

EIFR

*Les Rendez-vous de la régulation financière
et de la conformité*

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1

1./ Anticipation des impacts du Brexit

2./ Avancées et prochaines étapes de
la CMU

3./ Révision de la gouvernance et des
pouvoirs des Autorités européennes
de supervision (ESAs)

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1./ Anticipation des impacts du Brexit

2

Impacts économiques:

- +/-20% de l'activité financière à Londres. Le reste non affecté: UK-UK et UK-international. D'autres marchés sont explorés (Middle East etc.).
- +/- 50% de l'activité financière de l'UE. Fragmentation et hausse des couts de financement de l'éco?

Principaux secteurs impactés:

- Corporate and investment banking; Clearing & settelement; Asset Management;
- Fintech ?/ sandbox ?

CIB, scénarios « durs »:

- perte des droits au passeport intra-UE/pas d'équivalence (possible perte du droit de servir les clients de l'UE après Brexit), et
- perte du service intra EU des gros volume de cleaing d'instruments libellés en euro (bataille menée par la BCE pour une relocation en zone Euro).

1./ Anticipation des impacts du Brexit

3

Passeport: les 3 scenarios:

1) Accord type CETA/Trade agreement (accord cadre général) = service dans l'UE sous certaines conditions (prudentiel, supervision ..) et possibles restrictions (sollicitation des clients etc.) . Cf. Canada

2) Régime pays tiers – avec possible rehaussement des conditions (propositions législatives sectorielles ou générales). Exemple avec un durcissement des conditions d'outsourcing/delegation dans pays tiers pour l'AM (AIFMD/MIF) ?

+ assesment pays par pays + assesment chaque année? – cf relations avec CH (volume de business faible) versus USA (volumes de services financiers important/ EMIR)

3) Régime UK totalement aligné avec EU. Marché des services financiers ouvert (réplique complète du model EU, etc.) – Période de transition - Cf. Norvège

2./ CMU: EU Commission priorities

4

- In September 2015, the EU Commission adopted an [Action Plan](#) setting out a list of over 30 actions and related measures to establish the building blocks of an integrated capital market in the EU by the end of 2019. In September 2016, the Commission adopted a [Communication](#) calling for accelerated reform. The Commission aims to complete the CMU by 2019.
- Most recently, the Commission announced **9 new key priorities** in its 8 June 2017 [Mid-Term Review](#) of the CMU Action Plan, which aim to:
 1. Strengthen the effectiveness of supervision to accelerate market integration;
 2. Enhance proportionality of rules to support IPOs and investment firms;
 3. Harness the potential of FinTech;
 4. Use capital markets to strengthen bank lending and stability; Strengthen the EU's leadership on sustainable investment; and
 5. Support the development of local capital market eco systems.

2./ CMU: State of play and next steps

5

Priority Action 1: Supervision	Propose amendments to the functioning of ESMA and the other ESAs to promote the effectiveness of consistent supervision across the EU and beyond, Proposed Regulation on ESAs reviews published on 20.9.2017
Priority Action 2: SME package listing	Review of regulatory barriers to SMEs admission to public markets as set out in the Call for Evidence. The review (explored via an IA) will focus on how targeted amendments to relevant EU legislation can deliver a more proportionate regulatory environment to support SME listing on public markets (possible legislative proposal in the 2nd quarter of 2018)
Priority Action 3: Proportionate prudential requirements	Legislative Proposal to improve the proportionality of prudential rules for investment firms (4th quarter 2017)
Priority Action 4: Innovative corporate finance platforms	Assess the case for EU licensing and passporting framework for FinTech activities (4th quarter 2017)
Priority Action 5: Secondary markets for NPLs	Present measures to develop a secondary market for NPLs (non- legislative and legislative, 4th quarter 2017) Launch an impact assessment with a view to considering a possible legislative initiative to strengthen the ability of secured creditors to recover value from secured loans to corporates and entrepreneurs (1st quarter 2018)
Priority Action 6: Sustainable investment	Decide on the concrete follow-up to recommendations by the High- Level Expert Group on Sustainable Finance (1st quarter 2018)
Priority Action 7: Investment funds	Impact assessment with a view to considering a possible legislative proposal to facilitate cross-border distribution of UCITS and AIFs (1st quarter 2018)
Priority Action 8: Stability of the regulatory framework	Interpretative Communication to provide guidance on the existing EU standards for the treatment of cross-border EU investments (1st quarter 2018) Impact assessment with the view to setting out an adequate framework for the amicable resolution of investment disputes (3rd quarter 2017), Inception IA 25/07/2017
Priority Action 9: Develop local & regional capital markets	Comprehensive EU strategy on local and regional capital market developments across the EU (non- legislative, 2nd quarter 2018)

- Review of the Prospectus Directive
- Legislation for a simple, transparent and standardised securitisation (STS)
- Review of European Venture Capital Fund Regulation (EuVECA)
- Study on tax incentives for venture capital and business angels
- Strengthen feedback given by banks when declining SME credit applications
- Re-launch of the Common Consolidated Corporate Tax Base (CCCTB)
- Proposal on preventive restructuring and second chance for entrepreneurs
- Adjust Solvency II calibrations for insurers' infrastructure investments
- Adjust Capital Requirements Regulation (CRR) calibrations for banks' infrastructure investments
- Consumer Financial Services Action Plan

2./ CMU - In progress/ Co-decision process:

7

- Proposal for a regulation on the **recovery and resolution of CCPs**
- Proposal amending regulations establishing the **European Supervisory Authorities (ESAs)** (the EU, especially in the context of Brexit, wants to increase supervisory convergence and direct powers over 3rd country actors) ;
- **ESRB Review** (the EU, especially in the context of Brexit, wants to increase supervisory converging and promoting financial market stability).
- Review of **CRD/ CRR**
- **Proposed Regulation on a Pan- European Personal Pension Product** ([PEPP](#))
- **EMIR Review** REFIT (to eliminate disproportionate costs and burdens on certain derivatives counterparties)
- Review of the Bank Recovery and Resolution Directive (**BRRD**)

2./ CMU - EU Commission Future/ Developing Work

8

- Proposal for an **EU-framework for covered bonds**, a key long-term funding tool to help banks finance their lending activity, expected in the **first quarter of 2018**;
- **Recommendation on private placements** (building on the experience of well-functioning national regimes) – in the fourth quarter of 2017 (?) – **Review of the AIFMD – postponed to 2018**;
- **Communication on a roadmap for removing barriers to post-trade market infrastructure** (building on the recommendations of the EPTF – the European Post Trade Forum) – **in the fourth quarter of 2017**; and
- **Communication on corporate bond markets** (building on the recommendations of the Expert Group on Corporate Bond Market Liquidity) – **in the fourth quarter of 2017**.
- Amendments to the Delegated Regulation supplementing Solvency II **in 2018** to **review the prudential treatment of private equity and privately placed debt**;
- **Code of Conduct to simplify withholding tax procedures**, with a focus on refunds – **expected by end 2017?**.

3./ Révision de la gouvernance et des pouvoirs des Autorités européennes de supervision (ESAs)

- **Nouvelle structure de gouvernance des ESAs:**
- Chaque ESAs aura un nouveau conseil d'administration restreint (Executive Board) qui remplacera l'actuel Management Board.
- Le conseil d'administration aura des pouvoirs de décision sur les régulateurs nationaux dans certains domaines tels que le règlement des litiges et les infractions au droit communautaire, ainsi que la compétence pour mener des « analyses sur la bonne application du droit européen » par les régulateurs nationaux (aujourd'hui, exclusivement du ressort des autorités nationales au sein du Board à 28).
- Les Membres des Exec. Board présélectionnés par la Commission et nommés par décision du Conseil européen (+ Parlement européen).

3./ Révision de la gouvernance et des pouvoirs des Autorités européennes de supervision (ESAs)

Summary of ESMA's new powers

Area	Legislation	ESMA's direct supervisory powers	ESMA's powers over third- country entities
Capital Market Entry	Prospectuses	Approval of certain categories of prospectuses by EU issuers	Approval of all prospectuses drawn up under EU rules by third- country issuers
Capital Market Actors	Collective investment funds: ELTIF, EuVECA & EuSEF	Authorisation and supervision of funds which are regulated at EU level	
Capital Market Infrastructure	Central Counterparties (CCPs)	Supervisory powers in relation to CCPs (EC Proposal June 2017)	Recognition and supervisory powers for third- country CCPs (Existing but reinforced by EC Proposal June 2017)
Capital Market Data & Information	Credit rating agencies Trade repositories Data reporting services providers Benchmarks	Registration and supervision of CRAs, trade repositories and data reporting services providers Supervision of critical benchmarks	Endorsement of third country CRAs Recognition of third country TRs Endorsement of third country benchmarks

3./ Révision de la gouvernance et des pouvoirs des Autorités européennes de supervision (ESAs) – Exemples

Prospectuses

- ESMA should supervise certain types of prospectuses. It is proposed that ESMA will become responsible for the scrutiny and approval of:
 - prospectuses of non-EU issuers;
 - regarding all issuers: prospectuses of issuers in specific industries (property, mineral, scientific research and shipping); and prospectuses for certain wholesale non-equity and asset-backed securities.
- *The Commission has taken the view that ESMA should be responsible for approving wholesale prospectuses because this is a highly integrated market and therefore an EU-wide approach can have added value. ESMA will not deal with retail prospectuses for local issues.*

Collective investment funds

- The Commission proposes that ESMA should be established as the single supervisory body for EuVECA or EuSEF (collective investment funds and their managers). ESMA would authorise, directly register and supervise these EU level funds, and their managers. Where a EuVECA or EuSEF fund is managed by an authorised alternative investment fund manager (AIFM) under the Alternative Investment Fund Managers Directive (AIFMD), ESMA will also be the competent authority and will supervise the AIFM's compliance with the relevant national law implementing the AIFMD.

Questions – Réponses

12

Pour plus d'informations & conseils:

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