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Financial Markets in brief – new regulation and other developments

There have been many developments in national and European financial markets regulation over the past month. Among other things, the Prospectus Regulation and new guidelines on anti-money laundering, and countering the financing of terrorism have been published. In this article we provide a brief overview of these and other developments.

Highlighted publications

Reader's guides on market soundings

The AFM has published two reader's guides for market participants that are involved in a market sounding process. One is intended for disclosing market participants, the other for persons receiving markets soundings. Both guides contain information on the practical process and corresponding regulations.

Final guidelines on anti-money laundering and countering the financing of terrorism

The Joint Committee of the three European Supervisory Authorities (EBA, EIOPA and ESMA) published its final guidelines on anti-money laundering and countering the financing of terrorism. These guidelines are the standard to which EU credit and financial institutions will be held by the competent authorities when assessing whether their money laundering and terrorism-financing risk assessment and management systems and controls are adequate. They provide guidance on the factors that credit and financial institutions must consider when assessing the money laundering and terrorism-financing risk associated with a particular business relationship or transaction. Also, they outline how credit and financial institutions can adjust the extent of their customer due diligence measures to mitigate their money laundering and terrorism-financing risk.

The next steps towards the Capital Markets Union

The European Commission has recently presented the next steps it will take to complete the Capital Markets Union. These steps include legislative proposals:

- for a regulation on a pan-European personal pension product to help people finance their retirement;
- for an EU framework on covered bonds to help banks finance their lending activity; and
- on securities law to increase legal certainty on securities ownership in the cross-border context.

In addition to these proposals, announced in the 2015 Capital Markets Union Actions Plan, the Commission announced new steps it intends to take, including:

- strengthening the powers of ESMA;
- creating a lighter regulatory regime for SME listings on public markets;
- reviewing the prudential treatment of investment firms;
- assessing the case for an EU licensing and passporting framework for FinTech activities;
- taking measures to support secondary markets for non-performing loans and to strengthen the ability of secured creditors to recover value from secured loans to corporates and entrepreneurs; and
- facilitating the cross-border distribution and supervision of UCITS and alternative investment funds.

Prospectus Regulation published

The Prospectus Regulation has been published and will enter into force on 20 July 2017. Most provisions will apply from 21 July 2019. However, two exemption provisions which are particularly relevant for share issuers will enter into effect immediately; see our article in the [April 2017](#) In context.

The Prospectus Regulation includes the following changes:

- No EU prospectus will be required for offers of securities to the public below EUR 1 million. Member states will also be able to set higher thresholds for their domestic markets; here the threshold will be raised from EUR 5 million to EUR 8 million.
- An EU growth prospectus will be created for SMEs, mid-caps admitted to an SME Growth market or small issuances by non-listed companies.
- An alleviated corporate bond prospectus will be available for admission to wholesale debt markets.
- Frequent participants in the capital markets will have a frequent issuer regime that they can activate once an opportunity to raise funds arises. This will halve approval times from ten days to five.
- There will be a lighter prospectus regime for issuers already listed on a public market that want to issue additional shares or raise debt.
- Prospectus summaries will become shorter and the language used must be easier to understand for investors.
- No more paper prospectuses will be required, unless a potential investor explicitly requests a printed version.
- ESMA will operate a free and searchable online prospectus database.

Implementing regulation

The European Securities and Markets Authority (ESMA) has published the following consultation papers on the Prospectus Regulation:

- Draft technical advice on format and content of the prospectus

ESMA proposes largely maintaining the existing regime, while suggesting a number of changes to reduce the burden and costs on issuers. Among other things, ESMA proposes removing the requirement for a report by auditors or independent accountants on profit forecasts. ESMA has also developed draft requirements for the new Universal Registration Document (URD).

- Draft technical advice on content and format of the EU growth prospectus

ESMA has developed draft technical advice on the format and content of the EU growth prospectus for Small and Medium Enterprises. It identifies the minimum disclosure

requirements, their order of presentation, and the format and content of the specific summary. The proposal consists of a schedule containing information on the registration document, and a separate schedule for information concerning the securities. Both schedules can be used for equity and non-equity issuance. ESMA aims to reduce the length and complexity of prospectus content.

- Draft technical advice on scrutiny and approval of the prospectus

ESMA proposes that standard criteria for scrutiny of the completeness, comprehensibility and consistency of the prospectus are adopted. Beyond these standard criteria, ESMA proposes affording national competent authorities a certain level of flexibility.

The consultations closes on 28 September 2017.

Implementation of the Market Abuse Regulation

The [Dutch Decree implementing the Market Abuse Regulation](#) entered into force on 12 July. This decree finalises the implementation of the European Market Abuse Regulation (MAR) in the Netherlands. It amends a number of decrees, including the Market Abuse Decree and the Decree on Administrative Fines in the Financial Sector.

Market Abuse Decree

As it is a regulation, the MAR has direct effect. Therefore, the new implementing decree has removed several market abuse provisions from the Dutch Market Abuse Decree. It also implements two member state options:

- the reason for delays in disclosing inside information need only be provided to the Dutch financial markets supervisor (AFM) on its request
- issuers and market participants do not have to make transaction information public; it is sufficient for the AFM to include this information in its public register.

Decree on Administrative Fines in the Financial Sector

The Dutch Decree on Administrative Fines in the Financial Sector has now been updated. This will allow the AFM to impose the maximum fines for violations of the MAR, as well as the turnover related fines. See our article in the [March 2017](#) In context.

ESMA Q&As

ESMA has updated its [Q&A document](#) on the Market Abuse Regulation. It includes a new question on the definition of “closely associated person”.

Other publications

EC

- [Proposal for a Regulation on a pan-European Personal Pension Product \(PEPP\), EC, 29 June 2017](#)
- [Commission draft Delegated regulation supplementing PSD2 with regard to RTS for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions, EC, 23 June 2017](#)
- [Development of secondary markets for non-performing loans, EC, 22 June 2017](#)
- [Commission draft Delegated Regulation supplementing the Benchmark Regulation how the nominal amount of financial instruments other than derivatives, the notional amount](#)

[of derivatives and the net asset value of investment funds are to be assessed, EC, 22 June 2017](#)

- [Commission draft Delegated Regulation supplementing the Benchmarks Regulation specifying technical elements of the definitions laid down in paragraph 1 of Article 3 of the Regulation, EC, 22 June 2017](#)
- [Commission draft Delegated Regulation supplementing the Benchmarks Regulation with regard to specifying how the criteria of Article 20\(1\)\(c\)\(iii\) are to be applied for assessing whether certain events would result in significant and adverse impacts on market integrity, financial stability, consumers, the real economy or the financing of households and businesses in one or more Member States, EC, 22 June 2017](#)
- [Reducing barriers to cross-border distribution of investment funds, EC, 21 June 2017](#)
- [Feedback statement on the public consultation on the operations of the European Supervisory Authorities, EC, 20 June 2017](#)
- [Draft Commission Delegated Regulation amending Delegated Regulation \(EU\) 2017/565 as regards the specification of the definition of systematic internalisers for the purposes of that Directive, EC, 19 June 2019](#)
- [Proposal for a Regulation amending EMIR as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs, EC, 13 June 2017](#)
- [Commission proposes more robust supervision of central counterparties \(CCPs\), EC, 13 June 2017](#)
- [Draft Commission Delegated Regulation supplementing MiFIR as regards the exemption of certain third countries central banks in their performance of monetary, foreign exchange and financial stability policies from pre and post-trade transparency requirements, EC, 12 June 2017](#)
- [Commission Delegated Regulation amending Delegated Regulation concerning the calculation of regulatory capital requirements for infrastructure corporates, EC, 8 June 2017](#)

EP

- [Briefing – Precautionary recapitalisations under the Bank Recovery and Resolution Directive: conditionality and case practice, EP, 16 June 2017](#)
- [Briefing – Regular public hearing with Danièle Nouy, Chair of the SSM, EP, 16 June 2017](#)
- [Level-2 measures under the Benchmark Regulation – Briefing, EP, 8 June 2017](#)

EBA

- [Consultation Paper on draft RTS on CCPs under PSD2, EBA, 29 June 2017](#)
- [EBA Consumer Trends Report 2017, EBA, 28 June 2017](#)
- [Report on innovative uses of consumer data by financial institutions 2017, EBA, 28 June 2017](#)
- [ESAs publish central contact point standards in fight against financial crime, EBA, 26 June 2017](#)
- [Discussion Paper on the treatment of structural FX, EBA, 22 June 2017](#)
- [Final draft Regulatory Technical Standards on CVA proxy spread, EBA, 21 June 2017](#)
- [EBA launches 2016 CVA risk monitoring exercise, EBA, 21 June 2017](#)
- [EBA Recommendations on Outsourcing to Cloud Service Providers, EBA, 20 June 2017](#)
- [EBA Annual Report 2016, EBA, 15 June 2017](#)
- [Updating CRR/CRD – EC letter to EBA responding to issues raised, EBA, 9 June 2017](#)
- [Final Report on recommendations on the equivalence of confidentiality regimes, EBA, 9](#)

June 2017

- Revised list of ITS validation rules, EBA, 9 June 2017
- Final report - Guidelines on disclosure requirements under Part Eight of CRR, EBA, 9 June 2017
- 2018 EU-wide stress test-Draft Methodological Note, EBA, 7 June 2017

ESMA

- ESMA issues statement on preparatory work in relation to CFDs, binary options and other speculative products, ESMA, 29 June 2017
- ESMA updates co-legislators on MiFID II implementation, ESMA, 28 June 2017
- Guidelines on Calibration of circuit breakers and publication of trading halts under MiFID II, ESMA, 27 June 2017
- Consultation on draft standards for trading obligation for derivatives under MiFIR, ESMA, 19 June 2017
- Risk dashboard for first quarter of 2017, ESMA, 14 June 2017
- ESMA Annual Report, ESMA, 14 June 2017
- Guidelines CSD participants default rules and procedures, ESMA, 8 June 2017
- Guidelines on access by a CSD to the transaction feeds of CCPs and trading venues.

EIOPA

- Q&A on Regulation, EIOPA, 30 June 2017
- First set of Solvency II statistics on the European insurance sector, EIOPA, 28 June 2017
- Technical documentation of the methodology to derive EIOPA's risk-free interest rate term structures, EIOPA, 27 June 2017
- EIOPA's Supervisory Assessment of the Own Risk and Solvency Assessment - First experiences - EIOPA, 19 June 2017
- Q&A on Regulation, EIOPA, 15 June 2017
- EIOPA Annual Report 2016, EIOPA, 15 June 2017
- Q&A on Regulation, EIOPA, 8 June 2017
- Monthly update of the symmetric adjustment of the equity capital charge for Solvency II - May 2017, EIOPA, 8 June 2017
- Monthly technical information for Solvency II Relevant Risk-Free Interest Rate Term Structures: end-May 2017, EIOPA, 8 June 2017
- Invitation for comments on the 2.2.0 draft version of Solvency II XBRL Taxonomy, EIOPA, 7 June 2017

ECB

- Updated review of NPL regimes shows countries should be proactive and ensure NPL toolkits are fit-for-purpose, ECB, 30 June 2017
- ECB recommends amending Article 22 of its Statute, ECB, 23 June 2017
- ECB to develop a service for the settlement of instant payments, ECB, 22 June 2017
- Cybercrime: from fiction to reality, ECB, 19 June 2017
- ECB publishes ELA agreement, ECB, 19 June 2017
- Additional clarification regarding the ECB's competence to exercise supervisory powers granted under national law, ECB, 31 March 2017

Official Journal EU

- Commission Implementing regulation laying down ITS with regards to the procedures and

- [forms for competent authorities exchanging information with the European Securities Market Authority as referred to in Article 33 of MAR, OJ, 30 June 2017](#)
- [Regulation on money market funds, OJ, 30 June 2017](#)
 - [Commission Implementing Regulation amending Implementing Regulation \(EU\) 2016/1368 establishing a list of critical benchmarks used in financial markets pursuant to the Benchmark Regulation, OJ, 29 June 2017](#)
 - [Commission Implementing Regulation laying down ITS with regard to the standard forms, templates and procedures for the authorisation of data reporting services providers and related notifications pursuant to MiFID II, OJ, 23 June 2017](#)
 - [Commission Implementing Regulation laying down ITS with regard to procedures and forms for submitting information on sanctions and measures in accordance with MiFID II, OJ, 23 June 2017](#)
 - [Commission Implementing Regulation laying down ITS with regard to the format of position reports by investment firms and market operators, OJ, 21 June 2017](#)
 - [Corrigendum to Commission Delegated Regulation supplementing BRRD with regard to ex ante contributions to resolution financing arrangements, OJ, 20 June 2017](#)
 - [Commission Delegated Regulation supplementing MiFID II with regard to RTS specifying information to be notified by investment firms, market operators and credit institutions, OJ, 17 June 2017](#)
 - [Commission Implementing Regulation laying down ITS with regard to the format and timing of the communications and the publication of the suspension and removal of financial instruments pursuant to MiFID II, OJ, 16 June 2017](#)
 - [Commission Implementing Regulation laying down ITS with regard to standard forms, templates and procedures for cooperation arrangements in respect of a trading venue whose operations are of substantial importance in a host Member State, OJ, 13 June 2017](#)
 - [Commission Delegated Regulation amending EMIR with regard to the list of exempted entities, OJ, 10 June 2017](#)
 - [Commission Implementing Regulation laying down ITS with regard to standard forms, templates and procedures for cooperation in supervisory activities, for on-site verifications, and investigations and exchange of information between competent authorities in accordance with MiFID II, OJ, 10 June 2017](#)
 - [Commission Implementing Regulation laying down ITS with regard to the format and the timing of position reports by investment firms and market operators of trading venues pursuant to MiFID II, OJ, 7 June 2017](#)
 - [Commission Implementing Regulation on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in CRR and EMIR, OJ, 7 June 2017](#)

MinFin

- [MiFID II - Nota naar aanleiding van het verslag, MinFin, 30 June 2017](#)
- [Kabinetsreactie mid-term review actieplan kapitaalmarktunie, MinFin, 30 June 2017](#)
- [Beantwoording vragen schriftelijk overleg Eerste Kamer over kabinetsreactie op actieplan Financiële diensten voor consumenten, MinFin, 30 June 2017](#)
- [Kamerbrief informatie vervolgonderzoek kredietwaarschuwing, MinFin, 30 June 2017](#)
- [Beantwoording Kamervragen over ontwikkelingen in de Italiaanse bankensector, MinFin, 29 June 2017](#)
- [Nadere vragen over pensioen in eigen beheer, MinFin, 27 June 2017](#)
- [Beantwoording Kamervragen over het bericht "Deutsche bank verliest vertrouwen in Europese bankensector", MinFin, 26 June 2017](#)
- [Aanbiedingsbrief gevolgen ECB-beleid voor Nederlandse pensioenfondsen, MinFin, 26 June](#)

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- [Verslag Eurogroep en Ecofinraad, MinFin, 20 June 2017](#)
- [Consultatiereactie FinTech, MinFin, 16 June 2017](#)
- [Beantwoording vragen over pensioen in eigen beheer, MinFin, 15 June 2017](#)
- [Consultatie Verhoging vrijstellingsgrens prospectusplicht Wft, MinFin, 13 June 2017](#)
- [Kamerbrief over ontwikkelingen in Europese bankensector, MinFin, 13 June 2017](#)
- [Beantwoording Kamervragen over te hoog berekende boeterente, MinFin, 12 June 2017](#)
- [Beantwoording Kamervragen evaluatie Klachteninstituut Financiële Dienstverlening, MinFin, 12 June 2017](#)
- [Antwoorden Kamervragen derivatendossier, MinFin, 7 June 2017](#)

MinSZW

- [De uitspraak van het Europese Hof van Justitie van 19 april 2016, Dansk Industri/kartsen Eigil Rasmussen, MinSZW, 26 June 2017](#)
- [Tweede nota van wijziging Verzamelwet pensioenen 2017, MinSZW, 13 June 2017](#)

AFM

- [AFM-voortgangsrapportage Uniform Herstelkader rentederivaten, MinFin, 30 June 2017](#)
- [Veelgestelde vragen IDD, AFM, 27 June 2017](#)
- [Toetsrente hypotheke voor derde kwartaal 5%, AFM, 16 June 2017](#)

DNB

- [Nieuwsbrief Pensioenen juni 2017, DNB, 30 June 2017](#)
- [Nieuwsbrief Betaalinstellingen juni 2017, DNB, 28 June 2017](#)
- [Nieuwsbrief Banken juni 2017, DNB, 28 June 2017](#)
- [Nieuwsbrief Verzekeren juni 2017, DNB, 28 June 2017](#)
- [Nieuwsbrief beleggingsondernemingen juni 2017, DNB, 28 June 2017](#)
- [VV-aanvragen in het kader van MiFID II - Factsheet, DNB, 21 June 2017](#)
- [DNB handhaaft contracyclische kapitaalbuffer op 0 procent - June 2017, DNB, 15 June 2017](#)
- [DNB introduces a new approach for Pillar II liquidity requirements for LSI's - Factsheet, DNB, 12 June 2017](#)
- [Collectieve waardeoverdracht tussen pensioenverzekeraars en van pensioenverzekeraar naar PPI - Factsheet, DNB, 12 June 2017](#)
- [Uitgangspunten beoordeling collectieve waardeoverdracht tussen pensioenverzekeraars en van pensioenverzekeraar naar PPI - Q&A, DNB, 12 June 2017](#)

Other

- [Regeling tot wijziging van de Regeling eindtermen en toetstermen examens financiële dienstverlening Wft, Staatscourant, 30 June 2017](#)
- [Consultation on draft Application Paper on Product Oversight in Inclusive Insurance, IAIS, 30 June 2017](#)
- [Public consultation on draft revisions of ICPs 1, 2, 18, and 19, IAIS, 30 June 2017](#)
- [Reports on reforms to OTC derivatives markets, FSB, 29 June 2017](#)
- [Public Consultation on the Draft Guidance for Private Sector Information Sharing, FATF, 29 June 2017](#)
- [Framework for supervisory stress testing of central counterparties \(CCPs\) - Consultative report, IOSCO, 28 June 2017](#)

- [Financial Stability Implications from FinTech, FSB, 27 June 2017](#)
- [Harmonisation of critical OTC derivatives data elements \(other than UTI and UPI\) - third batch, consultative report, BIS, 27 June 2017](#)
- [Besluit van 15 juni 2017 tot vaststelling van het tijdstip van inwerkingtreding van de Herstelwet financiële markten 2017, Staatsblad, 26 June 2017](#)
- [FSI Executive Summaries, BIS, 24 June 2017](#)
- [Range of practices in implementing the countercyclical capital buffer policy, BIS, 22 June 2017](#)
- [Verzekeraars verhogen digitale weerbaarheid met i-CERT, VvV, 22 June 2017](#)
- [Wet implementatie verordening essentiële-informatiedocumenten, Staatsblad, 21 June 2017](#)
- [Supplementary Guidance to the FSB Principles and Standards on Sound Compensation Practices - Consultative Document, FSB, 20 June 2017](#)
- [Consultatie Besluit uitvoering verordening financiële benchmarks, Internetconsultatie, 19 June 2017](#)
- [Order routing incentives - Final report, IOSCO, 19 June 2017](#)
- [Consultatie voorstel Cybersecuritywet, Internetconsultatie, 16 June 2017](#)
- [Banking: Council agreement on creditor hierarchy, IFRS 9 and large exposures, Council EU, 16 June 2017](#)
- [Implementatiebesluit richtlijn betaalrekeningen, Staatsblad 15 June 2017](#)
- [Herstelwet financiële markten 2017, Staatsblad, 13 June 2017](#)
- [IOSCO Task Force Report on Wholesale Market Conduct, IOSCO, 13 June 2017](#)
- [Strengthening of the Banking Union / Risk-reduction measures - Presidency Progress Report, Council EU, 12 June 2017](#)
- [Antwoord op vragen over te hoog berekende boeterente, TK, 12 June 2017](#)
- [Aanpassing van de EMIR-verordening en communicatie over verdere uitdagingen voor kritieke marktinfrastructuur, MinBZ, 9 June 2017](#)
- [Basel III - The Liquidity Coverage Ratio: frequently asked questions, BIS, 8 June 2017](#)
- [More effective rules to counter money laundering - Council agrees on its position, Council EU, 8 June 2017](#)
- [Guidelines Sound management of risks related to money laundering and financing of terrorism, BIS, 7 June 2017](#)
- [Methodology for Assessing Implementation of the IOSCO Objectives and Principles of Securities Regulation, IOSCO, 31 May 2017](#)
- [Objectives and Principles of Securities Regulation, IOSCO, 31 May 2017](#)