Katten

COVID-19 Regulatory Actions and Developments

EU/UK Trading Venues

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

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.

External Link

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.

External Link

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.

External Link

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..

External Link

Date: June 11, 2020

ESMA Statement on MiFIR Open Access and COVID-19

ESMA has published a statement to clarify the application of the MiFIR open access provisions for trading venues and central counterparties in light of the COVID-19 pandemic.

External Link

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.

External Link

Date: April 15, 2020

ESMA Issues Positive Opinions on Short Selling Ban Extensions

ESMA has published positive opinions on the extension of short selling bans by the Austrian FMA, Belgian FSMA, French AMF, Greek HCMC and Spanish CNMV. Each of the bans have been extended to May 18, 2020.

External Link

Date: April 9, 2020

ESMA Extends MiFID II/MiFIR Transparency Review Report Consultation

ESMA has further delayed the response date for the consultation on the MiFID/MiFIR review report on the transparency regime for non-equity instruments and the trading obligation for derivatives from May 17, 2020 to June 14, 2020.

External Link

Date: March 31, 2020

ESMA Clarifies Best Execution Reports under MiFID

ESMA published a statement to clarify the obligation for execution venues and investment firms to publish best execution reports under MiFID II and to encourage national competent authorities of the various EU Member States not to prioritize supervisory action against execution venues and firms for failure to meet the originally-applicable deadlines. Execution venues which were unable to publish their required best execution reports due by March 31, 2020, must now publish them as soon as reasonably practicable and no later than June 30, 2020. Investment firms required to publish best execution reports by April 30, 2020, must now do so on or before June 30, 2020.

External Link

Date: March 27, 2020

ESMA Confirms Application Date of Equity Transparency Calculations

ESMA determined not to delay application of the transparency calculations for equity instruments under MiFID II and MiFIR beyond April 1, 2020.

External Link

Date: March 27, 2020

ESMA Publishes Guidance on Financial Reporting Deadlines

ESMA published a statement acknowledging that issuers may struggle to prepare financial reports in light of the COVID-19 pandemic. As a result, national competent authorities in the various EU Member States should apply their forbearance powers towards issuers who need to delay publication of financial reports beyond the ordinarily-applicable statutory deadline. Issuers, however, are expected to keep their investors informed of any expected publication delay.

External Link

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.

External Link

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

External Link

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

Date: August 20, 2020

FCA Publishes Regulation Round-Up with Statements on Disclosures and the Handling of Complaints during COVID-19

The FCA praised firms for their management of disclosures during the COVID-19 pandemic and encouraged them to continue to design innovative disclosures that facilitate consumer understanding. The FCA also referred to an updated statement concerning how firms should handle complaints, including its expectation that delays in responding to complaints should only arise as a result of exceptional coronavirus-related circumstances.

External Link and External Link

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.

External Link

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.

External Link

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.

External Link

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.

External Link

Date: June 11, 2020

FCA Statement on the MiFIR Open Access Regime

The FCA supports ESMA's statement regarding the risks raised by the COVID-19 pandemic in relation to open access for exchange traded derivatives.

External Link

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.

External Link

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.

External Link

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.

External Link

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.

External Link

Date: May 27, 2020

FCA Q&A on Delaying Annual Company Accounts and Half Yearly Financial Reports

The FCA answered questions relating to the delay of annual company accounts and half yearly financial reports during the COVID-19 pandemic. In particular, the FCA clarifies which type of companies can benefit from these measures.

External Link

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.

External Link

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.

External Link

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.

External Link

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.

External Link

Date: April 20, 2020

FCA Announcement on Wet-Ink Signatures

The FCA has clarified that firms may use electronic signatures for all interactions with the FCA, but it also notes that firms should consider the legal position of the validity of electronic signatures when liaising with the FCA.

External Link

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

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

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

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

Date: March 26, 2020

FCA Delay Annual Company Accounts

The FCA announced that it will grant listed companies an extra two months (from four to six months) following their financial year-end to publish their audited annual financial reports.

External Link

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 asset the impact of the COVID-19 pandemic on transition timelines with a view to updating market participants as soon as possible.

External Link

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

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.

External Link

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

Date: April 9, 2020

PRA Decision on Systemic Risk Buffer Rates

In light of the COVID-19 pandemic, the PRA, with the support of the Financial Policy Committee, issued a decision to maintain the systemic risk buffer rates for ring-fenced banks and large building societies at the rate set in December 2019. The PRA will next reassess these rates in December 2021.

External Link