

Regulatory update Banking, finance and insurance

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Banks, Investment Firms, Asset Managers
and non-bank financial institutions

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I. European regulation

✓ STS SECURITIZATIONS: EBA PUBLISHES NEW GUIDELINES

On 27 May 2024, EBA published a [Final Report](#) on its new Guidelines on the simple, transparent and standardized (STS) criteria for on-balance-sheet securitisations and amending Guidelines EBA/GL/2018/08 and EBA/GL/2018/09 on the STS criteria for asset-backed commercial paper (ABCP) and non-ABCP securitization.

The main objective of the Guidelines is to provide a single point of consistent interpretation of STS criteria and ensure a common understanding of them by originators, original lenders, securitisations special purpose entities (SSPEs), investors, competent authorities and third-party verification agents verifying STS compliance in accordance with Article 28 of Regulation (EU) 2017/2402 (STS Regulation), throughout the Union.

The amending guidelines include a limited set of targeted amendments to the existing EBA guidelines on non-ABCP and ABCP securitisations respectively, for a specific number of these requirements, to ensure that the interpretation provided by the EBA is consistent across all three Guidelines hereby indicated.

✓ DORA: DELEGATED REGULATIONS ON CRITICAL THIRD-PARTY PROVIDERS OF TIC SERVICES PUBLISHED IN THE EU OFFICIAL JOURNAL.

On 30 May 2024, the following Delegated Regulations supplementing Regulation (EU) 2022/2554 (DORA) of the European Parliament and of the Council were published:

- [Delegated Regulation \(EU\) 2024/1502](#) setting out the criteria for the designation of third-party ICT service providers as critical to financial entities.
- [Delegated Regulation \(EU\) 2024/1505](#), determining the amount of the oversight fees to be charged by the Lead Overseer to critical ICT third-party service providers and the way in which those fees are to be paid.

These delegated Regulations will enter into force on the 20th day following their publication in the Official Journal of the European Union.

✓ DORA: TEMPLATES AND TOOLS FOR THE TEST EXERCISE ON THE REPORTING OF INFORMATION REGISTERS PUBLISHED

On 31 May 2014, the European Supervisory Authorities (ESA) published [the templates, technical documents and tools](#) for the dry run exercise on the reporting of information registers under Regulation (EU) 2022/2554 (DORA) announced last April.

The published materials include:

- information register templates with examples (in Excel);
- draft technical package for reporting, including data point model (DPM), annotated table layout and validation rules;
- an optional tool (VBA macro) to facilitate the conversion of the Excel templates into .csv files and .zip files for submission;
- frequently asked questions on the exercise.

Financial institutions interested in participating can use the above materials and are expected to submit their registers of information to the ESAs through their competent authorities between 1 July and 30 August 2024.

✓ ESMA: NEW Q&A PUBLISHED

On 28 May 2014, ESMA published [new Q&As](#) covering the following aspects:

- Directive (EU) 2011/61 (AIFMD); in particular, the Q&A cover performance fees;
- Regulation (EU) 2020/1503 (ECSPR); in particular, the Q&As cover (i) disclosure of insolvency rates, (ii) risk management framework and (iii) prudential requirements;
- Regulation (EU) 648/2012 (EMIR); in particular, the Q&A cover reporting procedures;
- Regulation (EU) 2023/1114 (MICAR); in particular the Q&A cover crypto-asset service providers;
- Regulation (EU) 2014/600 (MIFID); in particular the Q&A cover transaction reporting;
- Directive (EU) 2009/65 (UCITS), in particular the Q&A on performance fees.

✓ AI: ESMA PUBLISHED A PUBLIC STATEMENT REGARDING GUIDANCE TO FIRMS USING ARTIFICIAL INTELLIGENCE IN INVESTMENT SERVICES

On 30 May 2024, ESMA published a [Public Statement](#) providing initial guidance to firms using Artificial Intelligence technologies (AI) when they provide investment services to retail clients.

In particular, although AI technologies offer potential benefits to firms and clients (in particular with regard to customer support, fraud detection, risk management, compliance, and support to firms in the provision of investment advice and portfolio management), they also pose inherent risks, such as:

- algorithmic biases and data quality issues;
- opaque decision-making by a firm's staff members;
- overreliance on AI by both firms and clients for decision-making; and
- privacy and security concerns linked to the collection, storage, and processing of the large amount of data needed by AI systems.

✓ MICAR: DELEGATED REGULATIONS PUBLISHED IN EU OFFICIAL JOURNAL

On 30 May 2024, the following Delegated Regulations supplementing Regulation (EU) 2023/1114 (MICAR) of the European Parliament and of the Council were published:

- [Delegated Regulation \(EU\) 2024/1503](#) specifying the fees to be charged by the European Banking Authority (EBA) to issuers of significant asset-referenced tokens and issuers of significant e-money tokens.



- [Delegated Regulation \(EU\) 2024/1504](#) specifying the procedural rules for the exercise of the power to impose fines or periodic penalty payments by the European Banking Authority on issuers of significant asset-referenced tokens and issuers of significant e-money tokens.
- [Delegated Regulation \(EU\) 2024/1506](#) specifying certain criteria for classifying asset-referenced tokens and e-money tokens as significant.
- [Delegated Regulation \(EU\) 2024/1507](#) specifying the criteria and factors to be taken into account by the European Securities Markets Authority, the European Banking Authority and competent authorities in relation to their intervention powers

The Delegated Regulations shall enter into force on the 20th day following their publication in the Official Journal of the European Union.

✓ *MICAR: RTS PUBLISHED ON CONFLICTS OF INTEREST FOR CRYPTO ASSET SERVICE PROVIDERS*

On 31 May 2014, ESMA published the [final draft](#) of regulatory standards (RTS) on conflicts of interest of crypto asset service providers pursuant to Article 72 of the Markets in Crypto Assets Regulation (MICAR).

In particular, the draft RTS issued by ESMA cover:

- the requirements for the identification of conflicts of interest by crypto-asset service providers;
- the prevention, management and disclosure of conflicts of interest by crypto-asset service providers;
- the details and methodology for the content of conflicts of interest disclosures.