

Cabinet News and Views

Informed analysis for the financial services industry



Hot Topics for 2024



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Here are some of our key focus items across Europe and the UK as we enter a New Year. There are, of course, others, but these represent the most important themes – a regulatory focus on the non-bank credit market, risk management and prudential provisioning, a developing post-Brexit legislative landscape, the treatment of consumers and the customer journey and diversity and inclusion in financial services.

EUROPE

1. **AIFMD II**: Publication of the agreed version of AIFMD II finally arrived on 6 November 2023 (see [here](#) for our note on its new requirements for loan origination funds) with publication in the Official Journal of the European Commission (“EC”) due in Q1 of 2024. Given the obligation on the European Securities and Markets Authority (“ESMA”) to produce draft regulatory technical standards, including on liquidity management, within a year of AIFMD II’s entry into force, 2024 will be the year to look out for technical detail on the actual implementation of AIFMD II’s novel features.

2. **SFDR**: 2023 has seen a lot of discussion and consultation on the EU’s Sustainable Finance Disclosure Regulation (“SFDR”). Specifically, the EC launched their targeted consultation focused on four main sections: (i) SFDR current requirements; (ii) how SFDR interacts with other EU legislation; (iii) potential changes to disclosure requirements for financial market participants; and (iv) the proposal of a categorisation system for financial products. It is anticipated that in 2024, the EC will provide an update following the end of their targeted consultation on 15

December 2023 and it remains to be seen whether this will lead to a new product categorisation system similar to the labelling system under the UK's Sustainability Disclosure Requirements. Our previous notes on SFDR can be found [here](#) and [here](#).

UK

1. Basel 3.1: The UK's banking regulator, the Prudential Regulation Authority ("PRA") has published its near-final policy statement on the implementation of seven aspects of the final elements of Basel III standards on the measurements of risk-weighted assets ("Basel 3.1") (see [here](#) for our note on this policy statement). Q1 of 2024 will bring the publication of a companion near-final policy statement on the remaining elements of Basel 3.1 from the PRA, including new provisions on credit risk and the "output floor", both carrying significant implications for the calculation of risk across a comprehensive range of bank transactions and instruments.

2. SDR: The UK Financial Conduct Authority ("FCA") issued a consultation on Sustainability Disclosure Requirements ("SDR") and investment labels in October 2022. Following input from numerous stakeholders, on 28 November 2023 the FCA published its long-awaited final rules and guidance (see [here](#) for the full policy statement). This new disclosure regime has a number of important impacts on FCA authorised firms, including significant new "anti-greenwashing" rules which come into effect during the course of 2024.

Some key 2024 milestones to note are:

- the anti-greenwashing rule for FCA authorised firms which comes into force on 31 May 2024;
- the four specific sustainability labels which firms can begin to use from 31 July 2024;
- the new naming and marketing rules to come into force on 2 December 2024; and
- the new rules relating to distributors of sustainability products to come into force on 2 December 2024.

3. FSMA 2023: The Financial Services and Markets Act 2023 ("FSMA 2023"), which received Royal Assent in June 2023, implements and furthers the Government's post-Brexit aim to tailor EU legacy legislation to a revised and renewed domestic regime. 2024 will see further progress in the areas of ringfencing and resolution regimes, investment research as well as public offers and admissions to trading on equity markets. Following on from 2023 consultation exercises, finalised legislation on securitisations in the form of new securitisation regulations, along with a new Securitisation Sourcebook "SECN" from the Financial Conduct Authority ("FCA") are also scheduled to come on stream in 2024 (see [here](#) for our note on developments for the UK Securitisation Regulation).

4. Consumer Duty: The FCA's Consumer Duty rules came into effect on July 31, 2023 (see [here](#) for our note on this topic). 2024 will see firms under considerable scrutiny as the FCA begins evaluating their interactions with retail customers through the Consumer Duty lens, emphasizing compliance with higher standards of care and protection. July 2024 will also see the Duty start to apply to closed

products and services, and the FCA has indicated that it will use its full range of powers when faced with serious breaches of the Duty's obligations, including fines, removing permissions and requiring consumer redress, with senior managers and boards being held to account for delivering the required outcomes.

5. Diversity and Inclusion: 2023's annual reports have been the first to include the mandatory diversity disclosures required under the UK's Listing Rules, applicable to reporting periods beginning on or after 1 April 2022. Together with the recent FCA consultation on diversity and inclusion ("D&I") in financial services (see [here](#) for our note on this), as well as the Parker Review report and the 2024 Glass Lewis report on Proxy Voting Guidelines, we expect to see heightened scrutiny of public companies' commitment to D&I and regulator intervention around related non-financial misconduct in 2024. Responses to the FCA's Consultation have recently been published, with most organisations broadly supportive of the FCA's proposed approach in setting minimum standards by embedding rules around D&I into fitness and propriety requirements, the code of conduct and threshold conditions for doing business. A final FCA Policy Statement is due in 2024, with rules to be in force 12 months after publication.
