Settlement report due to the national competent authority

See [Pershing's introduction to CSDR \(Jan. 19\)](#)

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**July 2019** Guidelines covering settlement fails reporting, standardised procedures, and messaging protocols to be finalised

See [ESMA's press release about CSDR consultation \(Dec. 18\)](#)

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**October 2019:** Commission expects to prepare report reviewing CSDR

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## **PRIIPs**

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For an introduction to PRIIPs, See [FSMA's introduction to PRIIPs](#)

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**February 2019** Amendments to PRIIPs Delegated Regulation concerning the KID were expected to be adopted, but instead no amendment were brought forward by ESAs, and PRIIPs Delegated Regulation will be fully reviewed during 2019; changes are thus not expected for 2019

See [ESMA's article on ESAs proposal to amend PRIIPs \(Oct. 18\)](#) , [ESMA's article on ESAs recommendations on PRIIPs \(Feb. 19\)](#) , and [the final report on proposed amendments to PRIIPs and KID \(Feb. 19\)](#)

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**31/12/2019:** Commission to review PRIIPs

**Brexit:** [Stay tuned until 29 March](#). “Unless the Withdrawal Agreement is ratified by the EU and UK, an extension of Article 50 is agreed, or the law is changed before then (e.g. to revoke the Article 50 notification), the UK will leave the EU at 11pm (UK time) on 29 March 2019”. In such case, contingency actions may take place during 2019 to ease transition, but the UK will be left alone as of 2020. In case an agreement is reached, a standstill transitional period will begin until 31 December 2020. (LINKLATERS – *Financial Regulation: Year in Review and Year to Come 2018/2019*)

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**Capital Markets Union (CMU):** “It is the Commission’s intention to finalise CMU in 2019, with a focus on pushing draft legislation through before the European Parliament election in May 2019. However progress on such measures has been slow and there is doubt whether CMU will be able to complete its programme of work until the second half of 2019.”

(LINKLATERS – *Financial Regulation: Year in Review and Year to Come 2018/2019*)

See [Norton Rose Fulbright's overview of the CMU](#)

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**Benchmark Regulation (BMR):** “The European Benchmark Regulation (“BMR”) was created to combat the risk that benchmarks were susceptible to manipulation, as evidenced by the LIBOR and EURIBOR scandals. BMR builds upon the global standards set out in the IOSCO Principles for Financial Benchmarks, which were published in July 2013, and applies to any benchmark used within the EU” (IHS Markit, *A guide to EU Benchmark Regulation*). Some fundamental provisions came into force in mid-2016 but most provisions came into effect as of 1<sup>st</sup> January 2018, with a transitional period in place until January 2020. **The BMR defines rules and standards which are to be followed by any benchmark rates, with different levels of severity depending on each benchmark’s overall importance.** It creates obligations for both benchmark administrators and “users”. As of now, only the LIBOR, EURIBOR and EONIA rates have been deemed “critical benchmarks” and are thus subject to the highest level of standards. The transition away from LIBOR is already ongoing, since the FCA will stop supporting it as of 2021. The race to make EURIBOR benchmark compliant with BMR has also begun, while EONIA is considered a lost cause and will have to be replaced.

See [IHS Markit's prospectus on BMR](#) (for an introduction to the spirit behind BMR), [ESMA's introduction to BMR](#) and [FSMA's introduction to BMR](#) for a general introduction to BMR. See [ECB's overview of the EURIBOR & EONIA reforms timelines](#), [Olivier Wyman's analysis on LIBOR, EURIBOR and EONIA reforms](#) and [PwC's analysis on LIBOR, EURIBOR and EONIA reforms](#) for a deeper understanding of the consequences of BMR regarding critical benchmark rates. See also Deloitte’s *Financial Markets Regulatory Outlook 2019*, slides 16 to 18.

## This month's News – In a nutshell

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**05/02** Agreement reached by EU Parliament and Member States on EMIR REFIT review

See [the EU Commission's press release](#)

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**05/02** Agreement reached by EU Parliament and Member States on new rules for the cross-border distribution of investment funds (AIFMD / UCITS Directive)

See [the EU Commission's press release](#) and [the Cross-Border Distribution of Funds Regulation entry on the Legislative Train portal](#)

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**20/02** EBA publishes Consumer Trends Report for 2018-19

*“The Report covers the trends and issues related to retail banking products and services that fall within the EBA's consumer protection mandate, such as mortgages, consumer credit, deposits, payment accounts, payment services and electronic money. The Report also provides an overview of the topical issues identified in 2018/19 that impact or may impact consumers”.*

See [EBA's news article](#)

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EBA opens consultation on guidelines for CRM in A-IRB approach

**25/02** *“The European Banking Authority (EBA) launched today a consultation on its Guidelines on Credit Risk Mitigation in the context of the advanced internal rating-based (A-IRB) approach, aim to eliminate the remaining significant differences in approaches in the area of credit risk mitigation (CRM), which are either due to different supervisory practices or bank-specific choices. These draft Guidelines complement the EBA Report on CRM, which focused on the standardised approach (SA) and the foundation-IRB approach (F-IRB). The consultation runs until 25 May 2019”.*

See [EBA's news article](#)

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**28/02** Basel Committee schedules several publications for March and reiterates its support for benchmark reforms. Scheduled publications include:

- *“Joint statement with the IOSCO to clarify certain implementation aspects of the margin requirements framework;*
- *High-level supervisory expectations related to crypto-assets in light of the high degree of risks associated with such exposures;*
- *Summary of different practices among jurisdictions to proportionately apply the Basel Committee's global minimum prudential standards;*
- *Follow-up reports and actions by member jurisdictions on the implementation of certain Basel III standards”*

See [the BIS' press release on the Basel Committee meeting](#)

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