

Financial Regulatory Update

September 2022



Please find below our Financial Regulatory Update for September 2022. With these updates, KPMG 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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Measures in response to the War in Ukraine

EU

01.09.2022 ESMA publishes second [Trends, Risks and Vulnerabilities \(TRV\) Report](#) of 2022 indicating that Russian war adds **uncertainty and volatility to EU financial markets**, [ENG](#)

Digital finance and crowdfunding

Belgium

08.09.2022 FSMA warns for **fraudulent crypto trading platforms**, [ENG](#)

14.09.2022 FSMA identifies new **fraudulent online trading platforms**, [ENG](#)

EU

22.09.2022 ICMA publishes [FAQs](#) on **DLT and blockchain** in bond markets, [ENG](#)

23.09.2022 ESMA publishes its [updated Q&A](#) on the **European crowdfunding service providers for business Regulation**, [ENG](#)

27.09.2022 ESMA publishes [report](#) on the **DLT pilot regime**, [ENG](#)

Sustainable finance

Belgium

27.09.2022 FSMA publishes EIOPA and ESMA documents about **the suitability test** (and the collection of the client's **sustainability preferences**), [ENG](#)

EU

07.09.2022 ICMA publishes [response](#) to the [call for feedback](#) on the Platform for Sustainable Finance's [report](#) on **minimum safeguards**, [ENG](#)

13.09.2022 ECB publishes paper on **disclosure of climate change risk in credit ratings**, [ENG](#)

22.09.2022 ECB publishes article on common minimum standards for incorporating **climate change risks into in-house credit assessment systems** in the Eurosystem, [ENG](#)

26.09.2022 ESMA publishes an update of the **sustainable finance implementation deadline**, [ENG](#)

30.09.2022 ESAs have delivered to the European Commission their [final report with draft RTS](#) regarding the disclosure of financial products' exposure to investments in fossil gas and nuclear energy activities under **SFDR**, [ENG](#)

General interest

- 05.09.2022 ECB publishes opinion on a proposal for a regulation on harmonised rules on fair access to and use of data (**Data Act**), [ENG](#)
- 12.09.2022 ESAs publish [Autumn 2022 joint risk report](#) highlighting that the deteriorating economic outlook, high inflation and rising energy prices have increased vulnerabilities across the financial sectors, [ENG](#)
- 22.09.2022 Chamber of representatives: publication of a **draft law** containing **various provisions** relating to the **Economy** (amendments to Book I, III, IV, VI, VII, VIII, IX and XV), [NL / FR](#)
- 27.09.2022 AFME underlines the importance of level playing field for **responsible data sharing** in its paper "Open Finance and Data Sharing – Building Blocks for a Competitive, Innovative and Secure Framework", [ENG](#)

Banking

Belgium

- 08.09.2022 Febelfin issues article on the **energy crisis** and the willingness of banks to assist private individuals and businesses, [ENG](#)
- 15.09.2022 EBA publishes annual [Funding Plans Report](#), [ENG](#)
- 19.09.2022 NBB publishes Circular NBB_2022_21 of the Resolution College on the methodology and assessment criteria it uses to decide whether the specific **MREL requirement** for top-tier institutions should be applied to a non-top-tier institution, [NL / FR](#)
- 29.09.2022 The NBB maintains the **countercyclical capital buffer** for financial institutions at 0%, [ENG](#)

EU

- 09.09.2022 EBA publishes revised list of **validation rules for its reporting standards**, [ENG](#)
- 12.09.2022 EBA publishes [opinion](#) on **measures to address macroprudential risk** following notification by De Nederlandsche Bank, [ENG](#)
- 22.09.2022 SRB welcomes the adoption of the **CRR-quick fix**, [ENG](#)
- 23.09.2022 EBA launches its annual **EU-wide transparency exercise**, [ENG](#)
- 27.09.2022 EU Official Gazette: publication of the Commission Implementing Regulation (EU) 2022/1650 of 24 March 2022 amending the **implementing technical standards** laid down in Implementing Regulation (EU) 2016/1646 as regards the **main indices and recognised exchanges** in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council, [ENG](#)

- 28.09.2022 EBA publishes **guidelines on transferability** to support the resolvability assessment for transfer strategies, [ENG](#)
- 29.09.2022 EBA updates **data** used for the identification of **global systemically important institutions**, [ENG](#)
- 29.09.2022 BCBS publishes a **Handbook for jurisdictional assessments** describing the methodology used by the Basel Committee to assess the completeness and consistency of domestic prudential regulations with the Basel framework, [ENG](#)
- 30.09.2022 EBA publishes its **report** on the first mandatory exercise on **Basel III full implementation impact**, [ENG](#)
- 30.09.2022 EBA releases the **technical package** for phase 3 of its **3.2 reporting framework**, [ENG](#)
- 30.09.2022 EBA updates its **Single Rulebook Q&A on CRR**, see:
- Question [2022_5134](#) (on treatment of FX transactions settled via central settlement counterparties i.e. CLS (the Continuous Linked Settlement foreign exchange settlement system))
 - Question [2020_5148](#) (on recognition of collateral substitution rights in secured funding transactions)
 - Question [2020_5164](#) (on Multilateral Development Banks not listed in article 117(2) CRR)
 - Question [2020_5272](#) (on assets requiring stable funding)
 - Question [2020_5461](#) (on outflows from deposits in insurance wrappers)
 - Question [2020_5470](#) (on the scope of article 208 CRR)
 - Question [2021_6055](#) (on asset encumbrance in the NSFR)
 - Question [2021_6085](#) (on ASF applicable to payable (accruals) in the NSFR)
 - Question [2021_6086](#) (on available stable funding factor (ASF) applicable to current tax liabilities in the NSFR)
 - Question [2021_6163](#) (on LCR treatment of open maturity reverse repos which can be terminated at any point in time)
 - Question [2020_5322](#) (on other retail deposits subject to higher outflow rates: treatment of joint accounts)
 - Question [2021_6327](#) (on CCF used for commitment performance bond)
 - Question [2022_6495](#) (on exclusion of intragroup transactions with entities in third country from the CVA risk charge)

Lending

Belgium

- 26.09.2022 Belgian Official Gazette: publication of the **reference interest rates** of mortgage credits and similar consumer credits, [NL](#) / [FR](#)

Insurance

Belgium

- 09.09.2022 Belgian Official Gazette: publication of the Ministerial Decree of 25 August 2022 on the determination of the **maximum reference rate for long term life insurance**, [NL](#) / [FR](#)
- 21.09.2022 FSMA publishes the opinion of the Insurance Commission about the **civil liability insurance in respect of motor vehicles**, [ENG](#)
- 26.09.2022 Assuralia publishes article on its support for the **acceptance of payment deferral** for mortgage credits for individuals having financial issues due to the energy crisis, [NL](#) / [FR](#)

EU

- 05.09.2022 EIOPA publishes monthly update of the **symmetric adjustment of the equity capital charge for Solvency II** – end-August 2022, [ENG](#)
- 05.09.2022 EIOPA publishes monthly technical information for **Solvency II Relevant Risk Free Interest Rate Term Structures** – end-August 2022, [ENG](#)
- 06.09.2022 EIOPA publishes [report](#) on **data quality in Solvency II reporting**, [ENG](#)
- 16.09.2022 EIOPA publishes the updated [Technical Documentation](#) of the methodology to derive EIOPA's **risk-free interest rate term structures**, [ENG](#)
- 22.09.2022 EIOPA publishes **supervisory statements** on [exclusions related systemic events](#) and on the [management of non-affirmative cyber exposures](#), [ENG](#)
- 29.09.2022 Court of Justice: publication of judgement in case C-633/20 on the definition of the term **insurance intermediary**, [ENG](#)
- 30.09.2022 EIOPA sets out its **strategy for 2023-2026**, [ENG](#)
- 30.09.2022 EIOPA issues a **warning** to insurers and banks on **Credit Protection Insurance products**, [ENG](#)

Investment services

Belgium

- 05.09.2022 Belgian Official Gazette: publication of the Law of 20 July 2022 amending the Law of 25 October 2016 on the access to the investment services business and on the statute to and the supervision of **portfolio management and investment advice company**, and containing various other provisions transposing Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms, [NL](#) / [FR](#)

- 21.09.2022 FSMA warns the public against the activities of The Future Trade which **irregularly offers investment services** in Belgium, [ENG](#)
- 26.09.2022 Belgian Official Gazette: publication of the Law of 20 July 2022 on the **statute of and the supervision on stockbroking firms** and on diverse provisions, [NL](#) / [FR](#)
- 26.09.2022 Belgian Official Gazette: publication of the Law of 21 August 2022 on the statute of and the supervision on **stockbroking firms** with regard to certain accelerated **procedures for appeal to the Council of State**, [NL](#) / [FR](#)

EU

- 05.09.2022 EU Official Journal: publication of Commission Delegated Regulation 2022/1455 of 11 April 2022 supplementing the Investment Firms Regulation (2019/2033) with regard to RTS for **own funds requirement for investment firms based on fixed overheads**, [ENG](#)
- 05.09.2022 ESMA publishes updated **Q&A on MiFID II and MiFIR transparency topics** regarding third country issues, [ENG](#)
- 21.09.2022 Commission sends **formal notices to Belgium for non-transposition of EU legislation** (a.o. [Commission Delegated Directive \(EU\) 2021/1269](#) and the [UCITS sustainability Directive](#)), [ENG](#)
- 23.09.2022 ESMA publishes [final guidelines](#) on **MiFID II suitability requirements**, [ENG](#)
- 23.09.2022 ESMA publishes [updated Q&A](#) on **MiFID II and MiFIR market structures topics**, [ENG](#)
- 23.09.2022 ESMA publishes its [updated Q&A](#) on **MiFID II and MiFIR commodity derivatives topics**, [ENG](#)
- 27.09.2022 ESMA reminds firms of the impact of **inflation** in the context of **investment services to retail clients**, [ENG](#)

Capital markets

General

- 01.09.2022 Belgian Official Gazette: publication of Royal Decree of 29 June 2022 on the approval of NBB Regulation of 12 April 2022 amending the [NBB Regulation of 1 April 2014](#) on **proprietary trading activities**, [NL](#) / [FR](#)
- 12.09.2022 Belgian Official Gazette: publication of Royal Decree of 31 August 2022 as regards the **acquisition and disposal of own securities** by listed companies and companies whose securities are admitted to trading on an MTF, amending the Companies and Associations Code, [NL](#) / [FR](#)
- 14.09.2022 NBB publishes Circular NBB_2022_20 on the obligation to perform a periodical qualitative and quantitative reporting on **proprietary trading activities**, [NL](#) / [FR](#)
- 23.09.2022 ESMA publishes its [updated Q&A](#) on **Market Abuse Regulation**, [ENG](#)

Securitization Regulation

- 20.09.2022 EBA publishes [final draft RTS](#) on the performance-related triggers for **non-sequential amortisation systems in STS on-balance-sheet securitisations**, [ENG](#)
- 26.09.2022 ESMA publishes list of market makers and authorized primary dealers who are using the **exemption under the Regulation on short selling and credit default swaps**, [ENG](#)

Benchmarks

EU

- 26.09.2022 ESMA publishes a recommendation from the Working Group on Euro Risk-Free Rates on the availability of **derivative products referencing €STR**, [ENG](#)

AML, Terrorist Financing and Cyber-security

Belgium

- 27.09.2022 **Update** of the section of the **NBB's website** devoted to anti-money laundering and counter-terrorist financing, [ENG](#)

EU

- 01.09.2022 EBA second [report](#) on the **functioning of AML/CFT supervisory colleges** in the EU, [ENG](#)
- 27.09.2022 EBF publishes joint letter on the Parliament's proposal to lower the threshold for determining **beneficial ownership to 5%**, [ENG](#)

Market Infrastructure and derivatives

- 21.09.2022 AFME calls for industry discussion on **shortening settlement cycles** in Europe, [ENG](#)
- 22.09.2022 ESMA responds to the EU commission regarding recent developments in the **energy derivatives markets**, [ENG](#)
- 23.09.2022 ICMA publishes updated version of its **SFTR reporting recommendations**, [ENG](#)
- 28.09.2022 ESMA publishes a report on the review of the **clearing thresholds** under **EMIR**, [ENG](#)
- 29.09.2022 BCBS publishes [a report](#) on **margining practices**, [ENG](#)

30.09.2022 EU Official Journal: publication of the Commission Delegated Regulation (EU) 2022/1671 of 9 June 2022 **extending the transitional period for [pension funds](#)** referred to in Article 89(1), first subparagraph, of Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, [ENG](#)

Agenda

31.10.2022 Deadline for responding to EIOPA's [consultation](#) on **governance arrangements in third countries**, [ENG](#)

01.12.2022 Deadline for responding to the [ESMA consultation](#) on proposed rules for **Central Counterparties' business reorganization plans**, [ENG](#)

16.12.2022 Deadline for responding to the [ESMA consultation](#) on how National Competent Authorities must ensure that **trading venues** have appropriate communication protocols in case of a **market outage**, [ENG](#)

DISCLAIMER

Although we aim to provide you with a comprehensive overview of the most recent regulatory developments, we cannot guarantee that this newsletter covers all relevant developments. This newsletter is compiled with the greatest care but the information comprised herein is intended as general information and cannot be regarded as legal advice. KPMG Law cannot accept any liability for the consequences of making use of this information without its cooperation.