

Financial Regulatory Update

February 2022

Please find below our Financial Regulatory Update for February 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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Digital finance

Belgium

- 02.02.2022 FSMA identifies **new fraudulent online trading platforms**, [ENG](#)
- 11.02.2022 Belgian Official Gazette publishes Law amending the Law of 18 September 2017 on the Prevention of Money Laundering and Terrorist Financing and Limiting the Use of Cash to introduce provisions on the status and supervision of **providers of exchange services between virtual currencies and fiat currencies and wallet providers**, [NL](#) / [FR](#)
- 15.02.2022 FSMA publishes a press release on **fraudulent online trading platforms: 53 per cent increase in reports**, [ENG](#)
- 23.02.2022 FSMA publishes a press release on **cryptocurrencies: new rules for certain service providers**, [ENG](#)
- 23.02.2022 Belgian Official Gazette publishes Royal Decree on the **status and supervision of providers of exchange services between virtual currencies and fiat currencies and wallet providers** , [NL](#) / [FR](#)

EU

- 02.02.2022 European Commission publishes [request](#) to EBA, EIOPA and ESMA for **technical advice on digital finance** and related issues, [ENG](#)
- 07.02.2022 ESAs publish [joint report](#) in response to the European Commission's February 2021 [call for advice](#) on **Digital Finance**, [ENG](#)

Sustainable finance

Belgium

- 25.02.2022 FSMA publishes sustainability guide to the new **reporting obligations for listed companies**, [ENG](#)

EU

- 02.02.2022 European Commission publishes [Taxonomy Complementary Climate Delegated Act](#) on climate change mitigation and adaptation covering certain **gas and nuclear activities**, [ENG](#)
- 02.02.2022 European Commission publishes Q&A on the **EU Taxonomy Complementary Climate Delegated Act** covering certain **nuclear and gas activities**, [ENG](#)
- 10.02.2022 ESMA publishes [article](#) assessing the implementation of ESMA's Guidelines on the **disclosure of ESG factors in credit rating agency press releases**, [ENG](#)

- 11.02.2022 ESMA publishes its [Sustainable Finance Roadmap 2022-2024](#), [ENG](#)
- 14.02.2022 ICMA publishes [paper](#) to address **usability concerns** over the **EU Taxonomy**, [ENG](#)
- 15.02.2022 EBF publishes [response](#) to BCBS [consultation](#) on the **principles for the effective management and supervision of climate-related financial risks**, [ENG](#)
- 15.02.2022 EBF and UNEP FI outline practical approaches to **applying EU Taxonomy to bank lending**, [ENG](#)
- 23.02.2022 European Commission publishes Q&A on a proposal for a Directive on **corporate sustainability due diligence**, [ENG](#)
- 25.02.2022 EBF publishes [report](#) on the latest developments in the legislative process of the proposal for a **corporate sustainability reporting directive**, [ENG](#)

General interest

- 07.02.2022 NBB publishes Circular NBB_2022_03 on prudential expectations in relation to the **“de-risking”** phenomenon, [NL / FR](#)
- 11.02.2022 ESRB issues new warnings and recommendations on **medium-term residential real estate vulnerabilities**, [ENG](#)
- 15.02.2022 ESMA publishes the first **Trends, Risks and Vulnerabilities (TRV) Report** of 2022 indicating high risks to institutional and retail investors of significant market corrections, [ENG](#)
- 15.02.2022 Chamber of representatives: publication of a draft amending **Books I, VI and XV of the Code of Economic Law** on pre-contractual information obligations, distance and off-premises contracts, the announcement of price reductions and unfair commercial practices, [NL / FR](#)
- 15.02.2022 Belgian Official Gazette publishes Royal Decree amending the Royal Decree of 11 October 2012 on **the issuance of Belgian covered bonds** by credit institutions governed by Belgian law, the Royal Decree of 11 October 2012 on the portfolio manager in the context of the issuance of Belgian covered bonds by a credit institution governed by Belgian law, the Royal Decree of 12 November 2012 on undertakings for collective investment that comply with the conditions of Directive 2009/65/EC, and the Royal Decree of 25 February 2017 on certain public alternative undertakings for collective investment and their management companies, as well as various other provisions, [NL / FR](#)
- 16.02.2022 NBB publishes its annual report of **prudential regulation and supervision** in 2021, [NL / FR](#)
- 16.02.2022 FSMA publishes Circular FSMA_2022_08 on the **duty of cooperation of accredited auditors**, [ENG](#)
- 21.02.2022 FPS Economy publishes [Practical Guide for SMEs to Access Finance Using Intellectual Property Rights](#), [ENG](#)

- 21.02.2022 EBA updates **methodology** for assessing **third country equivalence** of regulatory and supervisory frameworks, [ENG](#)
- 23.02.2022 European Commission publishes [proposal](#) for a **Data Act**, [ENG](#)
- 23.02.2022 European Commission publishes Q&A on the **Data Act**, [ENG](#)
- 24.02.2022 Chamber of representatives: publication of a draft law to amend Book 5 **“Obligations” of the Civil Code**, [NL](#) / [FR](#)
- 25.02.2022 Belgian Official Gazette publishes Royal Decree approving the Regulation of the National Bank of Belgium of 9 November 2021 on the **exercise of external functions by managers and persons responsible for an independent supervisory function of regulated undertakings** and repealing the Regulation of 6 December 2011 on the exercise of external functions by managers of regulated undertakings, [NL](#) / [FR](#)
- 25.02.2022 Belgian Official Gazette publishes Regulation of the NBB of 9 November 2021 concerning the **exercise of external functions by managers and persons in charge of an independent control function of regulated undertakings** and repealing the regulation of 6 December 2011 concerning the exercise of external functions by managers of regulated undertakings, [NL](#) / [FR](#)

Banking

Belgium

- 09.02.2022 Chamber of representatives: publication of a draft law for the **creation of a public body to guarantee access to cash dispensers**, [NL](#) / [FR](#)
- 15.02.2022 NBB publishes an article on the **European System of Central Banks** (ESCB) that renews Statements of Commitment to FX Global Code, [ENG](#)
- 24.02.2022 NBB publishes Communication NBB_2022_05 on the **expiration of the possibility of excluding central bank exposures in calculating the leverage ratio**, [ENG](#)

EU

- 01.02.2022 SRB publishes **MREL dashboard Q3 2021**, [ENG](#)
- 02.02.2022 EBA publishes [final draft RTS](#) listing advanced economy countries for **market risk own funds requirements**, [ENG](#)
- 04.02.2022 EBA updates its Single Rulebook **Q&A** on **CRD/CRR** regarding **supervisory reporting**, see:
- Question [2014_1441](#) (on reporting the income or expense resulting from the recalculation of the carrying amount of the financial asset or financial liability as prescribed by IFRS 9.B5.4.6.)
 - Question [2021_5778](#) (on interest expenses categories)
 - Question [2021_5820](#) (on adjustments to RWA for DTA related to timing differences due to IFRS 9 transitional arrangements in template C5.01.)

- Question [2021_5843](#) (on application of CRR Article 272(12) to SFT population within CoRep Template C34.02)
- Question [2021_5852](#) (on scope of COREP template C34.08)
- Question [2021_6016](#) (on C_81.00 ASF from capital items and instruments)
- Question [2021_6017](#) (on ASF factors for Additional Tier 1 items as well as Tier 2 items and other capital instruments maturing between 6 month and 1 year)
- Question [2021_6034](#) (on reporting of Securitisation Exposures in Template C43.00)
- Question [2021_6036](#) (on template F 22.02: Assets involved in the services provided)
- Question [2021_6043](#) (on template F 12.1a)
- Question [2021_6050](#) (on calculation of past due days)
- Question [2021_6106](#) (on reporting of items deducted from T1 in RWA columns in C43 (Breakdown of LR Measure))
- Question [2021_6121](#) (on C34.08 report - define the collaterals considering the both legs of the securities financing transactions (SFTs))

11.02.2022 EBA issues an [opinion](#) on the European Commission's proposed amendments to the EBA final draft technical standards on **fixed overheads requirements**, [ENG](#)

11.02.2022 EBA updates its Single Rulebook **Q&A** on **CRD/CRR** regarding **own funds**, see:

- Question [2019_4568](#) (on eligibility Criteria for Tier 2 Capital in light of the replacement of LIBOR/EURIBOR)
- Question [2019_4734](#) (on interim profits attributable to minority shareholders)
- Question [2020_5664](#) (on simultaneous applicability of non-deduction exemptions under Articles 48 and 49 CRR regarding equity exposures on insurance holdings where an institution has a significant investment)
- Question [2021_5787](#) (on applicability of fix amount dividend policy to mutuals, cooperative societies, saving institutions and similar institutions)

11.02.2022 EBA updates its Single Rulebook **Q&A** on **CRD/CRR** regarding **liquidity, credit and market risk**, see:

- Question [2019_4872](#) (on Unutilised Limits of Guarantess)
- Question [2019_4599](#) (on calculation of the number of obligors)
- Question [2019_4934](#) (on Residential Reverse mortgages RWA)
- Question [2019_4951](#) (on risk weight attribution to loans guaranteed by third counterparties in NSFR)
- Question [2020_5107](#) (on definition of retail deposits which meet conditions from Article 25(2)(d) LCR Amending Act)
- Question [2020_5287](#) (on callable deposits from financial institutions to be included in LCR with the entire outstanding)
- Question [2019_5029](#) (on issues with regard to the calibration procedure of the PD models to be conducted "after taking into account any overrides applied in the assignment of obligors to grades or pools")
- Question [2020_5297](#) (on original maturity for off-balance sheet items)
- Question [2020_5544](#) (on excess collateral held by credit institution that can be contractually called at any times by the counterparty)
- Question [2020_5518](#) (on LCR treatment of maturing securities issued by the reporting credit institution)
- Question [2020_5592](#) (on use of UTP triggers when default definition is on facility level)
- Question [2021_5746](#) (on aggregation of separate client exposures for a transaction with underlying credit risk exposure)

- Question [2020_5574](#) (on Application of Required Stable Funding on the basis of Guarantees Received)
 - Question [2021_6045](#) (on calculation of NPV loss in case of (internal) refinancing)
 - Question [2020_5588](#) (on treatment of Repo and Reverse repo with bilateral early termination option)
 - Question [2021_6122](#) (on gamma correlations regarding curvature risk in low and high scenario)
 - Question [2019_4985](#) (on pending credit offers)
- 11.02.2022 EBA updates its Single Rulebook **Q&A** on **CRD/CRR** regarding **other issues**, see:
- Question [2019_4957](#) (on consolidated supervision)
- 11.02.2022 EBA updates its Single Rulebook **Q&A** on **CRD/CRR** regarding **model validation**, see:
- Question [2021_5761](#) (on assignment to grades or pools)
- 11.02.2022 EBA updates its Single Rulebook **Q&A** on **CRD/CRR** regarding **supervisory review and evaluation (SREP) and Pillar 2**, see:
- Question [2020_5419](#) (on weighting of EVE gains of domestic currency by a factor of 50% when calculating the aggregate EVE change for each interest rate shock scenario)
- 14.02.2022 EU Official Journal: publication of Commission Delegated Regulation (EU) 2022/192 of 20 October 2021 amending the regulatory technical standards laid down in Commission Delegated Regulation (EU) No 1151/2014 as regards the **information to be notified** when exercising the **right of establishment and the freedom to provide services**, [ENG](#)
- 14.02.2022 EU Official Journal: publication of Commission Implementing Regulation (EU) 2022/193 of 17 November 2021 amending the implementing technical standards laid down in Implementing Regulation (EU) No 926/2014 laying down **standard forms, templates and procedures** as regards the information to be notified when exercising the **right of establishment and the freedom to provide services**, [ENG](#)
- 18.02.2022 EBA updates its Single Rulebook **Q&A** on **CRD/CRR** regarding **credit risk**, see:
- Question [2019_4859](#) (on range of application of the LGD regulatory floor for the calculation of own funds requirements at individual and consolidated levels)
- 21.02.2022 BCBS publishes [Basel III Monitoring Report](#), [ENG](#)
- 22.02.2022 EBA publishes annual [assessment](#) of banks' **internal approaches for the calculation of capital requirements**, [ENG](#)
- 25.02.2022 EU Official Journal: publication of ECB Decision (EU) 2022/310 of 17 February 2022 amending Decision (EU) 2019/1743 of the European Central Bank on the **remuneration of holdings of excess reserves and of certain deposits**, [ENG](#)

28.02.2022 SRB determines **Sberbank Europe AG** in Austria, and its subsidiaries in Croatia and Slovenia as **failing or likely to fail**, [ENG](#)

Lending

Belgium

03.02.2022 Court of Cassation: publication of judgement C.21.0121.N/1 of 3 February 2022 on the qualification of a loan as a **loan at interest or a credit facility**, [NL](#)

08.02.2022 Febelfin publishes press release on the **consumer credit market** that has been affected by the corona crisis in 2021, but payment defaults have been less numerous, [NL](#) / [FR](#)

11.02.2022 Council of Ministers: approval of a draft Royal Decree on the **prudential requirements for real estate risks** in the context of mortgage loans imposed by the National Bank of Belgium (NBB), [NL](#) / [FR](#)

Insurance

Belgium

14.02.2022 Chamber of representatives: publication of a draft law amending the Insurance Act of April 4, 2014, to **extend the right to be forgotten**, [NL](#) / [FR](#)

EU

03.02.2022 EIOPA publishes monthly update of the symmetric adjustment of the **equity capital charge** for Solvency II – end January 2021, [ENG](#)

03.02.2022 EIOPA publishes monthly technical information for **Solvency II Relevant Risk Free Interest Rate Term Structures** – end-January 2022, [ENG](#)

09.02.2022 EIOPA publishes its **Supervisory Convergence Plan** for 2022, [ENG](#)

11.02.2022 EU Official Journal: publication of Commission Implementing Regulation (EU) 2022/186 of 10 February 2022 laying down technical information for the **calculation of technical provisions and basic own funds** for reporting with reference dates from 31 December 2021 until 30 March 2022 in accordance with the Solvency II Directive, [ENG](#)

24.02.2022 Court of Justice: publication of judgement in joint cases C-143/20 and C-213/20 on the duty to provide **pre-contractual information** in the context of **life insurance**, [NL](#) / [FR](#)

Investment services

Belgium

17.02.2022 FSMA warns the public against **unauthorized activities (incl. boiler rooms)**, [ENG](#)

EU

- 01.02.2022 ESMA makes new **bond liquidity data** available and publishes [data](#) for the systematic internaliser calculations, [ENG](#)
- 02.02.2022 ESMA publishes [supervisory briefing](#) on the **use of tied agents** under MiFID II, [ENG](#)
- 07.02.2022 ESMA becomes supervisor of EU **data reporting service providers**, [ENG](#)
- 08.02.2022 ESMA publishes latest set of **double volume cap (DVC) data** under MiFID II, [ENG](#)
- 08.02.2022 ESMA launches a **common supervisory action** with NCAs on MiFID II **costs and charges**, [ENG](#)
- 22.02.2022 EU Official Journal: publication of Commission Delegated Regulation (EU) 2022/244 of 24 September 2021 supplementing Regulation (EU) 2019/2033 with regard to regulatory technical standards specifying the amount of total margin for the **calculation of the K-factor 'clear margin given' (K-CMG)**, [ENG](#)

Capital markets

General

- 01.02.2022 ESMA [recommends](#) **clearing obligation for pension funds** to start in June 2023, [ENG](#)
- 08.02.2022 European Commission **extends time-limited equivalence for UK central counterparties** and launches consultation to expand central clearing activities in the EU, [ENG](#)
- 09.02.2022 EU Official Journal: publication of Commission Implementing Decision (EU) 2022/174 of 8 February 2022 determining, for a limited period of time, that the **regulatory framework applicable to central counterparties in the United Kingdom** of Great Britain and Northern Ireland is **equivalent**, in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council, [ENG](#)
- 11.02.2022 ICMA publishes [response](#) to European Commission targeted [consultation](#) on the **Listing Act**, [ENG](#)
- 15.02.2022 ESMA publishes [response](#) to the European Commission's targeted [consultation](#) on the **Listing Act**, [ENG](#)

Securitization Regulation

- 03.02.2022 ESMA launches [Simple, Transparent and Standardised \(STS\) Register](#) for the notification of securitisations under the Securitisation Regulation, [ENG](#)

Asset management

Belgium

- 02.02.2022 FSMA publishes guidelines on **marketing communications for funds**, [ENG](#)
- 14.02.2022 FSMA publishes Circular FSMA_2022_08 on the **duty of cooperation of accredited auditors**, [NL](#) / [FR](#)
- 16.02.2022 FSMA publishes second edition of its **quarterly dashboard of Belgian public open-ended investment funds**, [ENG](#)

EU

- 03.02.2022 ESMA publishes fourth **annual statistical report** on the **Alternative Investment Fund sector**, [ENG](#)
- 16.02.2022 ESMA issues [opinion](#) containing proposed **reforms to the regulatory framework for EU Money Market Funds** under the Money Market Funds Regulation, [ENG](#)

Payments

Belgium

- 08.02.2022 NBB publishes uniform letter to payment institutions and electronic money institutions to draw their attention to some **governance rules**, [NL](#) / [FR](#)

EU

- 01.02.2022 EPB publishes Joint Payments Industry [Letter](#) on Final **EDPB Guidelines PSD2 GDPR Interplay**, [ENG](#)
- 24.02.2022 EBA publishes final [guidelines](#) on the **limited network exclusion** under the Payment Services Directive, [ENG](#)

Compliance/AML

Belgium

- 11.02.2022 Belgian Official Gazette publishes Law amending the Law of 18 September 2017 on the Prevention of Money Laundering and Terrorist Financing and Limiting the Use of Cash to introduce provisions on the status and supervision of **providers of exchange services between virtual currencies and fiat currencies and wallet providers**, [NL](#) / [FR](#)
- 15.02.2022 NBB publishes Circular NBB_2022_04 on prudential expectations for the **AMLCO activity report**, [NL](#) / [FR](#)
- 22.02.2022 NBB publishes Circular NBB_2022_06 containing Periodic **questionnaire combating money laundering and terrorist financing**, [ENG](#)

EU

- 16.02.2022 ECB publishes opinion on a proposal for a regulation establishing the **Authority for Anti-Money Laundering and Countering the Financing of Terrorism**, [ENG](#)
- 22.02.2022 EBA publishes [report](#) on its **Luanda leaks investigation** and points to significant differences in competent authorities' responses to emerging money laundering and terrorist financing risks, [ENG](#)

Market Infrastructures

- 01.02.2022 ICMA has developed FAQs and Best Practice Recommendations for **CSDR penalty regimes**, [ENG](#)
- 01.02.2022 ICMA publishes [discussion paper](#) with proposals to strengthen **settlement efficiency** under CSDR in Europe, [ENG](#)
- 25.02.2022 EU Official Journal: publication of ECB Guideline (EU) 2022/311 of 17 February 2022 amending Guideline ECB/2012/27 on a Trans-European Automated Real-time Gross settlement Express Transfer system (**TARGET2**), [ENG](#)

Agenda

- 11.03.2022 Deadline for responding to ESMA's [call for evidence](#) on **ESG ratings**, [ENG](#)
- 17.03.2022 Deadline for responding to SRB's consultation on **2022 Single Resolution Fund contributions**, [ENG](#)
- 21.04.2022 Deadline for responding to ESMA's [call for evidence](#) on **climate risk stress testing for CCPs**, [ENG](#)

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