

What does 2024 hold?

Key upcoming developments and enforcement trends

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What happened in 2023?

The time has come again for us to undertake the traditional assessment of the year just gone in financial services regulation (and the predictions we made 12 months ago), checking the accuracy of our crystal ball and recalibrating for the year ahead.

While predicting regulatory behaviour in the 2020s is, as we continue to note, a challenging endeavour, it does feel as though the regulators have settled into more familiar supervisory patterns as reactions to global crises have evolved into proactive regulatory action. Global containment efforts relating to the pandemic have largely been assimilated into regulatory business-as-usual or allowed to expire. Although geopolitical tensions continue to simmer with the crises in Ukraine and the Middle East ongoing, regulators have become more measured and less reactive in their movements, allowing firms to operate on a more stable footing. And though the cost of living crisis has yet to ease for much of the population, 2023 saw the regulatory response rely more on lessons learnt following the pandemic incorporated into standing supervisory frameworks and principled obligations, and less on interim bespoke relief measures.

At the beginning of 2023, we expected crypto to remain near the top of the regulatory agenda in both the UK and the EU, with reforms addressing the regulatory perimeter, anti-money laundering measures and financial promotions all slated to progress. We expected regulators to take steps to grapple with further technological advances

that have the potential to significantly impact the financial services sector, notably artificial intelligence (AI) and the advent of quantum computing. We anticipated that ESG regulation would continue to be a priority for the regulators, with an increasingly complex web of compliance obligations proving challenging for firms. We told firms to prepare for more action on consumer protection, with the Consumer Duty, buy-now-pay-later (BNPL) regulation, addressing the cost of living crisis and further restricting financial promotions all high on the agenda. We predicted that financial crime, individual accountability, harmful conduct in the retail sector, and action relating to misleading ESG claims would all feature in enforcement action. Above all, we told firms to prepare for further significant reshaping and changing of the UK financial services regulatory framework as we continued to move forward beyond Brexit through the Edinburgh Reforms (though we were perhaps sceptical as to the pace and impact of change during the year), and we warned firms that they would encounter increasing compliance challenges as regulatory divergence and competition between the UK and EU began to emerge.



Were we right to highlight these as key developments? Readers will have their own views, but we think the answer is “yes, generally, though the pace of change has varied”. Of course, all of these areas remained priorities for regulators and policymakers in 2023, though in some cases ambitious change programmes – or reforms marketed perhaps too ambitiously – have seen their timetables or outcomes revised. Policymakers certainly made significant progress on reshaping the UK regulatory landscape: passage of the Financial Services and Markets Act 2023 (FSMA 2023), a complex and transformative piece of legislation, was a major milestone for the UK’s post-Brexit regulatory transition which puts on a legislative footing the reforms that will come next. FSMA 2023 set in motion a suite of changes that will overhaul the UK regulatory framework - establishing a framework for the revocation of retained EU law (REUL), reforming the wholesale markets regulatory framework, implementing a regime to regulate critical third-party service providers, and bringing activities involving certain stablecoins into the UK regulatory perimeter.

The Mansion House reforms, announced in July 2023, set out how the government will deliver the post-Brexit financial services framework and its approach to REUL in practice. The withdrawal of the bonus cap in October 2023, a clear and significant decision to diverge from EU regulation, was an important signal as to the direction the UK intends to take as it continues the post-Brexit transition. And the government did indeed make progress on its reform tranches by the end of 2023 (though for some reforms one might consider that some of the milestones achieved are less significant and more incremental in character).

Other reform programmes have made mixed progress, particularly in the expansion of the regulatory perimeter. We were correct to anticipate a ramping up of measures aimed at modernising financial services legislation in the UK – 2023 saw further steps taken toward the expansion of the regulatory perimeter to include stablecoins and other cryptoassets, further measures to widen the scope of financial promotions

to include crypto related communications, a renewed focus on AI in financial services through a joint discussion paper from the UK regulators, and proposals to further entrench diversity and inclusion (D&I) in the sector finally published. However, BNPL regulation has stalled, with secondary legislation to expand the perimeter not yet laid and no indication that it will be forthcoming despite the FCA’s wish to regulate the sector as soon as it can. We’ve also seen progress on Consumer Credit Act reform move at a relatively slow pace, and a lowering by the regulators of expectations relating to the impact that potential reforms to the Senior Managers and Certification Regime (SMCR) might have. Other reform programmes to update sector-based frameworks, such as payments regulation, await final outcomes from the Treasury in due course.



What should we expect in 2024?

So where are we now? With Brexit and the pandemic firmly in the rear-view mirror, and the geopolitical ebb-and-flow settling into a somewhat more stable – if precariously perched – pattern, regulators around the world have turned their attention to less reactive, more forward-looking actions.

Taking stock of the regulatory landscape, we expect significant work to progress in 2024 on reshaping and strengthening the UK financial services regulatory framework. With FSMA 2023 now in force, the regulators have been engaging in setting out new and revised rules and guidance to implement various initiatives. The Mansion House Reforms, announced in July 2023, set out how the government will deliver the Smarter Regulatory Framework (SRF) and its approach to REUL in practice. Looking forward, we expect 2024 to focus on implementation and operationalisation of major changes to the UK's post-Brexit financial services regulatory framework as REUL is repealed and replaced with the FSMA model of regulation. Continuing the phased approach to the repeal of REUL, we should see further progress made in moving through the high priority files across the tranching workstreams, with policy changes made where tailoring is required for certain files and a “lift and shift” FSMA restatement approach taken for others, leaving the detail of the regulation to the regulatory rulebooks. There are some potentially significant changes to the regulations around how companies access capital, including the formation of an intermittent trading venue and new rules around public offers and admissions to trading – part of a general drive to make the UK's public markets more attractive to investors.

2024 should also bring implementation of new structural changes like the Designated Activities Regime (DAR), as well as potential reforms to the individual accountability framework, as we move toward a more principles-based, agile regulatory environment.

Further progress on these major changes to the UK regulatory landscape will also bring increasing divergence from the EU's approach, as UK policymakers continue to move away from the granular details of EU regulation in their work to replace REUL with the FSMA model. The pace of escalating divergence is unlikely to slow any time soon – although a UK general election is likely to take place in 2024 with the Labour Party widely expected to win over the Conservatives, we do not expect to see a reorientation of regulatory policy toward increased alignment with the EU, as evidenced by clear indications from the Shadow Chancellor of the Exchequer that Labour would not reinstate the bonus cap and would continue to focus on ensuring the competitiveness of the UK financial services industry. Firms with footprints in both the UK and the EU may find regulatory compliance increasingly challenging as rules and requirements diverge ever further.



Amidst these forthcoming structural changes, the regulators will also be busy on thematic reforms. The flurry of ESG-related regulatory activity towards the end of 2023 is indicative of an eventful year ahead for ESG regulation. The FCA is implementing a Sustainability Disclosure Requirements (SDR) regime, which will sit alongside a pre-existing disclosure regime for certain market participants including larger asset managers, together with a general anti-greenwashing rule applicable to all authorised firms. At the EU level the Commission has published a consultation on the Sustainable Finance Disclosure Regulation (SFDR), and proposals are in place to further amend level 2 measures. Other regulatory developments in 2024 include the application of the Corporate Sustainability Reporting Directive (CSRD), which should ultimately feed into higher quality disclosures under the SDR and SFDR regimes.

Risk management will feature heavily on the agenda in 2024. This is a key year for firms' operational resilience preparations in both the UK and EU, as the deadlines for compliance with both the Digital Operational Resilience Act (DORA) and the UK regime are fast approaching. We also expect significant movement in 2024 on D&I in financial services, with the regulators set to implement a number of requirements designed

to further embed D&I into firm conduct and culture, some of which may require more robust approaches to data collection and intervention. And if we see a loosening of regulatory requirements following the conclusion of the SMCR review, firms' conduct risk frameworks may need to pick up the slack.

We will also see regulators take further steps in 2024 to grapple with technological advances that threaten to outpace supervisory responses. The comprehensive Markets in Crypto-Assets Regulation (MiCAR) will begin to take effect in stages, harmonising crypto regulation and registration across the EU, and allowing passporting of crypto services for the first time. In the UK, we expect to see further progress on the development of stablecoin regulation and more concrete proposals for a wider crypto regulatory regime. The evolution in parallel of the EU and UK crypto regimes will likely evidence further divergence in regulatory approach: while the EU is maintaining its granular file-by-file approach to regulation, the UK has developed an entirely new regime – sitting outside the corpus of REUL – under the overarching FSMA model. Progress on AI regulation in some form is also expected in both the EU and UK, though measures are unlikely to be specific to the financial services sector.

Consumer protection remains high on the agenda and will be one of the defining themes in UK regulation for 2024. The deadline for compliance with the Consumer Duty for closed products and services is fast-approaching; firms need to act quickly to review compliance for these products and can expect to see further FCA reviews and feedback on implementation throughout 2024.

Finally, we will no doubt see a continued regulatory focus on enforcement and holding firms to account. While financial crime will remain a standing priority in 2024, we also expect regulators to scrutinise and take action on failings relating to consumer protection, retail conduct, and culture and governance. 2024 should also bring further clarity on whether the FCA's new enforcement directors have been able to bring a fresh approach to using enforcement to deliver the FCA's strategic priorities.

Whatever 2024 may bring and the accuracy of our predictions, we look forward to working with you on what's to come.

Global Enforcement Themes

| Jurisdiction | Top 3 enforcement areas | Anticipated enforcement action against financial institutions | Anticipated enforcement action against senior managers/staff in financial institutions |
|---------------------|--|---|--|
| Argentina | <ul style="list-style-type: none"> ▪ Client money/assets ▪ Financial promotions/advertising ▪ Financial crime | Increase | Increase |
| Australia | <ul style="list-style-type: none"> ▪ Retail conduct ▪ Culture/governance ▪ Mis-selling | Stay at broadly the same level | Increase |
| Belgium | <ul style="list-style-type: none"> ▪ Financial crime ▪ Mis-selling ▪ Culture/governance | Stay at broadly the same level | Stay at broadly the same level |
| China | <ul style="list-style-type: none"> ▪ Retail lending ▪ Wholesale conduct ▪ Client money/assets | Increase | Increase |
| Dubai (DIFC) | <ul style="list-style-type: none"> ▪ Financial crime ▪ Financial promotions/advertising ▪ Client money/assets | Increase | Increase |
| France | <ul style="list-style-type: none"> ▪ Financial crime (AML) ▪ Market conduct/market abuse ▪ Financial promotions/advertising | Stay at broadly the same level | Stay at broadly the same level |



Global Enforcement Themes

| Jurisdiction | Top 3 enforcement areas | Anticipated enforcement action against financial institutions | Anticipated enforcement action against senior managers/staff in financial institutions |
|-------------------|--|---|--|
| Germany | <ul style="list-style-type: none"> ▪ Culture/governance ▪ Retail conduct ▪ Market conduct/market abuse | Increase | Increase |
| Hong Kong | <ul style="list-style-type: none"> ▪ Financial crime ▪ Market conduct/market abuse ▪ Culture/governance | Stay at broadly the same level | Stay at broadly the same level |
| Italy | <ul style="list-style-type: none"> ▪ Financial promotions/advertising ▪ Client money/assets ▪ Market conduct/market abuse | Stay at broadly the same level | Stay at broadly the same level |
| Japan | <ul style="list-style-type: none"> ▪ Financial crime ▪ Market conduct/market abuse ▪ Mis-selling | Stay at broadly the same level | Stay at broadly the same level |
| Luxembourg | <ul style="list-style-type: none"> ▪ Mis-selling ▪ Financial crime ▪ Culture/governance | Increase | Increase |
| Mexico | <ul style="list-style-type: none"> ▪ Market conduct/market abuse ▪ Retail lending ▪ Client money/assets | Stay at broadly the same level | Stay at broadly the same level |



Global Enforcement Themes

| Jurisdiction | Top 3 enforcement areas | Anticipated enforcement action against financial institutions | Anticipated enforcement action against senior managers/staff in financial institutions |
|---------------------|---|---|--|
| Netherlands | <ul style="list-style-type: none"> Financial crime Governance Mis-selling and financial promotions/advertising | Stay at broadly the same level | Stay at broadly the same level |
| Poland | <ul style="list-style-type: none"> Retail conduct Market conduct/market abuse Benchmarks | Stay at broadly the same level | Stay at broadly the same level |
| Singapore | <ul style="list-style-type: none"> Financial crime Culture/governance Market conduct/market abuse | Increase | Increase |
| South Africa | <ul style="list-style-type: none"> Financial crime Client money/assets Retail conduct | Increase | Increase |
| Spain | <ul style="list-style-type: none"> Culture/governance Market conduct/market abuse Retail conduct | Decrease | Increase |
| Switzerland | <ul style="list-style-type: none"> Financial crime Culture/governance Financial promotions/advertising | Increase | Increase |



Global Enforcement Themes

| Jurisdiction | Top 3 enforcement areas | Anticipated enforcement action against financial institutions | Anticipated enforcement action against senior managers/staff in financial institutions |
|-----------------|---|---|--|
| Taipei | <ul style="list-style-type: none"> ▪ Culture/governance ▪ Retail conduct ▪ Client money/assets | Decrease | Stay at broadly the same level |
| Thailand | <ul style="list-style-type: none"> ▪ Financial crime ▪ Market conduct/market abuse ▪ Culture/governance | Stay at broadly the same level | Stay at broadly the same level |
| Turkey | <ul style="list-style-type: none"> ▪ Financial crime ▪ Client money/assets ▪ Market conduct/market abuse | Stay at broadly the same level | Stay at broadly the same level |
| UK | <ul style="list-style-type: none"> ▪ Financial crime ▪ Financial promotions/advertising ▪ Culture/governance (particularly non-financial misconduct and consumer protection) | Stay at broadly the same level | Stay at broadly the same level |
| USA | <ul style="list-style-type: none"> ▪ Financial promotions/advertising ▪ Culture/governance ▪ Mis-selling (ESG, in particular) | Stay at broadly the same level | Stay at broadly the same level |



Enforcement and Financial Crime

The coming year should prove to be an interesting one from an enforcement perspective, as global financial services regulators continue to flex their muscles in response to the worldwide events of the past few years and the rapid expansion of new innovative technologies in financial services.

Internationally, consumer protection remains very high on the regulatory agenda, which is no surprise given the impact of the pandemic, geopolitical challenges and the cost of living crisis. We expect that global enforcement themes will include mis-selling, breaches of financial promotions and advertising requirements, and retail conduct failings – with particular areas of focus to include greenwashing, and the use of influencers and social media platforms to promote high risk investments or scams. It is also no surprise that culture and governance feature highly on the list of enforcement focus areas, given the challenges facing firms in relation to management of ESG and greenwashing risks, and the incorporation of new innovative solutions such as AI which exist on the edges of the regulatory boundary.

Of particular interest is the worldwide enforcement focus on the market abuse and compliance risks arising from the use of private messaging services to conduct business, the risks of which having increased since the proliferation of hybrid and homeworking arrangements arising out of changed working patterns during the pandemic. Improper use of private off-channel messaging continues to feature in enforcement action, particularly in relation to associated recordkeeping requirements. We can expect this trend to continue, perhaps expanding into other messaging channels such as videoconferencing.



These global themes also feature on the UK's enforcement agenda for 2024, along with longstanding priority areas like financial crime breaches which have been the subject of a significant proportion of enforcement action and some of the largest fines imposed over the last few years. While conventional financial misconduct continues to be an important priority for the FCA, non-financial misconduct also features on the list of the FCA's focus areas, even if much of that work might take place, at least at this stage, at the supervisory or preparatory level. The FCA's initial proposals on D&I aim to embed non-financial misconduct in its Handbook and in the Conduct Rules, which if taken forward would explicitly link serious behaviour in a person's personal or private life to fitness and propriety, as well as to potential damage to wider public confidence in the financial system, closing what many have seen as a gap in the FCA's enforcement framework. A survey of wholesale firms recently announced by the regulator will look at the volume and management of non-financial misconduct cases. Finally, the FCA has been vocal about its intentions to scrutinise sector-wide implementation of the Consumer Duty, with complaints handling already on its list of issues to address – firms should be prepared for the FCA to take robust action in this space.

More generally, spring 2024 will mark the end of the first year of the post-Mark Steward era for enforcement at the FCA. His tenure was marked by large volumes of diagnostic investigations and huge delays to the progress of enforcement actions with outcomes that arguably did not live up to expectations. Therese Chambers and Steve Smart, the new joint Executive Directors of Enforcement and Market Oversight, have a tough job on their hands – delays continue to affect the enforcement pipeline, with resources stretched thin, and the courts have criticised the FCA's handling of enforcement investigations. While 2024 should bring further clarity on whether the new directors have chosen to shift the approach to using enforcement to deliver the FCA's strategic priorities, we think that under their leadership the FCA will seek to settle more cases and to make more use of its supervisory powers in lieu of progressing straight to enforcement action. With enforcement outcomes in 2023 down from the year prior (perhaps due to the change in leadership), we would expect levels to stay broadly the same in 2024.

Turning to financial crime, regulation to combat various types of financial crime is, by its nature, dynamic; seeking to combat new tactics from criminal groups, or to address arising market concerns, legislators and regulators must continue to adapt existing rules to ensure that they are fit for purpose.

A key front in the fight against financial crime has been, and continues to be, in the area of anti-money laundering (AML) and counter-terrorist financing (CTF). In the context of multiple geopolitical crises and the myriad new sanctions (all of which bring potential for proceeds of crime), regulators will continue to examine the role that financial institutions play in facilitating illicit transactions. In addition, emerging technologies such as crypto have changed the way that traditional money laundering is occurring.

Jurisdictions have taken a variety of measures to address these challenges. While the UK has implemented a number of reforms to remedy perceived shortcomings in the AML rules for crypto, it decided against regime-wide reforms to the domestic AML framework. By contrast, the EU has taken a markedly different approach to reform: along with the travel rule for crypto (which takes effect at the end of 2024), progress continues to be made on a package of measures to further harmonise AML rules across the EU, with a new AML directive, single rulebook and single EU AML authority at various stages of the legislative process.



Key trends and issues

- 1** We expect consumer protection, culture and governance, and financial crime to feature high on the global agenda for enforcement action. We also expect further outcomes relating to the use of private messaging in financial services firms.

- 2** Firms should continue to track the EU's AML/CTF reform package of measures, which we expect will complete the legislative process in 2024.

- 3** In the UK, in addition to the global enforcement themes, firms should watch for increased action relating to non-financial misconduct and Consumer Duty implementation. The year ahead should also bring further clarity on whether the FCA's new enforcement directors have chosen to shift the approach to using enforcement to deliver the FCA's strategic priorities.



Timeline

| 2024 | EARLY 2024 | H1 2024 | 19-23 FEB 2024 | END-JUN 2024 | H2 2024 | 30 DEC 2024 | Q4 2024 | 2025 |
|---|---|---|---|---|---|--|---|--|
| <p>EU</p> <p>EU AML regime reform</p> <p>The Council and EU Parliament will continue to consider the EU Commission's proposed AML reform package.</p> | <p>UK</p> <p>OTSI launch</p> <p>The new Office of Trade Sanctions Implementation (OTSI), which will be responsible for the civil enforcement of trade sanctions, will launch early in 2024. OTSI will have the power to investigate breaches, issue civil penalties and refer cases to HMRC for criminal enforcement when deemed necessary.</p> | <p>UK</p> <p>Review of enforcement policies</p> <p>The Bank of England and PRA are expected to issue statement of policy and updated PRA approach to enforcement.</p> | <p>International</p> <p>Beneficial ownership and transparency of legal arrangements</p> <p>At its February 2024 plenary, the Financial Action Task Force (FATF) is expected to consider responses to its consultation on draft risk-based guidance on beneficial ownership and transparency of legal arrangements relating to amendments to FATF Recommendation 25.</p> | <p>UK</p> <p>PEPs review</p> <p>The FCA is expected to report on the findings from its review of how firms treat domestic politically exposed persons (PEPs).</p> | <p>UK</p> <p>Failure to prevent fraud offence</p> <p>The failure to prevent fraud offence in the Economic Crime and Corporate Transparency Act 2023 is expected to take effect, following the publication of guidance on "reasonable procedures" by the government.</p> | <p>EU</p> <p>EU cryptoasset transfers</p> <p>The travel rule for cryptoasset transfers comes into force.</p> | <p>UK</p> <p>Financial crime and ESG</p> <p>The FCA is expected to develop a strategy for how to address financial crime related to ESG issues.</p> | <p>International</p> <p>FATF UK MER</p> <p>The FATF is expected to carry out its next mutual evaluation review (MER) of the UK's AML/CTF regime in 2025.</p> |



Regulatory Direction of Travel in the UK

Following the wide-ranging regulatory reforms set forth in the past two years to reshape the UK financial services landscape, the primary emphasis in 2024 will be on implementation as policymakers and the regulators continue to finalise key reforms.

Throughout 2022, the Treasury consulted on the Future Regulatory Framework Review, and in December of that year as part of its Edinburgh Reforms programme issued a policy statement on building a smarter financial services framework for the UK. This Smarter Regulatory Framework – the SRF – is the government’s policy approach to both Brexit-related regulatory reforms for financial services and the wider streamlining and modernising of much of the UK regulatory framework that is happening in parallel.

The Edinburgh Reforms bundled together 30 structural post-Brexit reforms, to be prioritised for implementation in three tranches. Notably, these relate to wholesale markets reform (on transparency obligations and trade reporting, as well as reform of the commodity derivatives regulatory framework); near-term reforms to the UK’s ring-fencing regime; the new Public Offers and Admissions to Trading Regime (replacing the UK prospectus regime); the new UK retail disclosure regime (replacing the UK PRIIPs) and listing regime; finalisation of the securitisation rules and changes to the short selling regime; and the remodelling of UK Solvency II. Significant progress has been made on the first two tranches and we would expect to see further consultation and finalisation of rule proposals and secondary legislation in 2024 – although given the complexities involved, we would expect work on certain areas to continue beyond 2024.

Building on the Treasury’s reform agenda, FSMA 2023 – the largest piece of financial services legislation since the Financial Services and Markets Act 2000 – received royal assent in June 2023. FSMA 2023 brings in a sea change for financial services regulation in the UK – it overhauls the UK financial regulatory architecture, establishing a framework for the revocation of REUL, reforming the wholesale markets regulatory framework, implementing a regime to regulate critical third-party service providers, and bringing activities involving certain cryptoassets into the UK regulatory perimeter, among many other provisions. With FSMA 2023 now in force, the regulators have been engaging in setting out new and revised rules and guidance to implement various initiatives. The Mansion House Reforms, announced in July 2023, set out how the government will deliver the SRF and its approach to REUL in practice.



Looking forward, we expect 2024 to focus on implementation and operationalisation of major changes to the UK's post-Brexit financial services regulatory framework as REUL is repealed and replaced with the FSMA model of regulation. Continuing the phased approach to the repeal of REUL, we should see further progress made in moving through the high priority files across the tranching workstreams, with policy changes made where tailoring is required for certain files and a "lift and shift" FSMA restatement approach taken for others, leaving the detail of the regulation to the regulatory rulebooks. While a UK general election is likely to take place in 2024 and the Labour Party is widely expected to take power, we do not expect to see a reorientation of regulatory policy toward increased alignment with the EU.

We should see progress on implementing the new DAR, which will allow for the regulation of certain activities undertaken by both financial institutions and other firms without the need to obtain formal authorisation. The DAR is expected to be utilised for the new securitisation, prospectus, and retail disclosure regimes, as well as for activities relating to benchmarks, derivatives, and short selling.

We may also see in 2024 further structural changes proposed to the UK's individual accountability framework. As part of the Edinburgh Reforms programme, the Treasury published a call for evidence, alongside a discussion paper jointly issued by the FCA and PRA, to review the operation of the SMCR. Feedback on the review is likely to impact any further extension of, and any potential changes to, the regime (including with respect to the approval process for new Senior Managers). These developments should be considered alongside the FCA and PRA's proposals relating to non-financial misconduct as part of their proposed approach to D&I in the financial sector, which we discuss further in [Risk Management, Governance and Oversight](#).

It is imperative for firms to stay up-to-date with the large number of developments anticipated in the upcoming year and when relevant changes will come into effect. Firms will also need to consider the broader implications that the continued divergence between UK and EU regulation may have on business operations and strategy. To echo the popular adage, the devil is in the details.



Key trends and issues

- 1 The government has continued to progress its reform agenda in building a tailored financial services framework for the UK after Brexit, including the phased repeal of REUL. Significant progress has been made on the first two tranches and we would expect to see further consultation and finalisation of rule proposals and secondary legislation in 2024. We do not expect the outcome of the UK general election, likely to take place in 2024, to result in a reorientation of regulatory policy toward increased alignment with the EU.
- 2 The new DAR will be utilised to regulate the new securitisation, prospectus, and retail disclosure regimes, along with a number of other activities proposed to sit within the DAR framework.
- 3 Alongside the SRF programme, the existing reform agenda is exceptionally busy, and firms will need to take great care in navigating the compliance landscape. However, the reform agenda means that there is an opportunity for firms to play a role in shaping their future regulatory obligations: the Treasury and the regulators are explicit in their desire to reduce duplicative or overly burdensome compliance obligations as much as possible, which means there is plenty of scope for firms to persuade a receptive audience.



Timeline

| 2024 | 2024 | 2024 | 2024 | EARLY 2024 | 31 DEC 2024 | 31 DEC 2025 |
|---|---|--|--|--|--|--|
| <p>UK</p> <p>Smarter Regulatory Framework</p> <p>The Treasury intends to make further progress on the repeal and replacement of REUL.</p> | <p>UK</p> <p>Berne Agreement</p> <p>The UK and Swiss governments are expected to ratify the Berne Financial Services Agreement.</p> | <p>UK</p> <p>SMCR review</p> <p>Consultations on proposed changes to the SMCR may be published, following the Treasury's call for evidence and the regulators' joint discussion paper.</p> | <p>UK</p> <p>Reforms to the AR regime</p> <p>The Treasury may publish feedback to its December 2021 call for evidence on the effectiveness of the appointed representatives (AR) regime.</p> | <p>UK</p> <p>DAR implementation</p> <p>The Treasury expects to publish a draft statutory instrument setting out the designated activities and regulatory powers under the DAR.</p> | <p>UK</p> <p>End of temporary recognition of EU STS securitisations and non-UK CCPs</p> <p>The temporary recognition in the UK of EU simple, transparent, and standardised (STS) securitisations and non-UK central counterparty clearing houses (CCPs) will end on this date.</p> | <p>UK</p> <p>End of Brexit fund marketing transitional regime</p> <p>The temporary marketing permissions regime, which allows certain EEA-based investment funds to continue to be marketed in the UK while UK marketing recognition is sought, will end on this date (note that the government has confirmed that this period will be extended for another year until the end of 2026, though legislation has yet to be laid at the time of writing).</p> |



Markets, Funds and Investments

The Mansion House reforms promise some significant changes for regulated markets in 2024 and beyond.

As part of its plans to bolster the UK's appeal to public companies, the government is introducing a new regime for public offers of securities and admissions to listing. The new rules – which will replace the UK Prospectus Regulation – are set out in the Public Offers and Admissions to Trading Regulations, and will be supplemented by detailed rulemaking from the FCA. We are expecting an FCA consultation on the regime, including draft rules, in the summer of 2024. The government is also proposing a new “intermittent trading venue”, which will enable private companies to list their shares at predetermined and infrequent intervals, during which time professional investors will have access to the types of data that one would typically associate with a public company. The intermittent trading venue will be operated by the London Stock Exchange and is expected to

launch during 2024. These proposals run alongside other public markets reforms, including the ability to issue dual-class shares on the London Stock Exchange and the FCA's work to streamline the premium and standard listing categories.

There are also forthcoming revisions to the UK short selling regime, including a new aggregated net short disclosure regime and an increase in the individual position reporting threshold from 0.1% to 0.2% of total issued share capital taking effect from 5 February 2024. On reform more widely, the Treasury published draft Short Selling Regulations for comment in November 2023, with the final statutory instrument expected to be laid in 2024 along with an FCA consultation on the revised framework.

Under the UK's MiFID regime, sell-side firms offering both research and execution services to clients are required to price those services on an independent basis. Following the recommendations of the recent Investment Research Review, the FCA is expected to begin consultations on "rebundling" execution and research costs in early 2024, which may ultimately permit firms to pay for research on a bundled or unbundled basis.

On the retail side, the Treasury will repeal the UK PRIIPs Regulation and publish a draft statutory instrument in 2024 which will provide for a new retail disclosure regime; we can also expect a consultation paper from the FCA on retail investment disclosures. Continuing with retail investments, towards the end of last year and as part of the Advice Guidance Boundary Review, the FCA released a discussion paper with proposals to close the "advice gap" – the feedback period ends in February 2024 and we expect any rulemaking to follow thereafter.

Numerous changes are also proposed for the UK's retail funds regime. The FCA is currently consulting on rules for the overseas funds regime which will allow it to "recognise" foreign schemes as eligible to be sold to UK retail investors – we expect final Handbook rules in the first half of 2024. Other areas of reform include simplifying the retail funds regime (particularly in relation to UCITS and NURS) and considering the rules around liquidity stress testing for fund managers.

There are also a number of reforms being considered for the pensions sector, including the Mansion House Compact, which commits many large UK defined contribution (DC) pension providers to allocate at least 5% of their default funds to unlisted equities by 2030.



Key trends and issues

- 1 There are a significant number of reforms being proposed, both as part of the Mansion House package and wider regulatory reforms, and firms will need to keep up to date on which reforms may impact them going forward.

- 2 There are some potentially significant changes to the regulations around how companies access capital, including the formation of an intermittent trading venue and new rules around public offers and admissions to trading. These are part of a general drive to make the UK's public markets more attractive to investors.

- 3 The government is hoping to unlock greater returns for pension savers via a slew of reforms to pensions – this was a key priority of the Mansion House reforms which will ultimately channel pensions savings into potentially higher growth, illiquid assets and simultaneously encourage smaller pension funds to consolidate with a view to creating economies of scale.



Timeline

| | | | | |
|--|--|--|--|--|
| EU | UK | UK | UK | EU |
| Reverse solicitation The EU Commission may publish its long-delayed report on reverse solicitation and demand on the own initiative of an investor, originally due in August 2021. Reporting gaps and data collection difficulties have made the analysis difficult, and ESMA suggested in December 2021 that the Commission may wish to consider introducing reporting requirements relating to reverse solicitation. | Short selling notification threshold The notification threshold for the reporting of net short positions to the FCA will increase to 0.2% of issued share capital. | UK consolidated tape New FCA rules and guidance on the framework for UK consolidated tape come into force. | Overseas Funds Regime The FCA expects the Overseas Funds Regime to be up and running by April 2024 (subject to finalisation of the framework). | CSDR mandatory buy-in regime The delayed mandatory buy-in rules under the CSDR settlement discipline regime take effect. |

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|--|--|--|--|--|--|--|--------------------|-----------------|-------------|-------------------|-------------|
| 2024 | 2024 | 2024 | EARLY 2024 | 5 FEB 2024 | 5 FEB 2024 | 4 MAR 2024 | 29 APR 2024 | APR 2024 | 2025 | 2 NOV 2025 | 2030 |
| UK UK AIFMD regime The FCA plans to consult on amendments to the AIFMD regime in the UK. | EU MiFID sustainability review In 2024, ESMA will launch a common supervisory action on the integration of sustainability in firms' suitability assessment and product governance processes and procedures under MiFID II. | UK Investment research rebundling The FCA is expected to begin consultations on "rebundling" execution and research costs in early 2024. | EU AIFMD II EU Parliament is scheduled to vote in plenary on AIFMD II. | EU EMIR derivatives trade reporting ESMA guidelines harmonising and standardising derivatives trade reporting under EMIR apply from this date. | UK Fund reporting The FCA intends to review the regulatory reporting regime. | UK Mansion House Compact Target date by which many large UK DC pension providers are expected to allocate at least 5% of their default funds to unlisted equities. | | | | | |



ESG

The past year held significant developments for ESG policy and regulation in both the UK and EU, with a general trend toward greater regulation and disclosure. In the UK the FCA's Sustainability Disclosure Requirements (SDR) rules represent a substantial development for the UK's ESG rulebook, and in the EU there have been wide-reaching proposals on the scope of the Sustainable Finance Disclosure Regulation (SFDR).

In November 2023 the FCA published its final rules and guidance on the UK SDR and investment labels. This regime will operate on top of the pre-existing climate-related disclosures regime for asset managers, and includes investment labels, naming and marketing rules for investment products, and disclosure requirements applicable to UK asset managers. There are also specific rules for firms distributing investment products to UK retail investors. An anti-greenwashing rule applicable to all FCA-authorized firms is also being introduced, which will require sustainability-related claims to be fair, clear and not misleading; final guidance is expected in early 2024. In-scope firms should familiarise themselves with the voluntary and mandatory aspects of the new regime and make preparations to meet the timeline for implementation,

which is staggered from May 2024 onwards. UK firms should also consider the FCA's review on the guiding principles for ESG and sustainable investment funds, the results of which were published in November 2023.

We have also seen developments in the UK on the regulation of ESG ratings and data product providers. In December 2023, the ESG Data and Ratings Code of Conduct Working Group finalised its voluntary code of conduct, comprising six principles which include good governance and transparency. Separately, although the implementation of the UK Green Taxonomy has been delayed, the Green Technical Advisory Group has now issued its final advice on the Taxonomy to the government.

The EU SFDR has undoubtedly had a significant impact on the European funds industry, with Article 8 and 9 funds now making up a large proportion of the market. The European Commission's consultation on the SFDR indicates that significant reforms may be on the horizon. Notable issues raised by the consultation include concerns around data quality and disclosure costs, a lack of clarity around key concepts, the methodology surrounding principal adverse impact (PAI) disclosures, and issues around mitigating greenwashing. Concerns that the SFDR Article 8 and 9 categorisations are being used as "de facto product labels" has also led the Commission to consider the implementation of a labelling regime. Finally, the consultation hints at uniform disclosures being extended to "all financial products offered in the EU". Whilst we may not see any detailed regulatory proposals for some time, the significance of the consultation to the SFDR's future cannot be overstated, and firms should track the evolving proposals to ensure they are prepared for any changes.

Other recent EU developments include amendments to the SFDR Regulatory Technical Standards (RTS) proposed by the European Supervisory Authorities (ESAs) – the proposals include amendments to product disclosure templates and new PAI indicators. The European Securities and Markets Authority (ESMA) has also delayed implementation of its guidelines on funds' names using ESG or sustainability-related terms until Q2 2024, to take into account the forthcoming publication of final AIFMD II and revised UCITS texts.

Separately, the phased implementation of the Corporate Sustainability Reporting Directive (CSRD) – which requires in-scope firms to report on ESG and sustainability issues - commenced on 1 January 2024. Meanwhile, the Council of the EU and European Parliament announced that the financial services sector will be temporarily excluded from the scope of certain due diligence requirements under the Corporate Sustainability Due Diligence Directive (CSDDD).



Key trends and issues

- 1 The flurry of regulatory activity towards the end of 2023 is indicative of an eventful year ahead for ESG regulation. The UK's FCA is implementing a sustainability disclosure regime, which will sit alongside a pre-existing disclosure regime for certain market participants including larger asset managers, and is implementing a general anti-greenwashing rule applicable to all authorised firms. At the EU level the Commission has published a consultation on the SFDR and the ESAs are proposing further amendments to the SFDR RTS. Other regulatory developments in 2024 include the application of the CSRD, which should ultimately feed into higher quality disclosures under the SDR and SFDR regimes.

- 2 The interaction between, and effectiveness of, the EU's SFDR as against the UK's SDR regime will be a point of interest for regulators, policymakers and market participants. With the introduction of the SDR, the UK now has a specifically-designed labelling regime which is primarily intended to assist consumers in navigating the investment product landscape alongside disclosures. The Commission's latest consultation on the SFDR also actively considers the introduction of a labelling regime.

- 3 More generally, we expect regulators in the UK, EU and further afield to increase their focus on greenwashing and ESG-related enforcement. The wide application of the FCA's new anti-greenwashing rule is indicative of its conviction that all regulated firms (not just those operating in the asset management sector) should have a baseline level of compliance in relation to greenwashing.



Timeline

| 2024 | 2024 | 2024 | 2024 | EARLY 2024 | Q2 2024 | Q2 2024 | MAY 2024 | 31 MAY 2024 | 30 JUN 2024 | 31 JUL 2024 | Q3 2024 | Q3 2024 | 2 DEC 2024 |
|---|--|---|---|---|--|---|--|--|--|--|--|--|---|
| <p>UK</p> <p>UK Green Taxonomy</p> <p>The government is expected to consult on the UK Green Taxonomy.</p> | <p>UK</p> <p>IFPR ESG disclosures</p> <p>The FCA is expected to consult on ESG disclosures for MiFID firms as part of the Investment Firms Prudential Regime (IFPR).</p> | <p>EU</p> <p>Regulation of ESG rating activities</p> <p>The proposed Regulation on ESG rating activities is expected to complete the legislative process.</p> | <p>EU</p> <p>Review of ESG disclosures under the Benchmarks Regulation</p> <p>In 2024, ESMA will launch a common supervisory action on ESG disclosures under the Benchmarks Regulation.</p> | <p>UK</p> <p>Anti-greenwashing rule guidance</p> <p>The FCA intends to publish finalised guidance relating to the new anti-greenwashing rule.</p> | <p>EU</p> <p>SFDR evaluation consultation</p> <p>The European Commission intends to adopt a report on the SFDR, following consultations on how to address shortcomings within the framework.</p> | <p>EU</p> <p>Guidelines on fund names</p> <p>ESMA expects to finalise its guidelines on funds' names using ESG or sustainability-related terms (subject to timing of the final AIFMD II and revised UCITS texts).</p> | <p>EU</p> <p>Greenwashing risks</p> <p>The ESAs are expected to publish their final reports and recommendations on greenwashing risks.</p> | <p>UK</p> <p>Anti-greenwashing rule takes effect</p> <p>The FCA's new anti-greenwashing rule and guidance take effect, applying to all authorised firms.</p> | <p>UK</p> <p>Climate disclosures by smaller asset managers and asset owners</p> <p>Smaller asset managers and asset owners must publish their first set of climate-related disclosures under the FCA rules by this date.</p> | <p>UK</p> <p>SDR labels</p> <p>Firms are permitted to begin using the FCA's new SDR labels (with disclosures).</p> | <p>EU</p> <p>Enforcement of CSRD sustainability information</p> <p>ESMA is expected to publish its final guidelines on the enforcement of sustainability information under the CSRD.</p> | <p>EU</p> <p>Sustainability-related disclosures and the integration of sustainability risks</p> <p>ESMA's common supervisory action on sustainability-related disclosures and the integration of sustainability risks in the investment fund sector is due to end.</p> | <p>UK</p> <p>SDR naming and marketing rules</p> <p>The FCA's new SDR naming and marketing rules (with disclosures) come into force.</p> |



Risk Management, Governance and Oversight

As highlighted by the FCA in its three-year Strategy 2022 to 2025, firms' culture and governance can be the root cause of both harm and of positive outcomes – it is unsurprising that risk management, governance and oversight continue to remain high on the agenda as regulators grapple with new and evolving risks.

Operational resilience remains an important cross-cutting focus, with final rules from the FCA and PRA on requirements for firms and financial market infrastructures in application since March 2022. These rules are a step change in regulation, imposing key new requirements on setting impact tolerances, engaging in scenario testing and self-assessment, and establishing robust governance arrangements. Firms and financial market infrastructures (FMIs) are now required to undertake mapping and testing exercises in order to demonstrate, no later than 31 March 2025, that they are able to remain within impact tolerances for each important business service. By now firms and FMIs should be well on their way to meeting this deadline, and will need to use their remaining time wisely in order to properly calibrate their scenario testing and achieve the objectives of the requirements.

Similarly, operational resilience remains a priority at the EU level, with DORA introducing granular, prescriptive and uniform requirements in respect of cybersecurity, operational continuity and the resilience of a firm's network and information systems. In anticipation of the new rules taking effect on 17 January 2025, the ESAs are now consulting on the technical rules that will underpin DORA, particularly on the issues that will directly affect regulated entities.

Incident reporting is also in the global spotlight. In 2024 the Financial Stability Board (FSB) will continue the development of a common global cyber incident reporting format, while the UK regulators are expected to consult on incident reporting, including reporting on operational incidents as well as information on outsourcing and third party arrangements. And as we explain further in [Tech, Innovation and Data](#), the focus in both the UK and EU has now turned to the resilience and regulatory oversight of third-party service providers.



Turning to governance, the FCA will continue to focus on the key culture drivers for firms and their effectiveness in reducing potential harm arising from business models and strategies. Of particular importance is the link between effective senior management and healthy firm cultures, through both a modelling “tone from the top” and an operationalising “tone from within” approach. This also includes the fostering of a robust and positive approach to ensuring D&I, which the FCA views as integral to culture and critical to both consumer protection and well-functioning markets. Following their joint consultation in 2023, we expect the PRA and FCA to publish final rules on D&I in financial services – if the regulators’ proposals are taken forward, firms will need to establish D&I strategies, set appropriate targets for each of the board, senior leadership and the whole workforce, and report a range of D&I-related data annually to regulators, alongside compliance with a range of measures designed to embed the risks associated with non-financial misconduct into conduct rules applying to senior managers.

Finally, we may see further movement on the SMCR Review, with consultations expected in 2024 on proposed changes to the individual accountability framework. Over the past few years, a number of developments – including the rapid expansion of remote working, the supply chain squeeze arising from the Ukraine conflict and the cost of living crisis, and the implementation of the Consumer Duty – have all put conduct risk in the spotlight. The FCA has consistently come out strongly on maintaining good culture and conduct, with heightened enforcement risk for firms who fail to clear the bar. Depending on the outcome and proposed changes, the SMCR Review has the potential to weaken conduct arrangements further, should the consultations propose loosening the regime or making enforcement action more difficult to progress. Together with other reforms currently underway, such as proposed changes in the retail investment space, this may put additional pressure on conduct risk frameworks to pick up the slack.



Key trends and issues

- 1** 2024 will be a key year for firms’ operational resilience preparations in both the UK and EU, as the deadlines for compliance with both DORA and the UK regime are fast approaching.

- 2** We expect significant movement in 2024 on D&I in financial services, with the regulators set to implement a number of requirements designed to further embed D&I into firm conduct and culture. Some of these changes may require more robust approaches to data collection and intervention.

- 3** The SMCR Review is expected to conclude in 2024. Firms should be prepared to assess their conduct risk frameworks against any changes proposed by the regulators.



Timeline

International

FSB cyber risk workstreams

In 2024 the FSB will publish its work programme on strengthening cyber and operational risk, and continue the development of a common global cyber incident reporting format.

UK

Incident reporting

The regulators plan to issue a joint consultation paper on incident (and outsourcing and third party) reporting. This would cover reporting on operational incidents, as well as information on outsourcing and third party arrangements.

EU

DORA

DORA will take effect on 17 January 2025 - firms in scope will need to identify and rectify any gaps before the implementation window closes.

| 2024 | 2024 | 2024 | Q1 2024 | H2 2024 | H2 2024 | 17 JAN 2025 | 31 MAR 2025 |
|---|---|---|---|--|---------|-------------|-------------|
| <p>UK</p> <p>Review of the SMCR</p> <p>The government and regulators are expected to publish consultations on proposed changes to the SMCR framework.</p> | <p>UK</p> <p>SMCR expansion to payments and e-money firms</p> <p>The Treasury will continue their work relating to extending the reach of the SMCR to payments and e-money firms, though the timing of any policy statement may depend on the outcome of the SMCR Review.</p> | <p>EU</p> <p>Fit and proper framework for credit institutions</p> <p>The Council and European Parliament are expected to adopt CRD VI and CRR III. Among the extensive changes proposed, CRD VI will establish a fit and proper framework for assessing the suitability of key function holders in credit institutions.</p> | <p>UK</p> <p>D&I in financial services</p> <p>The FCA and PRA are expected to publish final rules on D&I in financial services.</p> | <p>UK</p> <p>Operational resilience regime</p> <p>Firms and FMIs must demonstrate, no later than this date, that they are able to remain within impact tolerances for each important business service.</p> | | | |



Tech, Innovation and Data

Supervisors and policymakers around the globe have turned their attention to the risks posed to the markets and consumer protection by third party providers alongside the increasing participation of tech firms and other non-financial institutions in the provision of financial services, seeking to balance innovation and consumer benefit with the risks arising from unregulated entities in the financial system.

The financial services sector has experienced significant digital transformation in recent years, accelerated as a result of the pandemic, with more and more institutions outsourcing technology services and moving systems to the cloud. This has resulted in the financial sector becoming increasingly dependent on third party technology providers and this dependency has raised new operational, technological and cyber security risks. To mitigate these risks, the EU and UK have introduced new regulatory frameworks which impose additional requirements on institutions using third party technology providers, along with – for the first time – establishing direct regulatory oversight over critical third parties providing services to financial institutions.

At the EU level, in addition to operational resilience requirements for regulated entities (as we noted in [Risk Management, Governance and Oversight](#)), DORA also creates a framework for the direct oversight of critical third party outsourcing providers of ICT-related services. Third party providers deemed critical will be assessed as to

whether they have in place comprehensive, sound and effective rules, procedures, mechanisms and arrangements to manage the ICT risk that they may pose to financial entities. We expect to see the ESAs finalise level 2 regulations and guidance during 2024 in anticipation of the new rules taking effect on 17 January 2025. Even where not designated as critical, ICT providers contracting with financial institutions will need to review their existing contracts and financial services addendum templates against the mandatory requirements under DORA and consider what updates are likely to be required. The UK framework for critical third parties, which was established by FSMA 2023, is similar to DORA, although the two regimes take different approaches – for example, the UK regime does not introduce new contractual requirements, and existing rules will continue to apply. The regulators are expected to publish final rules on the regime in the second half of 2024, and we may see the regime commence later in the year.



Regulators have also begun to examine the role and use of data in the financial services sector in recent years, with the FCA in particular bringing BigTech's role as the gatekeepers of data in financial services under increased scrutiny. Following its November 2023 call for input, the FCA intends to report back in the second quarter of 2024 on whether the data asymmetry between BigTech and financial services firms could lead to BigTech firms gaining entrenched market power in financial services. In the EU, the focus is on developing a regulated mechanism for data access to enable open finance, with the proposed Regulation on a framework for financial data access (FIDA) due to progress through the legislative process in 2024.

Arguably the hottest topic for 2024 in tech, innovation and data will be the regulation (or not) of AI in financial services, which through rapid adoption is transforming the sector and outpacing regulatory responses. In the EU, the European Parliament and Council reached provisional agreement in December 2023 on the draft AI Act, which will regulate AI technologies on a risk basis: in essence, technologies that pose unacceptable levels of danger are forbidden, while high-risk technologies face heavy restrictions. The UK, by contrast, has indicated that it will refrain from sector-based AI regulation in the short-term, with the FCA clear that existing regulatory frameworks are technology-agnostic and applicable to a firm's use of AI. To assist with this, a new advisory pilot scheme is being launched in 2024 which will allow organisations to demonstrate that their AI developments meet existing regulatory requirements.



Key trends and issues

- 1** In both the UK and EU, critical third party providers will be subject to direct regulatory oversight by the financial regulators in order to mitigate the operational, technological and cyber security risks arising from the outsourcing of important functions. With implementation of the EU and UK frameworks approaching, third party providers are likely to see large-scale revisions to their services contracts.
- 2** Regulatory scrutiny continues on the role of BigTechs in the financial services sector, particularly in relation to data provision and use. In the UK, we should see the outcome of the FCA's call for input on data gatekeeping. In the EU, the open finance framework proposed under FIDA will apply the provisions of DORA to financial information services providers.
- 3** Regulators around the world continue to explore whether their current regulatory environments are sufficient to address the benefits, risks and harms associated with the adoption of AI in financial services. Some jurisdictions, like the EU, are taking a direct approach to regulation, with negotiations on the AI Act continuing in 2024.



Timeline

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|---|---|--|---|--|--|------------------------|-----------------------|-----------------------|---------------------------|
| | | <p>EU</p> <p>AI Act</p> <p>The AI Act is expected to be formally adopted by the European Parliament and the Council.</p> | <p>UK</p> <p>Open banking</p> <p>The FCA and PSR may consult, if needed, on regulatory changes needed to support the next phase of open banking in the UK.</p> | <p>UK</p> <p>AI principles</p> <p>The regulators are expected to issue guidance on how the government's cross-sectoral AI principles apply to financial services.</p> | <p>UK</p> <p>Incident reporting</p> <p>The regulators plan to issue a joint consultation paper on incident (and outsourcing and third party) reporting. This would cover reporting on operational incidents, as well as information on outsourcing and third party arrangements.</p> | | | | |
| <p>2024</p> | <p>2024</p> | <p>EARLY 2024</p> | <p>Q2 2024</p> | <p>Q2 2024</p> | <p>H1 2024</p> | <p>APR 2024</p> | <p>H2 2024</p> | <p>H2 2024</p> | <p>17 JAN 2025</p> |
| <p>UK</p> <p>AI in financial services</p> <p>The regulators may issue regulatory proposals relating to AI in financial services, subject to whether they determine that the current regulatory regime is fit for purpose.</p> | <p>EU</p> <p>Open finance</p> <p>Trilogue negotiations are set to continue in 2024 on FIDA.</p> | <p>UK</p> <p>BigTech in financial services</p> <p>Following its call for input, the FCA intends to report back on the potential competition impacts from the data asymmetry between BigTech and firms in financial services.</p> | <p>UK</p> <p>DRCF AI and Digital Hub</p> <p>The Digital Regulation Cooperation Forum's (DRCF) AI and Digital Hub, a pilot advisory service on regulatory requirements for digital technology and AI, will launch during the first half of 2024.</p> | <p>UK</p> <p>CTP regime</p> <p>The FCA, PRA and Bank of England plan to issue a joint policy statement on requirements and expectations for critical third parties (CTPs), and an approach document on their CTP oversight duties.</p> | <p>EU</p> <p>DORA takes effect</p> <p>DORA will take effect on 17 January 2025 - critical third party providers will become subject to direct oversight.</p> | | | | |



Crypto

2023 was a busy period for crypto regulation and the momentum built in 2023 will continue to snowball into 2024.

Regulatory change in the crypto space gathered pace early in 2024. Since 8 January, firms no longer benefit from the modification delaying the implementation of the FCA's "back end" Direct Offer Financial Promotion rules (i.e. personalised risk warnings, the 24-hour cooling off period, client categorisation and appropriateness assessment) – a significant compliance uplift for impacted firms. We expect to see FCA scrutiny of compliance with these rules in 2024.

The 8th of January also marked the bringing into force of the Digital Securities Sandbox (DSS) Regulations. The DSS aims to aid the adoption of digital asset technology by enabling DSS entrants to test technologies whilst operating under a temporarily modified legislative framework. The DSS Regulations confer powers on the FCA and the Bank of England (BoE) to operate the DSS, and we expect to see the BoE and FCA publish further communications on the DSS in 2024.

Measures are also underway to bring activities involving fiat-backed stablecoins within the regulatory perimeter. Following the Treasury's policy statement on 30 October 2023, secondary legislation bringing stablecoin related activities within the regulatory perimeter is expected in early 2024. Activities caught by the new regulation include the use of fiat-backed stablecoins in payment chains and the issuance and custody of such tokens when issued in or from the UK. The FCA and PRA have been consulting in parallel on supervision of the regime and the feedback period for the Discussion Papers ends on 6 February 2024 – with further consultation to come later this year. It is expected that the regime will not be implemented until 2025.

Further consultation on the implementation of a comprehensive regulatory regime for crypto is also expected in 2024, following the 2023 consultation on the 'Future Financial Services Regulatory Regime for Crypto'. Secondary legislation on this so-called

'Phase 2' of the government's crypto approach is expected by the end of 2024.

In contrast to the UK's phased approach, in the EU, 2023 saw the comprehensive MiCAR enter into force, as well as the release of numerous consultation papers from ESMA and the European Banking Authority (EBA) on level 2 measures. 2024 will see the phased implementation of MiCAR, with provisions on asset-referenced tokens and e-money tokens coming into effect from 30 June and the remainder of the obligations applying from 30 December. Look out for the final EBA and ESMA consultations and responses in Q1 2024. For many, MiCAR will smooth out the current patchwork approach to crypto regulation and registration across the EU, allowing passporting of crypto services for the first time.



Finally, central bank digital currencies (CBDCs) continue to be on the radar in the UK and the EU, with both the BoE and the European Central Bank moving into the next phases of preparation for a potential “Bitcoin” and Digital Euro. The work undertaken over the next couple of years will impact the decisions as to whether CBDCs are a viable option for the future.



Key trends and issues

- 1** The implementation of MiCAR throughout 2024 will mark one of the most significant post-Brexit divergences in financial services. By the end of 2024, the EU will have a comprehensive regime for the regulation of crypto services, with firms benefitting from passporting across the EU.
- 2** Although the UK’s Phase 1 stablecoin regulation is not yet implemented, work is already underway on Phase 2 - a more comprehensive regulatory regime for crypto in the UK. Firms can expect further clarity on the future regulatory framework by the end of 2024.
- 3** We expect to see increased scrutiny from the FCA on the crypto sector in 2024. The introduction of financial promotion rules for cryptoasset promotions brings many firms in-scope of FCA conduct supervision for the first time. We expect that the FCA will be closely watching compliance with these rules, whilst continuing to assess firm’s compliance with AML requirements.



Timeline

| 2024 | 2024 | EARLY 2024 | Q1 2024 | 30 JUN 2024 | H2 2024 | 30 DEC 2024 | 2024-2026 | 1 JAN 2025 | BY END-2025 | NOT BEFORE 2026 |
|---|--|--|--|--|---|--|--|---|---|---|
| <p>UK</p> <p>Wider cryptoasset regulation</p> <p>The Treasury aims for secondary legislation on wider cryptoasset regulation to be laid in 2024, subject to available parliamentary time.</p> | <p>UK</p> <p>DSS Sandbox</p> <p>The regulators are expected to publish details on the application process for the DSS, together with related guidance and rules.</p> | <p>UK</p> <p>Stablecoin regime</p> <p>The Treasury intends to bring forward secondary legislation on stablecoin regulation by early 2024, subject to available parliamentary time.</p> | <p>EU</p> <p>Third MiCAR consultation package</p> <p>ESMA is expected to publish the final package of consultations on MiCAR level 2 measures.</p> | <p>EU</p> <p>MiCAR stablecoin provisions</p> <p>The provisions relating to asset-referenced tokens and e-money tokens in MiCAR begin to apply.</p> | <p>UK</p> <p>Stablecoin regime rules</p> <p>The regulators are expected to issue consultation papers on stablecoin regulation, subject to secondary legislation being laid.</p> | <p>EU</p> <p>Remaining MiCAR provisions</p> <p>The remaining provisions in MiCAR begin to apply.</p> | <p>UK</p> <p>Digital pound design phase</p> <p>The Bank of England will undertake work in the design phase relating to the development of a UK CBDC.</p> | <p>International</p> <p>Prudential treatment of cryptoassets</p> <p>By this date, the Basel Committee on Banking Supervision (BCBS) expects members to have implemented standards on the prudential treatment of cryptoasset exposures.</p> | <p>International</p> <p>FSB global stablecoin recommendations</p> <p>By the end of 2025, the FSB will complete a review of the status of implementation of its global stablecoin recommendations.</p> | <p>UK</p> <p>Digital pound issuance</p> <p>If the Bank of England determines that the case for a UK CBDC is made, the earliest it would be issued is the second half of the decade.</p> |



Consumer Protection

The FCA's Consumer Duty was a key topic for firms in 2023 and continues to be on the agenda in 2024.

Following the 2023 deadline for open products, the Consumer Duty will apply to closed products and services from 31 July 2024. The FCA has expressed its concerns that firms will find the closed product deadline more challenging than the July 2023 open product deadline and has urged firms to act swiftly and take advantage of available resources to implement the rules. Firms can also expect the FCA to carry out reviews on the implementation of the Consumer Duty in 2024 – the FCA has already announced it will undertake a review of complaints handling and will be reviewing a selection of board reports as part of its Consumer Duty work. As feedback comes out in 2024, firms will need to act on FCA observations and should be ready to tweak and improve Consumer Duty processes.

The FCA also intends to conduct a post-implementation review of the guidance for firms on the fair treatment of vulnerable customers in 2024. The FCA has already identified areas of improvement in the vulnerable customer space and has expressed its disappointment in the consumer investment sector's approach to vulnerability. The vulnerable customer guidance goes hand-in-hand with the Consumer Duty and firms should look out for FCA feedback on its review.

There will also be a continued focus on financial promotions in 2024. The application of the financial promotion rules to certain cryptoasset activities and the implementation of the financial promotions gateway in February 2024 have increased the FCA's powers and supervision over financial promotions. The thresholds for financial promotion exemptions for high net worth individuals and sophisticated investors have also been

tightened in early 2024. We expect to continue to see the FCA focus on financial promotions, both in the crypto space and more broadly in 2024.

Another topic of note is the PSR's bold action on authorised push payment (APP) fraud as it confirms its new reimbursement requirements which are designed to prompt a step-change in fraud prevention and see the vast majority of money lost to APP frauds being reimbursed to victims. While consumers still need to take care when making payments, the onus will be on the bank to prove that the consumer acted with gross negligence. This is a very high bar, and the PSR expects that only a small minority of cases will be subject to this exception, which in any event will not apply to vulnerable consumers. The reimbursement requirement will come into force in 2024.



Finally, in the latest of its work on 'de-banking', HM Treasury has published a further policy statement on payment service contract termination rule changes. The new rules, which respond to concerns that firms have been unfairly off-boarding customers, will extend the notice period for termination and mandate that providers give a clear and tailored reason for termination. Secondary legislation was expected by the end of 2023 but this has slipped into 2024.



Key trends and issues

- 1** The deadline for compliance with the Consumer Duty for closed products and services is fast-approaching. Firms need to act quickly to review compliance for these products and can expect to see further FCA reviews and feedback on implementation throughout 2024.
- 2** 2024 marks the implementation of the PSRs reimbursement obligation for APP fraud. This development marks a step-change in fraud prevention, with the potential for significant impact on payment firms subject to the new rules.
- 3** New legislation on termination of payment services contracts is expected in 2024. Firms will need to act to change customer terms and internal processes in response to the rules.



Timeline

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|---|---|--|---|--|---|--|----------------|--------------------|-------------------|--------------------|--------------------|
| | | UK Payment services contract termination New legislation on termination of payment services contracts is expected. | UK Payments and e-money safeguarding The FCA plans to consult on changes to safeguarding requirements for payments and e-money institutions. | UK Financial promotions gateway The new financial promotions gateway comes fully into force. | UK Consumer Duty and closed products The Consumer Duty begins to apply to products and services held in closed books. | EU CCD II national measures Member states are required to adopt and publish laws, regulations and administrative provisions necessary to comply with the second Consumer Credit Directive (CCD II) by this date. | | | | | |
| 2024 | 2024 | 2024 | 2024 | H1 2024 | 31 JAN 2024 | 7 FEB 2024 | H2 2024 | 31 JUL 2024 | 7 OCT 2024 | 20 NOV 2025 | 20 NOV 2026 |
| UK Vulnerable customers guidance The FCA will conduct a post-implementation review of its guidance for firms on the fair treatment of vulnerable customers. | UK Consumer Duty implementation reviews The FCA will be undertaking a Consumer Duty related review of complaints handling, and will also be reviewing a selection of board reports to feed back observations. | EU PSD3 reform package Trilogue negotiations set to continue on the EU Commission's package of reforms to payments and e-money regulation. | UK High net worth and sophisticated investor exemptions The recalibrated thresholds for the high net worth and sophisticated investor financial promotion exemptions take effect. | UK Consumer Credit Act reform The Treasury is expected to consult further on reforms to the Consumer Credit Act. | UK APP fraud reimbursement The PSR's APP fraud reimbursement requirements take effect. | EU CCD II application CCD II applies from this date. | | | | | |



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