

Financial Regulatory Update

March 2023



Please find below our Financial Regulatory Update for March 2023. 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 and crowdfunding

Belgium

- 17.03.2023 Belgian Official Gazette: Publication of the **Royal decree** of 5 January 2023 approving the Regulation of the FSMA **imposing restrictive conditions on the marketing of virtual currencies to consumers**, [NL](#) / [FR](#)
- 20.03.2023 FSMA publishes article on new rules on **advertisement for virtual currencies**, [ENG](#)
- 20.03.2023 FSMA publishes a [newsletter](#) on the **commercialisation of virtual currencies** and [practical guide](#) on the prior notification to the FSMA of advertisement for virtual currencies in the context of a mass campaign, [ENG](#)

EU

- 10.03.2023 ESMA publishes **Q&As** on the European **crowdfunding service providers** for business Regulation, [ENG](#)
- 20.03.2023 ICMA issues article on digital evolution in **debt issuance**, [ENG](#)
- 27.03.2023 EBF sets out a vision for **digital euro**, [ENG](#)
- 30.03.2023 EBF views on Open Finance: towards a fit-for-market approach, [ENG](#)
- 31.03.2023 ESMA publishes updated [Q&As](#) on **DLT Pilot Regulation**, [ENG](#)

Sustainable finance

EU

- 01.03.2023 ICMA supports voluntary nature of **EU Green Bond label** and of wider sustainable bond disclosures, [ENG](#)
- 01.03.2023 AFME welcomes provisional agreement reached on **European Green Bond Standard**, [ENG](#)
- 08.03.2023 ESMA publishes guidelines on standard forms, formats and templates to apply for **permission to operate a DLT market infrastructure**, [ENG](#)
- 13.03.2023 ECB and ESAs [call](#) for enhanced **climate-related disclosure** for **structured finance products**, [ENG](#)
- 16.03.2023 ESMA publishes **SMSG's advice** on additional questions relating to **greenwashing**, [ENG](#)

General interest

- 03.03.2023 ESMA publishes a **list of questions currently under development**, [ENG](#)
- 08.03.2023 FSMA **warns the public about the activities of AB Investment**, a company that offers investment services to the general public in Belgium, [NL](#) / [FR](#)

- 10.03.2023 Chamber of representatives: publication of draft law amending the Code of Economic Law, regarding the establishment of a **mechanism for screening foreign direct investments affecting our security interests and strategic sectors**, [NL](#) / [FR](#)
- 14.03.2023 FSMA releases a statement regarding the **Court of Cassation's judgment** on February 10, 2023, which overturns the previous decision made by the Market Court to annul the **Sanctions Commission's decision concerning market manipulation** [NL](#) / [FR](#)
- 15.03.2023 FSMA publishes a newsletter on **recycling reporting**, [NL](#) / [FR](#)
- 27.03.2023 FSMA **warns the public about the activities of unlicensed lenders offering fake loans to consumers**, [NL](#) / [FR](#)
- 29.03.2023 ESMA issues its 2022 **Corporate Reporting Enforcement and Regulatory Activities Report**, [ENG](#)

Banking

Belgium

- 03.03.2023 NBB publishes its 2022 report on **prudential regulation and supervision**, [NL](#) / [FR](#)
- 22.03.2023 NBB publishes **new form for effective director of a qualified shareholder**, [FR](#)
- 30.03.2023 NBB informs that it **maintains the countercyclical capital buffer for credit institutions at 0%**, [NL](#) / [FR](#)

EU

- 09.03.2023 EU Official Journal: publication of Commission Delegated Regulation (EU) 2023/511 of 24 November 2022 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to **regulatory technical standards** for the **calculation of risk-weighted exposure** amounts of collective investment undertakings under the mandate-based approach, [ENG](#)
- 10.03.2023 EBA publishes annual assessment of banks' internal approaches for the **calculation of capital requirements**, [ENG](#)
- 10.03.2023 EBA issues **revised list of validation rules**, [ENG](#)
- 16.03.2023 EBA publishes [Handbook](#) on **data submission for supervisory benchmarking**, [ENG](#)
- 20.03.2023 SRB, EBA and ECB welcome the set of actions taken by the **Swiss authorities** in order to ensure **financial stability**, [ENG](#)
- 31.03.2023 EBA updates its **Single Rulebook Q&A on CRR/CRD**, see:
- Question [2022_6445](#) (on Taxonomy 3.0 Validation Rule v3900_s)
 - Question [2020_4170](#) (on application of the NPL ratio)
 - Question [2022_6584](#) (on consistency in the treatment of multiple defaults)
 - Question [2021_5738](#) (on the determination of risk weight for a pass-through SPE exposure with underlying assets where the transaction does not fulfil the conditions for securitisations according to article 4(1)(61) CRR)
 - Question [2022_6598](#) (on Template F 22.02: assets involved in the services provided)
 - Question [2022_6616](#) (on reporting of (internet) savings deposit in template 08.01)
 - Question [2022_6617](#) (on Template F 11.4)
 - Question [2022_6628](#) (on Validation Rule EBA_v10013 breaching)
 - Question [2022_6652](#) (on ESG P3 – Scope of application of Article 449a)
 - Question [2022_6518](#) (on clarification of the definition of "residence")

- Question [2022_6430](#) (on FINREP V5686-s: for the rows (080;150) Col. 050>0)
- Question [2023_6678](#) (on ESG P3 - Template 1- Attribution factor for financed emissions)
- Question [2021_6323](#) (on C 24.00: Capital multipliers due to model limitations)
- Question [2021_6291](#) (on Template 34.02 - Exposure value post-CRM)
- Question [2021_6252](#) (on the obligation to report risk-weighted exposures under SEC-ERBA and under SEC-SA as memorandum items in COREP template C 14.01)
- Question [2021_6117](#) (on C 34.08 - Collaterals with haircuts)
- Question [2021_6118](#) (on C34.08 report - the collaterals which are related to derivatives, long settlement transactions and SFTs and which are not initial or variation margins should be reported in the Initial margin columns)
- Question [2021_5860](#) (on the application of requirements for NPE prudential backstop in connection with the new COREP templates)
- Question [2023_6677](#) (on ESG P3 - Template 1- Scope 3 financed emissions including scope 1 and 2 of the counterparty)
- Question [2021_5813](#) (on Gross carrying amount of held for trading financial assets in disclosure of non-performing and forborne exposures)
- Question [2023_6676](#) (on ESG P3 - Template 1- financed emissions to objects (PCAF-Standard) instead of counterparties)
- Question [2023_6679](#) (on ESG P3 - Template 5 - NUTS codes for geographical areas outside EU)
- Question [2023_6681](#) (on ESG P3 - Template 7 Decision tree KPI GAR for Financial Corporation)
- Question [2022_6561](#) (on financial guarantees received reported in F 09.02)
- Question [2022_6554](#) (on COREP C 35 - consistency controls among C 35.01, C 35.02 and C 35.03)
- Question [2021_6257](#) (on the purchase of credit receivables as a form of 'granting credits')
- Question [2021_6018](#) (on exposures in default secured by mortgages on residential property)
- Question [2021_5832](#) (on the scope of Article 21a(6) CRD)
- Question [2021_5785](#) (on Underlying exposures of securitisations and calculation of the applicable amount of insufficient coverage for NPE for the purpose of calculating deductions from CET1 items)

International

30.03.2023 BCBS publishes **proposals for [technical amendments and FAQs](#)** on the Basel Framework, [ENG](#)

Lending

EU

02.03.2023 Council of the European Union agrees negotiating position on **financial services contracts concluded at a distance**, [ENG](#)

16.03.2023 Court of Justice: publication of judgment in case C-6/22 on the **effects of the invalidity of the contract**, [ENG](#)

16.03.2023 Court of Justice: publication of judgment in case C-565/21 on **unfair terms in consumer contracts**, [ENG](#)

27.03.2023 Court of Justice: publication of judgment in case C-555/21 on the concept of total **cost of the credit to the consumer**, [ENG](#)

Payments

Belgium

31.03.2023 Febelfin and the authorities reach an **agreement regarding automated teller machines**, [NL](#) / [FR](#)

31.03.2023 Council of Ministers publishes a statement on the transposition of the European Directive on the **fight against fraud and counterfeiting of non-cash means of payment**, [NL](#) / [FR](#)

EU

16.03.2023 Court of Justice: publication of judgment in case C-351/21 on the **obligation to provide the payer with information** relating to the payee, [ENG](#)

21.03.2023 ECB publishes article on the successful launch of the new **T2 wholesale payment system**, [ENG](#)

22.03.2023 EU Official Journal: publication of the **Opinion of the European Central Bank** of 1 February 2023 on a **proposal for a regulation** amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards **instant credit transfers in euro**, [ENG](#)

Insurance

Belgium

01.03.2023 NBB publishes its Communication NBB_2022_22 regarding **periodic reports to be submitted via the NBB Supervision portal** starting from October 3, 2022 in the insurance and reinsurance sector, [NL](#) / [FR](#)

EU

09.03.2023 EIOPA publishes **updated representative portfolios** to calculate volatility adjustments to the **Solvency II risk-free interest rate** structures for 2023, [ENG](#)

20.03.2023 Court of Justice: publication of judgment on case C-208/21 on **unfair terms** in an insurance contract, [ENG](#)

22.03.2023 EIOPA publishes a supervisory statement on differential **pricing practices** with the aim of **eliminating price-setting strategies** which lead to the unfair treatment of customers, [ENG](#)

Investment services

Belgium

30.03.2023 FSMA publishes its communication on the **qualification of fractional investments as placement instruments** within the meaning of the Prospectus Law of July 11, 2018, [NL](#) / [FR](#)

EU

01.03.2023 AFME urges co-legislators to ensure EU market attractiveness as **MiFIR trilogues** set to begin, [ENG](#)

01.03.2023 ESMA publishes the results of the **annual transparency calculations** for equity and equity-like instruments, [ENG](#)

27.03.2023 ESMA updates its [guidance](#) on **product governance**, [ENG](#)

- 28.03.2023 ESMA publishes its final report on the review of the ITS on **cooperation in supervisory activities under MiFID II**, [ENG](#)
- 28.03.2023 ESMA publishes [guidance](#) on **fractional shares**, [ENG](#)
- 31.03.2023 ESMA publishes updated [Q&As](#) on **MiFID II and MiFIR transparency topics**, [ENG](#)
- 31.03.2023 ESMA publishes updated [Q&As](#) on **MiFIR data reporting**, [ENG](#)

Capital markets

General

- 03.03.2023 EU Official Journal: publication of Commission Delegated Regulation (EU) 2023/450 of 25 November 2022 supplementing Regulation (EU) 2021/23 of the European Parliament and of the Council with regard to **regulatory technical standards** specifying the order in which **CCPs are to pay the recompense** referred to in Article 20(1) of Regulation (EU) 2021/23, the maximum number of years during which those CCPs are to use a share of their annual profits for such payments to possessors of instruments recognising a claim on their future profits and the maximum share of those profits that is to be used for those payments, [ENG](#)
- 03.03.2023 EU Official Journal: publication of Commission Delegated Regulation (EU) 2023/451 of 25 November 2022 specifying the factors to be taken into consideration by the competent authority and the supervisory college when **assessing the recovery plan of central counterparties**, [ENG](#)
- 10.03.2023 ESMA publishes a **Q&A** on the application of the **EuSEF and EuVECA regulations**, [ENG](#)
- 14.03.2023 ICMA releases **Bond Data Taxonomy**, [ENG](#)
- 20.03.2023 ESMA raises concerns with the proposed changes to the **insider list regime** in the Markets Abuse Regulation, [ENG](#)
- 21.03.2023 EFAMA publishes **response** to the European Commission's **EMIR 3.0 proposal**, [ENG](#)
- 29.03.2023 ESMA publishes its final report on the **draft regulatory technical standards on business reorganization plans**, [ENG](#)
- 29.03.2023 ESMA **withdraws** the **CRA registration** of Scope Hamburg GmbH, [ENG](#)
- 30.03.2023 ESMA provides [guidance](#) for supervision of **copy trading services**, [ENG](#)

Benchmarks

EU

- 31.03.2023 ESMA publishes updated [Q&As](#) on the **Benchmarks Regulation**, [ENG](#)

Asset management

Belgium

- 29.03.2023 FSMA publishes a **circular** on the legislative, regulatory, and administrative provisions applicable to **UCITS from another Member State wishing to market their units in Belgium**, [NL](#) / [FR](#)
- 30.03.2023 FSMA publishes a new circular on the **notification procedure for UCITS from another European Economic Area Member State**, [NL](#) / [FR](#)

EU

- 07.03.2023 Council of the European Union adopted a redesigned **regulatory framework** for European long-term investment funds (**ELTIF**), [ENG](#)
- 10.03.2023 ESMA publishes **Q&As** on the **application of AIFMD**, [ENG](#)
- 20.03.2023 EU Official Journal: publication of Regulation (EU) 2023/606 of the European Parliament and of the Council of 15 March 2023 amending Regulation (EU) 2015/760 as regards the requirements pertaining to the **investment policies** and operating conditions of **European long-term investment funds** and the scope of eligible investment assets, the portfolio composition and diversification requirements and the borrowing of cash and other fund rules, [ENG](#)

AML, Terrorist Financing and Cyber-security

Belgium

- 28.03.2023 NBB updates the section of its **website** dedicated to the **prevention of money laundering and terrorist financing**, [NL](#) / [FR](#)

EU

- 06.03.2023 EBF publishes its **key considerations** following the publication of the **Cyber Resilience Act proposal**, [ENG](#)
- 17.03.2023 EBA updates its **Single Rulebook Q&A** on AML, see:
 - Question [2021_5818](#) (on establishment and appointment of a CCP)
 - Question [2021_6048](#) (on PISP obligations to conduct CDD)
- 28.03.2023 European Parliament publishes article on **new EU measures against money laundering and terrorist financing**, [ENG](#)
- 31.03.2023 EBA publishes [Guidelines](#) to challenge unwarranted **de-risking** and safeguard access to financial services to **vulnerable customers**, [ENG](#)

Market Infrastructure and derivatives

- 13.03.2023 ESMA publishes **Q&As** on the **central securities depositories regulation**, [ENG](#)

- 22.03.2023 EU Official Journal: publication of Commission Delegated Regulation (EU) 2023/662 of 20 January 2023 amending Delegated Regulation (EU) 2015/63 as regards the methodology for the **calculation of liabilities** arising from **derivatives**, [ENG](#)
- 30.03.2023 ESMA issues [statement](#) on the **derivatives trading obligation**, [ENG](#)
- 31.03.2023 ESMA publishes updated [Q&As](#) on **EMIR implementation**, [ENG](#)
- 31.03.2023 ESMA publishes updated [Q&As](#) on **SFTR data reporting**, [ENG](#)

Agenda

- 09.05.2023 Deadline for responding to ESMA's [consultation](#) on the amendments to Guidelines on **position calculation** under **EMIR**, [ENG](#)
- 21.06.2023 Deadline for responding to EBA's [consultation](#) on amendments to the **reporting on the fundamental review** of the **trading book**, [ENG](#)
- 26.06.2023 Deadline for responding to EBA's [consultation](#) on standards for supervisors assessing the **new market risk internal models** under the fundamental review of the trading book, [ENG](#)
- 29.06.2023 Deadline for responding to EBA's [consultation](#) on amendments to [Guidelines](#) on **risk-based AML/CFT supervision to include crypto-asset service providers**, [ENG](#)
- 30.06.2023 Deadline to respond to EIOPA's new survey to map **financial innovation** in insurance, [ENG](#)

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