

Regulatory update Banking, finance and insurance

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

I. European regulation

- ✓ **DORA**: new RTS published in the EU Official Journal
- ✓ **MICAR**: ESMA and EBA publish a final report on the suitability assessment of members of management body of and shareholders in issuers of art and casp
- ✓ **IFR**: new RTS published in the EU Official Journal
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I. European regulation

✓ DORA: NEW RTS PUBLISHED IN THE EU OFFICIAL JOURNAL

On 25 June 2024, three Delegated Regulations were published in the Official Journal of the European Union, supplementing Regulation (EU) 2022/2554 (DORA).

In particular, the following regulations have been published:

- [Delegated Regulation \(EU\) 2024/1772](#) supplementing DORA Regulation with regard to regulatory technical standards (RTS) specifying the criteria for the classification of ICT-related incidents and cyber threats, setting out materiality thresholds and specifying the details of reports of major incidents;
- [Delegated Regulation \(EU\) 2024/1773](#) supplementing DORA Regulation with regard to RTS specifying the detailed content of the policy regarding contractual arrangements on the use of ICT services supporting critical or important functions provided by ICT third-party service providers;
- [Delegated Regulation \(EU\) 2024/1774](#) supplementing DORA Regulation with regard to RTS specifying ICT risk management tools, methods, processes, and policies and the simplified ICT risk management framework.

The regulations will enter into force on the 20th day following their publication in the EU Official Journal.

✓ MICAR: ESMA AND EBA PUBLISH A FINAL REPORT ON THE SUITABILITY ASSESSMENT OF MEMBERS OF MANAGEMENT BODY OF AND SHAREHOLDERS IN ISSUERS OF ART AND CASP

On 27 June 2024, ESMA and EBA published a [Final report](#) (i) on the suitability assessment of members of management body of issuers of asset-referenced tokens (ARTs) and of crypto-asset service providers (CASPs), and (ii) on the suitability assessment of shareholders and members, whether direct or indirect, with qualifying holdings in issuers of ARTs and in CASPs.

In order to assess the suitability of the members of the management bodies of ARTs or CASPs issuers, the competent authorities are required to apply the proportionality principle, taking into account in particular (i) the size of the issuer in terms of balance sheet, (ii) its legal form, (iii) the nature and complexity of its business, and (iv) the expected cross-border activities.

In addition, they should check the fulfilment of the following elements

- sufficient good repute;
- individual and collective appropriate knowledge, skills and experience in the CRIPTO field;
- sufficient time commitment.

When assessing the suitability of shareholders or members with direct or indirect qualifying holdings in issuers of ARTs or CASPs, the competent authorities should satisfy themselves that the person is of good repute, as referred to in Articles 34(4) and 68(2) of Regulation (EU)

2023/1114 (MICAR), taking into account, in addition, the absence of reasonable grounds to suspect that a money laundering or terrorist financing transaction or attempt is being carried out.

Within two months of the date of publication of the guidelines, competent authorities must inform EBA or ESMA whether they (i) comply, (ii) do not comply but intend to comply, or (iii) do not comply and do not intend to comply.

✓ IFR: NEW RTS PUBLISHED IN THE EU OFFICIAL JOURNAL

On 25 June 2024, [Regulation \(EU\) 2024/1771](#) supplementing Regulation (EU) 2019/2033 (IFR) on regulatory technical standards (RTS) specifying the details of the scope and methods of prudential consolidation of a group of investment firms was published in the EU Official Journal.

The Regulation enters into force on the 20th day after publication in the EU Official Journal.

✓ CRR: NEW RTS PUBLISHED IN EU OFFICIAL JOURNAL

On 25 June 2024, [Regulation \(EU\) 2024/1780](#), which supplements Regulation (EU) No. 575/2013 (CRR) with regard to regulatory technical standards (RTS) specifying the conditions under which institutions are allowed to calculate KIRB in relation to exposures underlying a securitization transaction, was published in the EU Journal.

The Regulations enter into force on the 20th day after publication in the EU Journal.

✓ CRR: EBA PUBLISHES TWO NEW RTS FINAL REPORTS

On 25 June 2024, EBA published:

- a [Final Report](#) containing draft Regulatory Technical Standards (RTS) on the mapping of derivative transactions to risk categories, the supervisory delta formula for interest rate options, and the determination of long or short positions in the standardized approach for counterparty credit risk under Articles 277(5) and 279a(3)(a) of Regulation (EU) No. 575/2013 (CRR), amending the existing RTS on the subject; and
- a [Final Report](#) containing a draft RTS on the conditions and indicators that the EBA will use to determine whether extraordinary circumstances have occurred under which competent authorities may mitigate or waive the application of certain requirements for the use of internal models for market risk for the purposes of CRR Articles 325az(5) and 325bf(6).

The draft RTS are part of the new Banking Package and will be submitted to (i) the Commission for endorsement, and then (ii) to the European Parliament and the Council for consideration before being published in the EU Official Journal.

✓ MCD: EBA ISSUES FINAL GUIDANCE REPORT AMENDING EBA/GL/2015/12 GUIDANCE ON ARREARS AND FORECLOSURE

On 28 June 2024, the EBA published a [Final Report](#) of Guidelines amending Guidelines EBA/GL/2015/12 on arrears and foreclosure under Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No. 1093/2010 (Mortgage Credit Directive - MCD).

EBA/GL/2015/12 is amended as follows:

- paragraph 7 and the heading "Recipients of information requirements" are deleted;
- paragraph 9 and the heading "Outsourcing" are deleted and a new Guideline 6 on outsourcing is inserted;
- guideline 4 is deleted;
- guideline 5 is amended as follows: *'The creditor should document the reasons why the possibility(s) of forbearance measures offered to the consumer under Article 28(1) MCD are appropriate for his or her individual situation and should create and maintain for a reasonable period of time adequate records of his or her dealings with the consumer in payment difficulties.'*