

## COVID-19 Regulatory Actions and Developments

### EU/UK CCPs

#### The European Securities and Markets Authority (ESMA)

**Date:** September 17, 2020

##### ***ESMA Renews Reporting Requirement of Net Short Position Holders***

The European Securities and Markets Authority (ESMA), renewed its decision to temporarily require holders of net short positions in shares traded on a European Union (EU) regulated market to report to relevant EU financial regulators positions reaching or exceeding a reduced threshold of 0.1% (instead of the usual threshold of 0.2%). The measure takes effect from September 18, 2020, and expires December 18, 2020. Net short positions crossing the 0.1% threshold on December 18 are to be disclosed to the relevant EU financial regulators no later than 15:30 CET on December 19, 2020.

[External Link](#)

[Decision Link](#)

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**Date:** July 28, 2020

##### ***ESMA Statement on its Intention to Postpone the CSDR Settlement Discipline Regime***

At the request of the European Commission, ESMA confirms in this statement that it is working on a proposal to delay the entry into force of the Central Securities Depositories Regulation ("CSDR") settlement discipline regime until February 1, 2022 due to the impact of the COVID-19 pandemic.

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**Date:** July 13, 2020

##### ***ESMA Publishes Results on Third Stress Test Exercise Regarding CCPs***

ESMA confirmed in the latest stress test exercise the overall resilience of EU CCPs to common shocks and multiple defaults for credit, liquidity and concentration stress risks. ESMA also noted that EU CCPs remained resilient during the COVID-19 pandemic, despite the increased market volatility and operational risk.

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**Date:** June 15, 2020

***ESMA Publishes Revised 2020 Annual Work Programme***

As a result of the ongoing COVID-19 related disruptions, ESMA published a revised version of its 2020 Annual Work Programme, which explains that ESMA is reprioritising its current work and future mandates to help the financial services sector effectively respond to the pandemic.

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**Date:** June 11, 2020

***ESMA Short Selling Update in Light of the Ongoing COVID-19 Pandemic***

ESMA has renewed its decision requiring net short position holders of shares traded on an EU regulated market to temporarily report positions of 0.1% and above to their EU financial regulator. This measure shall apply from June 17, 2020 for a period of three months..

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**Date:** May 14, 2020

***ESMA Highlights a Potential Decoupling of Financial Market Performance and Underlying Economic Activity in its Risk Dashboard***

ESMA published its first complete risk dashboard for 2020, which maintains the very high risk levels noted in its previous assessments following the outbreak of COVID-19. ESMA notes that there is potential for a decoupling of financial market performance and underlying economic activity, which could possibly lead to further risk and market corrections in the EU.

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**Date:** May 4, 2020

***ESMA Publishes Joint RTS on Amendments to the Bilateral Margin Requirements under EMIR***

The European Supervisory Authorities (“ESAs”), of which ESMA is a member, published joint draft regulatory technical standards (“RTS”) relating to a one-year deferral of the two implementation phases of the bilateral margin requirements for non-centrally cleared OTC derivatives under the European Markets Infrastructure Regulation. Counterparties with an aggregate average notional amount of non-centrally cleared derivatives above €50 billion will become subject to the requirement to exchange initial margin from September 1, 2021, while covered counterparties with an aggregate average notional amount of non-centrally cleared derivatives above €8 billion will become subject to the requirement from September 1, 2022.

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**Date:** March 20, 2020

***ESMA extends consultations response dates***

ESMA extended the response date for all ongoing consultations with a closing date on, or after, March 16, 2020, for a period of four weeks.

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**Date:** March 11, 2020

***ESMA Recommendation to Financial Market Participants in Light of the COVID-19 Pandemic***

ESMA issued a statement recommending actions that EU financial market participants should take as a result of the COVID-19 pandemic, including the use of business contingency plans, disclosure by issuers of any relevant significant information under the Market Abuse Regulation, transparency by issuers of the actual and potential impacts of the COVID-19 pandemic, and the application of ordinary-course risk management requirements by asset

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## Financial Conduct Authority (FCA)

**Date:** October 12, 2020

***NEW! FCA Publishes a Speech on Market Abuse during COVID-19***

The FCA published a speech by Julia Hoggett, Director of Market Oversight, highlighting the FCA's concerns regarding market abuse during the COVID-19 pandemic. The FCA stressed the need for firms to adapt their surveillance procedures to align with the risks caused by the pandemic and ensure the submission of adequate suspicious transaction and order reports when unusual or anomalous activity is detected or suspected.

**Link to external source:** [click here](#)

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**Date:** July 16, 2020

***FCA Statement on its Collaboration with the City of London Corporation to Drive Economic Recovery***

The FCA and the City of London Corporation will collaborate on a pilot 'digital sandbox' to support innovative firms tackling challenges caused by the Covid-19 pandemic.

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**Date:** July 10, 2020

***FCA Statement on its Annual Report, Accounts and Public Meeting***

In light of the COVID-19 pandemic, the FCA announced that it will delay laying before the UK Parliament its annual report and accounts for 2019-20 until September 30, 2020. The FCA also noted that its annual public meeting is expected to take place virtually on a to-be-determined date in September.

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**Date:** July 1, 2020

***FCA Speech on Building a Financial Regulatory System Suitable for the UK in the 'New Era'***

The FCA notes that, amongst other topics, the general regulatory agenda is transitioning away from a COVID-19 pandemic crisis response to supporting economic recovery.

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**Date:** June 26, 2020

***FCA Extends Certain Regulatory Reporting Deadlines***

The FCA announced that it will provide firms with a two-month extension to the deadlines for certain regulatory returns that fall due up to and including September 30, 2020.

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**Date:** June 3, 2020

***FCA COVID-19 Financial Resilience Survey***

The FCA has published a statement requesting that around 13,000 FCA-regulated firms complete a short survey to help the FCA obtain a more accurate view of firms' financial resilience as a result of the COVID-19 pandemic. The survey will be sent to firms between June 4 and 8, 2020.

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**Date:** May 27, 2020

***FCA Publishes COVID-19 Focussed Primary Market Bulletin No. 28***

In the bulletin, the FCA provides statements on temporary relief for the timing of the publication of half yearly financial reports, market practice on 'going concern' assessments, and conflicts of interest and shareholder engagement.

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**Date:** May 27, 2020

***FCA Publishes Market Watch 63 Newsletter***

The FCA's newsletter discusses its market conduct expectations in the context of increased capital-raising events and transaction reporting issues in light of the COVID-19 pandemic.

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**Date:** May 27, 2020

***FCA Statement on Continuing Professional Development ("CPD") during the COVID-19 Pandemic***

The FCA announces that it expects firms to continue to put in place effective and consistent CPD measures, but recognises that in these exceptional circumstances firms can defer individual's CPD to the next CPD year.

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**Date:** May 14, 2020

***FCA Statement on the UK Corporate Insolvency and Governance Bill***

The FCA published a statement commenting on certain impacts on the financial services sector of the planned Corporate Insolvency and Governance Bill (which aims to help businesses affected by the COVID-19 pandemic). The FCA notes that certain measures will not be available for some financial services firms and contracts, including company moratoriums, the suspension of ipso facto (termination) clauses and the temporary suspension of wrongful trading provisions.

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**Date:** May 7, 2020

***Regulatory Initiatives Grid Launched***

The Financial Services Regulatory Initiatives Forum, comprised of the Bank of England, PRA, FCA, Payment Systems Regulator, Competition and Markets Authority, and HM Treasury, launched a new initiative, the Regulatory Initiatives Grid (the "Grid"), to help financial firms prepare for upcoming regulatory work. The launch of the Grid was brought forward due to the COVID-19 pandemic. The Grid sets out the planned timetable for major initiatives, including the transition from LIBOR and the introduction of financial services legislation post Brexit.

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**Date:** April 29, 2020

***FCA Statement on LIBOR Timeline***

Following discussions with the Working Group on Sterling Risk-Free Reference Rates, the FCA published a joint statement with the Bank of England maintaining the position that firms cannot rely on LIBOR being published after the end of 2021, despite any impacts of the COVID-19 pandemic. The Working Group has made a number of LIBOR transition recommendations to the FCA.

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**Date:** April 25, 2020

***FCA Updates Key Workers Website after expansion of COVID-19 Testing***

The FCA notes that, after the expansion of coronavirus testing in England to include self-isolating essential workers showing symptoms, only those financial services workers previously identified as essential workers should seek testing at this time.

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**Date:** April 6, 2020

***FCA Publishes Revised COVID-19 Statement***

The FCA issued a revised statement on its joint efforts with the Bank of England and HM Treasury to engage with firms, trade associations and industry bodies to understand the pressures they are facing as a result of the COVID-19 pandemic. This work includes actively reviewing the contingency plans of a wide range of firms. In particular, while the FCA has no objection in principle to staff working from home or from alternative sites, it expects that firms will, for example, use recorded lines when trading and give staff access to any compliance support they may need.

[Available here](#)

Katten's *Corporate and Financial Weekly Digest* article on this topic is [available here](#)

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**Date:** March 31, 2020

***FCA Information for Firms on COVID-19 Response Webpage***

The FCA updated its COVID-19 response webpage to state that it continues to monitor the spread of the virus and is prepared to take any necessary steps to ensure customers are protected and markets continue to function well. The FCA is in regular contact with firms to assess their current position and expects them to take reasonable steps to ensure they are prepared to meet the challenges COVID-19 poses to customers and staff. The new webpage also sets out the FCA's responses on a variety of discrete regulatory and compliance topics.

[Available here](#)

Katten's *Corporate and Financial Weekly Digest* article on this topic is [available here](#)

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**Date:** March 27, 2020

***FCA and PSR Respond to the CMA's Guidance on Business Cooperation under Competition Law.***

Both the FCA and the UK's Payment Systems Regulator ("PSR") supported the UK's Competition and Markets Authority's guidance on its approach to business cooperation under competition law. Both regulators will take a consistent approach to their competition law enforcement activity, which should not impede firms from working together to provide essential services to consumers during the COVID-19 pandemic. At the same time, the FCA and the PSR will not tolerate conduct that exploits the situation and harms consumers.

FCA statement [available here](#)

CMA's guidance is [available here](#)

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**Date:** March 27, 2020

***Joint Statement by the FCA, FRC and PRA on Actions to Support Capital Markets***

The FCA, the UK's Financial Reporting Council ("FRC") and the PRA announced certain actions to ensure information flow to investors and to support the continued functioning of the UK's capital markets, including a two-month delay in publishing audited annual financial reports, overcoming challenges in obtaining audit evidence and assessing expected loss provisions under IFRS 9.

FCA statement [available here](#)

BoE statement is [available here](#)

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**Date:** March 25, 2020

***Impact of COVID-19 on Firms' LIBOR Transition Plans***

The FCA, Bank of England ("BoE") and members of the Working Group on Sterling Risk-Free Reference Rates ("Working Group") concluded that firms must not rely on LIBOR being published after the end of 2021, even in light of the COVID-19 pandemic. There has, however, been an impact on the timing of some aspects of the transition programs of many firms and some interim transition milestones. The FCA, BoE and Working Group will continue to monitor and assess the impact of the COVID-19 pandemic on transition timelines with a view to updating market participants as soon as possible.

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**Date:** March 20, 2020

***FCA and PRA Publish Guidance on Key Financial Workers Critical to COVID-19 Response***

The FCA and the PRA separately published guidance on steps that firms should take in identifying key workers in the financial services industry, which is defined to include those who are essential to the provision of financial services to the real economy or to financial stability. The identification of key workers should also include those associated with critical outsource partners, which may not be financial services firms.

FCA statement [available here](#)

BoE statement is [available here](#)

Katten's *Corporate and Financial Weekly Digest* article on this topic is [available here](#)

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## Other Regulatory

**Date:** July 28, 2020

***PRA Statement on Dividend Payments and Share Buybacks Beyond 2020***

The PRA confirms that it will undertake an assessment by the end of this year of firms' post-2020 distribution plans in respect of dividend payments and share buybacks.

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**Date:** May 7, 2020

***BoE Publishes its Interim Financial Stability Report and Quarterly Monetary Policy Report***

The BoE published an interim financial stability report setting out its view of the performance of the UK's financial system during the COVID-19 pandemic and the outlook for the UK's financial stability, including its assessment of the resilience of the UK financial system. The BoE has also published its quarterly monetary policy report that sets out its response to the COVID-19 pandemic in relation to the BoE's interest rate and the UK's level of inflation. In the financial stability report, the BoE has advised that while there may be a need for short-term reprioritisation, market participants should remain focused on the continued importance of removing reliance on Libor by the end of 2021.

The financial stability report is available here: [External Link](#)

The monetary policy report is available here: [External Link](#)

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