

DRSTM

Alternative.
Legal.
Solutions.

COVID-19 Regulatory update no. 3

COVID-19 Regulatory update

Welcome to the third in our weekly COVID-19 Regulatory update series. Another significant week for COVID-19 financial regulation- BCBS announced the deferral of Basel III implementation and on Friday evening issued a 1 year extension to the IM Phases 5 and 6 deadlines.

Updates from last week are in blue, earlier but still relevant updates in grey. We will be updating this table with further developments from regulators as they continue to be published.

Regulator / Trade Body	Response	Issue
AMF, CONSOB and CNMV	18 March - multiple authorities (such as the French AMF, the Italian CONSOB and the Spanish CNMV) took action to temporarily ban short selling of certain products.	Short-selling
BCBS	20 March - the Committee suspended consultation on all policy initiatives and postponed all outstanding jurisdictional assessments planned in 2020 under its Regulatory Consistency Assessment Programme (RCAP). <ul style="list-style-type: none"> RCAP is used by the Basel Committee to monitor the adoption of regulations by its members, to assess the regulations' consistency with the Basel framework and examine the consistency of banks' calculation of prudential ratios across jurisdictions. BCBS will continue to assess the banking and supervisory implication of COVID-19 and to co-ordinate with other bodies such as the Financial Stability Board on financial issues, as well as considering additional measures to support the financial resilience of the banking community. 	RCAP
	27 March- the BCBS announced the deferral of final Basel III implementation measures. The December 2017 Basel III standards related to: the leverage ratio framework, the GSIB buffer, standardised and	Basel III

	<p>IRB approach for credit risk, operational and CVA frameworks are deferred by one year to 1 January 2023</p> <p>The January 2019 market risk framework is deferred to 1 January 2023</p> <p>December 2018 Pillar 3 disclosure requirements are deferred to 1 January 2023</p>	
	<p>03 March- BCBS/IOSCO announce the deferral of Phases 5 and 6 IM by one year. Phase 5 deadline will be 1 September 2021. Phase 6 will be 1 September 2022. AANA calculations are deferred accordingly. AANA thresholds remain unchanged.</p>	IM
BoE	<p>20 March – the BoE and PRA stated that their supervisors would be cancelling ‘non-critical data requests, on site visits and deadlines’ where appropriate.</p> <ul style="list-style-type: none"> • This will be on top of the cancellation of the 2020 bank stress tests. • This relief is to allow financial services groups to be able to channel more resources towards customers’ needs during the COVID-19 disruption. 	Data
CFTC	<p>18 March - the CFTC has unanimously ratified its earlier decision to implement the BCBS IM mitigation. Although, somewhat confusingly presented as a COVID-19 measure, the mitigation contains no new elements:</p> <ul style="list-style-type: none"> • New Phase 5 phase in: Target institutions > \$50bn • New Phase 6 phase in: Target institutions > than \$8 bn 	IM
EBA	<p>02 April- the EBA issued Guidance clarifying that payment moratoria do not trigger classification as forbearance or distressed restructuring if the measures taken are based on the applicable national law or on an industry or sector-wide private initiative agreed and applied broadly by the relevant credit institutions.</p>	IFRS9
	<p>31 March- the EBA provided additional clarity on its call to protect institutional capital by refraining from the distribution of dividends, on the need for one-month flexibility on</p>	

	reporting and Pillar 3 disclosures, and reiterates the need to share information on ML/TF risks.	
ESMA	26 March- ESMA published a revised version of its SFTR statement. The revision clarifies that SFTs concluded between the 13 April 2020 and 13 July 2020 and SFTs subject to backloading will not be a supervisory priority. The FCA has updated its SFTR webpage to ensure consistency.	SFTR
	20 March- ESMA published a statement clarifying that it does not expect regulators to prioritise compliance with the Article 17a MiFIR 26 March 2020 application of the tick-size regime for systematic internalisers.	MiFIR
	<p>20 March - On 20 March, ESMA decided to extend the response date for all ongoing consultations by four weeks. Some of the affected consultations include:</p> <ul style="list-style-type: none"> • Consultation on MiFIR report on SI • Draft Regulatory Technical Standards under the Benchmarks Regulation • Guidelines on securitisation repository data completeness and consistency thresholds 	Consultations
	<p>19 March - The European Securities and Markets Authority (ESMA) has taken measures to relieve the reporting burden on counterparties that are subject to the Securities Finance Transactions Regulation (SFTR).</p> <ul style="list-style-type: none"> • The 13 April 2020 start date which on which credit institutions, investment firms and relevant third country entities were required to start reporting has been delayed until 13 July 2020. 	SFTR
FCA	<p>26 March – Joint statement by FCA, FRC and PRA – 26 March</p> <ul style="list-style-type: none"> • The statement recognises that given the present conditions, market participants are facing unprecedented challenges in preparing and auditing financial information. Three regulatory bodies: the FCA, Financial Reporting Council (FRC) and Prudential Regulatory Authority (PRA) have announced some actions to support the flow of information to investors: • The FCA announced a two month temporary relief for listed companies to complete their audited financial statements, meaning that they will have 6 months to 	Reporting

	publish financial statements from their year-end, instead of the mandated four months.	
	26 March - The FCA revised its approach on a co-ordinated supervisory approach to the application of the SFTR so that it is consistent with that of ESMA.	SFTR
	<p>17 March - The FCA issued a general statement regarding COVID-19, reassuring firms that they will determine whether it would be possible to delay or postpone activity deemed not crucial to consumer protection.</p> <ul style="list-style-type: none"> • Closing dates for responses to open consultation papers and Calls for Input have been extended until 1 October 2020. • The FCA also issued guidance on: insurance products, unsecured debt products, market trading and reporting and operational resilience. In general, firms are expected to continue to honour their reporting obligations wherever possible, and inform the FCA in cases where they feel that they might encounter difficulties in doing so. 	Guidance
FRC	<p>26 March - Joint statement by FCA, FRC and PRA</p> <ul style="list-style-type: none"> • The FRC published a non-exhaustive list of factors that auditors should be considering when carrying out audit engagements in current circumstances, along with guidance on how they might be addressed. 	Audit
ISDA	26 March – ISDA and 21 other Trade Associations submitted a <u>letter</u> to regulators requesting a suspension of the IM Phase 5 and 6 deadlines, pending COVID-19 clarity.	IM
LMA	23 March - the LMA published 3 COVID-19 briefing notes prepared by Clifford Chance. Available to LMA members via its website , the notes cover: leveraged finance , electronic signatures, investment grade lending	Loans
PRA	02 April - The PRA published a statement outlining its approach to regulatory reporting and Pillar 3 disclosures for UK banks, building societies, designated investment firms and credit unions in response to Covid-19 and the EBA's 31	Reporting

	March statement on 'Supervisory reporting and Pillar 3 disclosures in light of Covid-19' .	
	<p>26 March - Joint statement by FCA, FRC and PRA</p> <ul style="list-style-type: none"> The PRA sent a letter to firms giving them guidance about the approach they should be adopting in assessing expected loss provisions under the International Financial Reporting Standard (IFRS). 	Reporting

Noteworthy no action: **BoE and FCA warn issue LIBOR impact warning**

The FCA, BoE and the working group on RFR have issued a **statement** regarding the impact of COVID-19 on Benchmark transition plans over the coming months.

They emphasise that firms should continue with transition plans, aiming for an unchanged end'2021 deadline for the LIBOR cessation. However, some firms that are further behind in the transition process, such as the loan market, are likely to have their interim milestones affected.

Useful links:

- <https://drs-als.com/im-deferred-1-year/>
- <https://www.iosco.org/news/pdf/IOSCONEWS560.pdf>
- https://www.esma.europa.eu/sites/default/files/library/esma31-67-742_public_statement_on_publication_deadlines_under_the_td.pdf
- <https://eba.europa.eu/coronavirus>
- <https://www.bankofengland.co.uk/news/2020/march/boe-announces-supervisory-and-prudential-policy-measures-to-address-the-challenges-of-covid-19>
- <https://www.bankofengland.co.uk/coronavirus/information-for-firms>
- <https://www.fca.org.uk/firms/information-firms-coronavirus-covid-19-response>
- <https://www.fca.org.uk/publication/correspondence/dear-ceo-letter-coronavirus-update-firms-providing-services-retail-investors.pdf>
- <https://drs-als.com/coronavirus-initial-regulatory-responses/>

DRS is an alternative legal services provider to the financial services sector. Trusted by banks, asset managers, funds and trading firms across the globe, we provide solutions that deliver rapid and efficient negotiation and remediation of document portfolios.

We achieve this by channelling deep industry knowledge and experience through hiring outstanding people, implementing a rigorous process and applying state-of-the-art technology. Our clients achieve these results without any capital expenditure or infrastructure costs.

Our team is led by industry practitioners with extensive legal and financial services expertise. We negotiate, amend and analyse contracts, in large scale or in low volumes – delivering high quality, high-value solutions on a 'business as usual' or project basis.

Please visit drs-als.com for more information about our services or contact knowledgehub@drs-als.com.

This communication is private and confidential. It is for your information only, and is not for publication elsewhere. It has been prepared solely for informational purposes and is prepared from generally available information believed to be reliable, but we do not guarantee the accuracy of the information, which should not be relied upon, and may be incomplete or condensed. Document Risk Solutions Ltd. accepts no liability for any loss or damage occurring from the use of this information. *Copyright © Document Risk Solutions Ltd. 2020*