# ELFA Legal & Regulatory Update
## 07/09/2020 – 11/09/2020

## Key Highlights:

- This Legal & Regulatory Update covers the week commencing **07/09/2020**.
- FCA publishes Annual Report and Accounts 2019/20.
- FRC calls for comments on draft UK Endorsement Criteria Assessment: IBOR Phase 2 Amendments.
- FRC's Financial Reporting Lab calls for participants in new project on corporate disclosures of risks, uncertainties and scenarios.
- RFRWG releases recommendation papers on active transition of GBP LIBOR-referencing bonds & loans; statement providing recommendation on credit adjustment spread methodology for fallbacks in cash market products referencing GPB LIBOR; and news release on securing SONIA-based sterling loan market.
- ESMA provides for option to apply annual transparency calculations for non-equity instruments from 21 September.
- ESMA publishes working paper on closet indexing indicators and investor outcomes.
- EBA calls on EU Commission to establish a single rulebook on fighting money laundering and terrorist financing.
- ECB releases monetary policy decisions – September 2020.
- CBI publishes fourth edition of Credit Union PRISM Supervisory Commentary Report.
- Autorité des Marchés Financiers (AMF) of France complies with ESMA guidelines on reporting to competent authorities on money market funds.
- FINMA publishes Insurance Market Report 2019.
- FSB extends implementation timelines for securities financing transactions.
- ICMA publishes briefing note on CSDR mandatory buy-ins and requirement to appoint a buy-in agent.
- ICMA ERCC publishes fourth edition of its SFTR recommendations.
- ICMA AMIC responds to EC consultation on investment research.
- Principles for Responsible Investment (PRI) publishes report on using EU Taxonomy.
- In this update, we also cover some of the most important news on leveraged finance published by the Financial Times and Thomson Reuters during the week.

## Bank of England (BoE)

### 07 – 11 September 2020: Speeches, Letters & Publications

During the week, the Bank of England (BoE) released the following speeches & other publications that might be of interest to our readers:

- Bank of England Weekly Report 9 September 2020
- Bank of England/Kantar Inflation Attitudes Survey - August 2020
- Mortgage Lenders and Administrators Statistics - 2020 Q2
- The financial "plumbing" committee - from plumbing to policy – Speech by Elisabeth Stheeman
- Paving the way forward: managing climate risk in the insurance sector – Speech by Anna Sweeney
- Minutes of the London FXJSC Meeting - 9 June 2020
- Minutes of the London FXJSC Legal Sub-Committee Meeting - 8 June 2020
- Minutes of the London FXJSC Operations Sub-Committee Meeting - 13 May 2020
- The Investment Association Sustainability and Responsible Investment Conference – Event

## Financial Conduct Authority (FCA)

### 10 September 2020: FCA publishes Annual Report and Accounts 2019/20

The Financial Conduct Authority (FCA) published its Annual Report and Accounts, which looks back on the organisation's key pieces of work throughout 2019/20. During the year, the FCA:

- introduced measures to give immediate support for over 3.4 million consumers and for thousands of businesses affected by coronavirus (Covid-19);
- continued work to prepare for EU withdrawal;
- drove change in the culture of financial firms with the extension of the Senior Managers and Certification regime;
- continued focus to help to educate and inform consumers on scam prevention;

- improved protection for users of high-cost credit, including a price cap on rent-to-own products, saving some of the UK's most vulnerable consumers an estimated £19.6m a year;
- imposed 15 financial penalties on firms totalling over £224m for misconduct; and
- ensured £135m was paid to customers for disclosure failings on enhanced annuities.

**07 – 11 September 2020: Speeches, Letters & Other Publications**

During the week, the FCA released the following publications & and announcements that might be of interest to our readers:

- Amerdeep Somal appointed as Complaints Commissioner
- FCA publicly censures former Worldspreads CEO for market misconduct
- Copia Wealth Management Limited is placed into liquidation
- Market cleanliness statistics – each year the FCA publishes a Market Cleanliness Statistic for the UK equity markets. This is defined as the proportion of corporate takeover events for which the FCA observed an abnormal movement in share price before the takeover announcement
- Potentially Anomalous Trading Ratio
- Trade transparency and market liquidity data – the FCA tracks the proportions of trades carried out on venues with varying levels of trade disclosure
- General Insurance value measures
- Market Watch 65: Newsletter on market conduct and transaction reporting issues – in this Market Watch, the FCA discusses how inappropriate handling of information requirements issued by the FCA can hinder, or even compromise, our preliminary reviews of, and investigations into, suspected market abuse

## Financial Reporting Council (FRC)

**07 September 2020: FRC calls for comments on draft UK Endorsement Criteria Assessment: IBOR Phase 2 Amendments**

The Financial Reporting Council (FRC) published a draft UK Endorsement Criteria Assessment on the IASB's amendment Interest Rate Benchmark Reform—Phase 2 (Amendments to IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16) (the Amendments). As part of the preparation for the end of the Transition Period, work is being undertaken to ensure the UK is ready to undertake adoption of the Amendments if EU adoption does not occur in December 2020. Further details can be found in the Invitation to Comment. The FRC welcomes stakeholders' views to inform its recommendation to the BEIS Secretary of State to adopt the Amendments in the UK. Please respond no later than close of business on Monday 28 September 2020 to IBOR2@frc.org.uk.

**10 September 2020: FRC's Financial Reporting Lab calls for participants in new project on corporate disclosures of risks, uncertainties and scenarios**

The FRC's Financial Reporting Lab announced that it is inviting investors and companies to participate in a new project on corporate disclosures on risks, uncertainties and scenarios. The scope of the project will develop, considering the contribution from those that participate. However, it is likely to:

- explore whether and how companies' risk identification, risk management and scenario planning processes are evolving and how this is impacting reporting and disclosure;
- determine whether the time horizons utilised in scenario planning have changed;
- consider how companies communicate uncertainty in their disclosures
- discuss which areas of reporting are most challenging for companies;
- explore examples of risks and related disclosures where investor focus has been heightened by the current pandemic (for example, supply chain risk, existential risk/viability of business model);
- analyse how investors use this information in their decision-making process and identify whether reporting meets investor needs;
- discuss what types of disclosures would be most useful in interim reports; and
- highlight best practice in current company reporting.

The Lab invites investors and companies to communicate their interest in participating by emailing FinancialReportingLab@frc.org.uk. However, views are welcomed from other interested parties. The Lab expects to publish a range of outputs across 2021.

## Working Group on Sterling Risk-Free Reference Rates (RFRWG)

**10 September 2020: RFRWG releases recommendation papers on active transition of GBP LIBOR-referencing bonds & loans; statement providing recommendation on credit adjustment spread methodology for fallbacks in cash market products referencing GPB LIBOR; and news release on securing SONIA-based sterling loan market**

The Working Group on Sterling Risk-Free Reference Rates (RFRWG) continued to reiterate the importance to actively transition legacy products, in order to increase certainty over contractual terms and help avoid the 'cliff edge' risks of waiting until closer to the end of 2021.

The Working Group has published two papers providing practical steps and considerations in the active transition of legacy cash products:

- Active transition of GBP LIBOR referencing bonds — this paper sets out how issuers might consider transitioning existing bonds from a LIBOR-based benchmark to a risk-free rate. In the sterling bond market, the recommended risk-free rate is SONIA. It draws upon recent examples of such transitions which have already taken place using the market based solution of consent solicitation; and
- Active transition of GBP LIBOR referencing loans — this paper is addressed to lenders, borrowers and investors in the GBP LIBOR referencing loan market. The Working Group recognises that the loan market involves a wide range of lenders and borrowers, from the most complex global banking groups and largest multinational corporates, to the smallest local lenders and businesses. This paper can be used by all wholesale loan market participants to initiate discussions about actively amending GBP LIBOR referencing loans to reference SONIA or another appropriate alternative reference rate.

The RFRWG also released a statement providing a recommendation on credit adjustment spread methodology for fallbacks in cash market products referencing GPB LIBOR. In this statement, the RFRWG recommends the use of the historical five-year median spread adjustment methodology when calculating the credit adjustment spread which should then be applied to any relevant SONIA rate chosen or recommended to replace GBP LIBOR pursuant to contractual fallback and replacement of screen rate provisions following a permanent cessation or pre-cessation trigger in relation to GBP LIBOR. Finally, the RFRWG published a news release on securing a SONIA-based sterling loan market.

## European Securities and Markets Authority (ESMA)

**07 September 2020: ESMA provides for option to apply annual transparency calculations for non-equity instruments from 21 September**

The European Securities and Markets Authority (ESMA) decided that trading venues and investment firms may postpone, for operational reasons, the application of the annual transparency calculations for non-equity instruments other than bonds to 21 September 2020. This decision also applies to the quarterly calculations for the purpose of the systematic internaliser (SI) regime for non-equity instruments other than bonds.

ESMA has been approached by stakeholders raising concerns that the application of the non-equity transparency calculations coincides with the quarterly expiry week of many equity derivatives, a week characterised by high trading volumes and a higher level of volatility due to the rolling over of many contracts. In order to avoid technical issues that might be exacerbated by high market volatility during the current sensitive period, ESMA agreed that trading venues and investment firms may apply the non-equity transparency calculations from 21 September instead of 15 September 2020. As announced on 15 July 2020, ESMA will provide the annual transparency calculations for non-equity instruments at instrument (ISIN) basis, both liquid and illiquid ones, as of 14 September 2020. This information will be made available through the Financial Instruments Transparency System (FITRS) both by publishing XML files and through the Register web interface. In addition, in order to avoid potential misalignments between the application of the non-equity transparency calculations and the start of the mandatory SI-regime for non-equity instruments other than bonds, investment firms, applying the non-equity transparency calculations on 21 September instead of 15 September 2020, may perform the SI-test for non-equity instruments other than bonds by 21 September 2020.

**09 September 2020: ESMA publishes working paper on closet indexing indicators and investor outcomes**

ESMA published a Working Paper on Closet Indexing Indicators and Investor Outcomes. The study finds that investors can expect lower net returns from closet indexers than from a genuinely actively managed fund portfolio. Closet indexing refers to the situation in which asset managers claim to manage their funds in an active manner while in fact tracking or staying close to a benchmark index. The authors of the study looked at annual fund-level data for the period 2010 to 2018, finding that investors saw both lower expected returns and higher fees when they invest in closet indexers compared with active funds. Overall, the net performance of potential closet indexers was worse than the net performance of genuinely active funds, as the marginally lower fees of potential closet indexers are outweighed by reduced performance.

Closet indexing is a practice that has been criticised by supervisors and investor advocacy groups on numerous occasions in recent years, over concern that investors are being misled about a fund's investment strategy and objective and are not receiving the service that they have paid for. ESMA and NCAs have worked to identify potential closet indexers by examining metrics on fund composition and performance and by conducting follow-up detailed supervisory work on a fund-by-fund basis. ESMA recognises that such metrics, while imperfect screening tools, are a useful source of evidence to help direct supervisory focus. This study does not aim to identify particular closet indexers, but analysis how closet indexing relates to the costs and performance of EU-domiciled equity funds. In so doing, it aims to contribute to the understanding of closet indexing in the EU.

**07 – 11 September 2020: Speeches, Letters & Other Publications**

During the week, ESMA released the following publications & and announcements that might be of interest to our readers:

- ESMA Newsletter - Nº16
- ESMA issues latest Double Volume Cap Data

## European Banking Authority (EBA)

**10 September 2020: EBA issues revised list of ITS validation rules**

The European Banking Authority (EBA) issued a revised list of validation rules in its Implementing Technical Standards (ITS) on supervisory reporting, highlighting those, which have been deactivated either for incorrectness or for triggering IT problems. Competent Authorities throughout the EU are informed that data submitted in accordance with these ITS should not be formally validated against the set of deactivated rules.

**10 September 2020: EBA calls on EU Commission to establish a single rulebook on fighting money laundering and terrorist financing**

The EBA published its response to a European Commission's call for advice on how to strengthen the EU legal framework on anti-money laundering and countering the financing of terrorism (AML/CFT). The European Commission issued this call for advice to the EBA to take advantage of its technical expertise across all areas of financial services regulation and because the EBA has a legal duty to lead, coordinate and monitor the EU financial sector's fight against money laundering and terrorist financing (ML/TF). In its advice, the EBA sets out how the EU legal framework should be strengthened to tackle vulnerabilities linked to divergent national approaches and gaps in the EU defences against ML/TF.

Specifically, the EBA recommends that the Commission establish a single rulebook to:

- harmonise the EU legal framework in a directly applicable Regulation where evidence suggests that divergence of national rules and practices has had a significant, adverse impact on the prevention of the use of the EU's financial system for ML/TF purposes. This is the case for customer due diligence and wider AML/CFT systems and controls requirements, as well as for those rules governing key supervisory processes such as ML/TF risk assessments, cooperation and enforcement;
- strengthen aspects of the current AML/CFT Directive where existing provisions are insufficiently robust or specific, for example in relation to competent authorities' supervision powers in this area;
- review the list of obliged entities currently within the scope of the EU's AML/CFT regime; and
- clarify provisions in sectoral financial services legislation to ensure they are compatible with the EU's AML/CFT objectives, for example by making sure that ML/TF risk is addressed consistently across all sectors.

## European Central Bank (ECB)

### 10 September 2020: ECB releases monetary policy decisions – September 2020

The Governing Council of the European Central Bank (ECB), at its 10 September meeting, took the following monetary policy decisions:

- the interest rate on the main refinancing operations and the interest rates on the marginal lending facility and the deposit facility will remain unchanged at 0.00%, 0.25% and -0.50% respectively;
- the Governing Council will continue its purchases under the pandemic emergency purchase programme (PEPP) with a total envelope of €1,350 billion. The Governing Council will conduct net asset purchases under the PEPP until at least the end of June 2021 and, in any case, until it judges that the coronavirus crisis phase is over. The Governing Council will reinvest the principal payments from maturing securities purchased under the PEPP until at least the end of 2022;
- net purchases under the asset purchase programme (APP) will continue at a monthly pace of €20 billion, together with the purchases under the additional €120 billion temporary envelope until the end of the year; and
- the Governing Council will also continue to provide ample liquidity through its refinancing operations. In particular, the latest operation in the third series of targeted longer-term refinancing operations (TLTRO III) has registered a very high take-up of funds, supporting bank lending to firms and households.

### 07 – 11 September 2020: Speeches, Letters & Other Publications

During the week, the ECB released the following speeches, letters and publications that might be of interest to our readers:

- Feedback on the input provided by the European Parliament as part of its "Resolution on Banking Union - Annual Report 2019"
- ECB staff macroeconomic projections for the euro area, September 2020
- Consolidated financial statement of the Eurosystem as at 4 September 2020
- ECB lists Bulgarian and Croatian banks it will directly supervise as of October 2020
- Payments in a digital world – Speech by Christine Lagarde
- The shadow of fiscal dominance: Misconceptions, perceptions and perspectives – Speech by Isabel Schnabel
- Supervisory action in times of crisis and the limits of the ECB's prudential mandate – Speech by Yves Mersch
- Remarks at the Annual Meeting of the Council of Governors of the Arab Central Banks and Monetary Authorities – Speech by Christine Lagarde
- The great lockdown: pandemic response policies and bank lending conditions – Working Paper Series
- Macroeconomic risks across the globe due to the Spanish Flu – Working Paper Series
- The outlook for the euro area – Blog

## European Commission (EC)

### 07 – 11 September 2020: Speeches, Letters & Other Publications

During the week, the European Commission (EC) released the following speeches, letters and publications that might be of interest to our readers:

- Commission publishes findings of the evaluation of the Vertical Block Exemption Regulation
- Commission unveils its first Strategic Foresight Report: charting the course towards a more resilient Europe
- Commission adopts proposal to make EU-U.S. agreement on tariffs effective
- Statement by Michel Barnier following Round 8 of negotiations for a new partnership between the European Union and the United Kingdom
- Remarks by Executive Vice-President Dombrovskis at the informal ECOFIN press conference – Speech
- Commission and China hold first High-level Digital Dialogue

## Central Bank of Ireland (CBI)

### 08 September 2020: CBI publishes fourth edition of Credit Union PRISM Supervisory Commentary Report

The Central Bank of Ireland (CBI) published the fourth edition of the Credit Union PRISM Supervisory Commentary Report. The purpose of this report is to inform all credit unions on the nature and type of risks identified during Central Bank 2019 supervisory engagements, and related supervisory expectations in addressing such issues. The report provides an overview of the specific risk categories where 550 individual issues were identified in credit unions during 2019 PRISM engagements. The Central Bank's analysis covers risks across governance, credit, operational risk, strategy / business model risk and investment, liquidity and capital risk. The report is intended to be a practical reference tool for all credit union boards and management teams to support enhancement of governance, risk management and operational frameworks. The Central Bank expects all credit unions to consider and act on, the findings presented as part of their own management and mitigation of ongoing risks.

**09 September 2020: CBI sets out requirements to firms following first phase of review of differential pricing in insurance sector**

The CBI has concluded the first phase of its Review of Differential Pricing in the Motor and Home Insurance Markets and issued a letter to the insurance sector setting out its expectations in respect of the pricing of insurance policies. The review, which commenced in January 2020, is being conducted in three phases: (1) market analysis; (2) quantitative analysis and consumer insight; and (3) findings and recommendations. The purpose of the market analysis phase was to establish the extent to which differential pricing is in use within these markets and, where it does exist, to determine how firms are utilising the practice and whether it is in line with the Consumer Protection Code. While it will be necessary to complete all phases before setting out conclusions from the Review, the Central Bank has identified a number of weaknesses in the market analysis phase that are of sufficient concern to communicate to insurance firms now.

**07 – 11 September 2020: Speeches, Letters & Other Publications**

During the week, the CBI released the following speeches, letters and publications that might be of interest to our readers:

- COVID-19: How Can Policy Aid the Recovery? – Speech by Deputy Governor Sharon Donnery
- Introductory statement by Governor Gabriel Makhlouf at the Special Oireachtas Committee on Covid-19

## Commission de Surveillance du Secteur Financie (CSSF)

**07 – 11 September 2020: Speeches, Letters & Other Publications**

During the week, the Commission de Surveillance du Secteur Financier (CSSF) released the following speeches, letters and publications that might be of interest to our readers:

- Update of the annexes to Circular CSSF 20/747 – publication of Circular CSSF 20/747 on technical modalities relating to the application of the Law of 25 March 2020 establishing a central electronic data retrieval system related to payment account and bank accounts identified by IBAN and safe-deposit boxes held by credit institutions in Luxembourg
- Interview with Claude Marx, Director General of the CSSF – what improvements might be needed for maximizing the contribution of asset management to the post-Covid economic recovery (e.g. in terms of competitiveness of the EU fund sector, cross-border development, risk mitigation…)? Do some financial stability risks associated with asset management activities still need tackling in the EU and did the Covid crisis reveal any specific vulnerabilities?

## Autorité des Marchés Financiers (AMF) of France

**11 September 2020: AMF complies with ESMA guidelines on reporting to competent authorities on money market funds**

The Autorité des Marchés Financiers (AMF) announced that it has updated its position DOC-2018-05 to include ESMA's requirements for reporting to competent authorities under Article 37 of the Money Market Fund Regulation. The AMF draws the attention of asset management companies to the fact that, given the operational difficulties associated with COVID-19 (see ESMA's press release of 4 June 2020), and the time required to implement the IT infrastructure, the first submissions are currently expected to be made in December 2020. Once the IT infrastructure is in place, asset management companies will be able to submit the reports required since Q1 2020. The deadlines for activating the "test" and "production" platforms are specified in the reporting entity's guide issued by the AMF. At the end of this transition period, reporting will be due within 30 days of the end of the reporting period, in accordance with the provisions of Article 37(5) of the MMF Regulation.

## Swiss Financial Market Supervisory Authority (FINMA)

**10 September 2020: FINMA publishes Insurance Market Report 2019**

The Swiss Financial Market Supervisory Authority (FINMA) published its Insurance Market Report 2019. Every year FINMA publishes a report on the activities of supervised insurance companies. This year's report on the insurance market in 2019 contains statistical data on the market as a whole and on the individual life, non-life and reinsurance sectors in aggregate. This report for the first time also includes details of the operating statements of occupational pension schemes of private life insurers covering the second pillar. Until last year, FINMA published a separate report on this. FINMA is additionally publishing on its website electronic tables pertaining to the insurance market report, detailed information about the operating statement of occupational pension schemes, all illustrations of the previous transparency report and, as before, disclosure tables of the operating statement of occupational pension schemes.

According to the report, the aggregate data on the Swiss insurance market reveal a significant improvement in results in 2019. While varying across the sub-sectors, they are largely attributable to the results on the capital market. Swiss insurance companies posted an aggregate result of CHF 15.2 billion in the 2019 financial year, which is equivalent to an increase of 44 percent on the previous year. While life insurers reported a moderate rise in their annual profits (+8 percent to CHF 1.5 billion), non-life insurance companies recorded a real growth in profits of CHF 3.3 billion or 49% to CHF 10.1 billion. Significantly higher year-on-year profits from investment activities were the main driver of the improved annual results. Reinsurers increased their annual profits from CHF 2.4 billion in the previous year to CHF 3.6 billion in the reporting year (+49 percent).

## Financial Stability Board (FSB)

### 07 September 2020: FSB extends implementation timelines for securities financing transactions

The Financial Stability Board (FSB) announced extensions to the implementation timelines for minimum haircut standards for non-centrally cleared securities financing transactions (SFTs), to ease operational burdens on market participants and authorities, and thereby assist them in focusing on priorities from the impact of COVID-19. The Group of Central Bank Governors and Heads of Supervision decided in March 2020 to defer the implementation of the Basel III framework by one year to January 2023. Since the FSB framework for numerical haircut floors for bank-to-non-bank transactions is expected to be implemented through the Basel III framework in many jurisdictions, the FSB has therefore decided to also extend the implementation dates by one year for its policy recommendations related to minimum haircut standards for non-centrally cleared SFTs. For bank-to-non-bank transactions, the updated implementation date is January 2023 (instead of January 2022). For non-bank-to-non-bank transactions, the updated implementation date is January 2025 (instead of January 2024). This is in line with the re-prioritisation of the FSB's work in light of the COVID-19 pandemic and will give market participants (both banks and non-banks) more time to prepare for the implementation of the framework of numerical haircut floors set out in minimum haircut standards.

### 07 – 11 September 2020: Speeches, Letters & Other Publications

During the week, the FSB released the following speeches, letters and publications that might be of interest to our readers:

- Virtual workshop on the evaluation of too-big-to-fail reforms
  FSB hosted a virtual workshop as part of the consultation process for its evaluation of the too-big-to-fail reforms. The virtual workshop included presentations and discussions by a range of academic, regulatory, non-governmental organisation and industry stakeholders on the analysis and findings of the evaluation. The workshop and other feedback to the consultation will provide input to the final evaluation to be published in early 2021

## International Capital Market Association (ICMA)

### 07 September 2020: ICMA publishes briefing note on CSDR mandatory buy-ins and requirement to appoint a buy-in agent

The International Capital Market Association (ICMA) published a briefing note on the CSDR mandatory buy-ins and the requirement to appoint a buy-in agent. ICMA explains that the CSDR-SD regulatory technical standards require that in the case of failing non-cleared transactions, at the start of the mandatory buy-in process the purchasing party must appoint a buy-in agent. This may not be possible, particularly since a buy-in agent may not be available (noting that the ICMA Buy-in Rules currently do not require the appointment of a buy-in for this very reason). If a buy-in agent cannot be appointed, it would seem likely that the buy-in cannot be effected, resulting in mandatory cash settlement ("cash compensation"). As ICMA has highlighted in an earlier briefing note, it is not clear how, or even if, the cash compensation provisions can be applied in the case of bonds.

**07 September 2020: ICMA ERCC publishes fourth edition of its SFTR recommendations**

The ICMA European Repo and Collateral Council (ERCC) has published an updated version of the ICMA Recommendations for Reporting under SFTR. This is the fourth public edition of the document, which was initially released on 24 February and previously updated on 30 June. The aim of the Recommendations is to help members interpret the regulatory reporting framework specified by ESMA and to set out complementary best practice recommendations to provide additional clarity and address ambiguities in the official guidance. Now at close to 300 pages, the updated version of the guide covers a number of new questions, as well as additions and revisions to existing recommendations, partly to reflect members' feedback and important lessons learned since the SFTR reporting go-live on 13 July. For ease of comparison, ICMA published, alongside the new guide, a blackline version which shows all the changes that have been made since the last publication in June. Going forward, the document will continue to evolve to reflect ongoing discussions in the ERCC SFTR Task Force as well as any additional guidance received from ESMA and/or the NCAs.

**11 September 2020: ICMA AMIC responds to EC consultation on investment research**

The ICMA Asset Management and Investors Council (AMIC) submitted its response to the EC consultation on investment research. The response explains that partially reviewing unbundling rules will not contribute to reviving SME research to a meaningful extent as a majority of members would practically not be able to make use of the options proposed by the EC. AMIC therefore recommends that the EC consider other policy options to support SME research and funding in the context of post-COVID recovery (free-trial and issuer-sponsored research).

**07 – 11 September 2020: Speeches, Letters & Other Publications**

During the week, ICMA released the following speeches, letters and publications that might be of interest to our readers:

- COVID-19 ICMA Asset Management & Investors Council market update
  Robert Parker, Chair of ICMA's Asset Management and Investors Council, reviews the market events of the last two weeks, in light of the recent Tech sell-off, central banks meetings in September and political risks lying ahead (Brexit, US elections, and China-US tensions)
- Post-Brexit: the way ahead in international capital markets
  Paul Richards, ICMA's Head of Market Practice and Regulatory Policy, provides an update on the issues that arise at the end of the post-Brexit transition period, both for market firms based in the EU and in the UK, covering: the loss of passporting rights; market access; regulatory equivalence; cliff-edge risks; the need for regulatory and supervisory cooperation; and the state of market preparations

## Other Updates

We would like to bring to our ELFA readers' attention the following regulatory updates from regulators & associations we are not currently monitoring.

**09 September 2020: Principles for Responsible Investment (PRI) publishes report on using EU Taxonomy**

The Principles for Responsible Investment (PRI) published its report titled "Testing the taxonomy: insights from the PRI taxonomy practitioners group". This report shares insights from the first comprehensive set of case studies around how to use the EU taxonomy. Starting in late 2019, over 40 investment managers and asset owners worked to implement the taxonomy on a voluntary basis in anticipation of upcoming European regulation. The investors assessed taxonomy alignment before many details of the final regulation are in place, and before widespread corporate reporting against the taxonomy is available. Many challenges remain, not least the availability of data and potential changes to the detailed taxonomy criteria. Nonetheless, the progress made by the group is encouraging. The case studies detailed here demonstrate that the taxonomy framework can be operationalised and offer important insights for investors beginning their taxonomy preparation. This report also summarises recommendations from the group to policymakers and supervisors who will oversee the implementation and development of the taxonomy. The PRI hopes that by circulating these findings, this report will foster confidence and facilitate implementation of the taxonomy.

## In the News

During the week, the Financial Times & Thomson Reuters published the following news that might be of interest to our readers.

**Financial Times**

- UK financial watchdog's probes taking longer and costing more
  "Britain's financial regulator is still working on a high volume of investigations into potential wrongdoing by firms and individuals, but delivering a relatively low proportion of clear outcomes at an increasing cost, according to new data"

- UK companies warn on mounting debt during pandemic
  "More than a quarter of companies forced to take on extra debt to survive the pandemic have warned they may need to cut back their operations, highlighting a mounting crisis that economists warn could hold back business recovery in the UK"

- MPs back call for 'targeted' extension of UK furlough scheme
  "MPs have lent their weight to business and trade union calls for the government to continue wage support when the furlough scheme ends in October, urging chancellor Rishi Sunak to consider a "targeted" extension to prevent rising long-term unemployment"

- The Bank of England's message on monetary financing needs clarity
  "All this suggests that the BoE might hold record quantities of government debt, effectively financing the government, into the indefinite future"

- How will the BoE respond to the return of Brexit risks?
  "Most analysts think the Bank of England's Monetary Policy Committee will not announce any immediate action to address the heightened risk on Thursday. Nonetheless, investors will be watching carefully for clues on what policymakers will do next"

- British Business Bank seeks funding boost to drive UK recovery
  "The outgoing chief executive of Britain's state-owned development bank has called for the government to provide more funds to support crucial industries and regional growth as the country rebuilds after the coronavirus crisis"

- Britain's housing 'boom' obscures a divided market
  "Against the backdrop of the deep economic crash unleashed by the coronavirus pandemic, and in defiance of many predictions, house prices in the UK have hit record highs"

- Barclays pulls riskier mortgages after nearing lending limit
  "Barclays has been forced to withdraw mortgages for certain customers after coming close to breaching a regulatory limit on lending to higher-risk borrowers"

- LSE's potential sale of Borsa Italiana will test Rome's appetite for intervention
  "The London Stock Exchange has earmarked the Italian businesses, prized since the UK group acquired them for €1.6bn in 2007, for potential sale as part of an effort to persuade EU regulators to approve its $27bn purchase of financial data and trading group Refinitiv — a deal the LSE has said will transform its prospects"

- Lloyds to cut 865 jobs as cost pressures on banks intensify
  "Lloyds Banking Group has announced its first round of job cuts since putting restructuring plans on hold at the start of the pandemic. The UK's largest high street lender said it would eliminate 865 roles, starting in November, which would be partially offset by the creation of 226 new positions elsewhere in the business"

- ED&F Man agrees debt restructuring in eleventh-hour rescue
  "ED&F Man, one of London's oldest commodities brokers, has restructured nearly $1.5bn of debt and raised an extra $320m in working capital from lenders, staving off a funding crunch"

- [Tullow warns of default risk as it slumps to loss]
“Tullow Oil warned it risked defaulting on a debt facility if it does not resolve a potential liquidity shortfall, as the Africa-focused explorer slumped to a $1.4bn pre-tax loss for the first half of the year. The London-listed company said on Wednesday that a “potential liquidity shortfall” threatened its ability to satisfy requirements at a “redetermination” next January of its reserves-based lending facility”

- [Former Worldspreads boss avoids market abuse fine due to ‘hardship’]
“Conor Foley, the ex-chief executive of collapsed spread betting firm Worldspreads, has been let off a £650,000 penalty for market abuse”

- [PizzaExpress secures backing for rescue that will cut 1,100 jobs]
“As many as 1,100 jobs will be lost after PizzaExpress’s landlords approved a key part of its corporate restructuring that will close 73 branches, as the pizza chain is forced into drastic action to survive the coronavirus pandemic. PizzaExpress is set to be taken over by the banks and funds that own its debt through a restructuring of its finances, which will end the ownership of the UK business by Chinese owner Hony Capital after more than five years”

- [New Look to warn it could collapse without fresh rent cuts]
“New Look is set for another clash with its landlords next week as it prepares to ask for further big cuts in rents with a warning that it could go bust without them”

- [BP’s Looney stakes future on producing less oil]
“When Bernard Looney makes his long-awaited pitch to investors on the future of BP this week, the chief executive is expected to hammer home one message: that BP will be a stronger company when it produces less oil and gas”

- [ECB chief economist warns against complacency over recovery]
“The chief economist of the European Central Bank has warned there is “no room for complacency” on the eurozone’s economic rebound from the coronavirus pandemic, as the rising euro drags on inflation”

- [ECB to monitor rise of euro after keeping rates on hold]
“The European Central Bank has discussed “extensively” how the rising euro could weigh on inflation and will carefully monitor the exchange rate, its president Christine Lagarde said on Thursday as she left interest rates unchanged”

- [Euro strength raises ECB alarms]
“Currency rise poses headache for the central bank in the fight against deflation and plummeting growth”

- [ECB will struggle to rein in the euro, say investors]
“The recent rise in the euro is causing consternation at the European Central Bank, but investors say its policymakers could have a tough task on their hands in trying to weaken the currency”

- [EU explores green bonds as part of €750bn borrowing spree]
“The European Commission is considering issuing green bonds for the first time, as investors and politicians call on Brussels to raise sustainable debt as part of its €750bn borrowing spree to fund Europe’s economic recovery from Covid-19”

- [Credit Suisse spearheads green financing to clean up dirty companies]
“Now Credit Suisse and the Climate Bonds Initiative, a UK markets watchdog, are leading a project to broaden sustainable finance and nudge the brown businesses toward green. The duo have published a framework for defining transition pathways for dirty businesses”

- [Pandemic speeds up push to digital as bank branches close]
“Swiss lender Credit Suisse is set to launch an overhaul of its digital banking offering, as it uses the coronavirus crisis as a springboard to accelerate the push from bricks-and-mortar branches to online services”

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- The question of Tomra's perplexing performance bonus
  "On Friday, FT Alphaville took a look at Tomra Systems, a €5.1bn Norwegian recycling and optical sorting company which walks and talks like an industrial company but is valued like Amazon"

- Drahi offers to take Altice Europe private in €2.5bn buyout
  "French billionaire Patrick Drahi has offered €2.5bn to minority shareholders in Altice Europe to take full control of the group, in the latest example of buyers taking advantage of the low valuations of listed European telecoms companies"

- Ryanair's bond draws €4bn in orders as Covid fears swirl
  "Ryanair has become the first big European airline to sell a bond since the start of the pandemic, as investors shrugged off concerns about tightening travel restrictions in Europe. The continent's largest low-cost carrier sold €850m of five-year bonds on Tuesday at a yield of 3 per cent, after investors put in €4.4bn worth of orders"

- Senate Republicans propose scrapping $200bn for Fed crisis lending
  "Senate Republicans have proposed scrapping $200bn in government funding for future emergency lending by the Federal Reserve, as part of a new economic stimulus package that congressional Democrats have already dismissed as insufficient"

- CFTC panel red-flags climate change risk to financial system
  "Climate change threatens not only fires, drought and surging seas but profound risks to the financial system, a federal advisory panel has warned in a first-of-its-kind report from a Wall Street regulator"

- US banks signal mounting concern over real estate lending
  "US banks are increasingly worried about being repaid on loans secured against commercial property, as offices, malls and hotels continue to stand empty"

- US companies stretch out debts to lock in low rates for longer
  "Companies across the US are taking advantage of low borrowing costs to extend the maturity of their debt, selling longer and longer dated bonds to investors starved of yield"

- Companies urged to issue debt in calm before US election
  "The threat of a turbulent US presidential election is raising the pressure on companies to load up on cheap debt as bankers warn that disruption to financial markets could deny them access to funds on favourable terms"

- Tech stocks plunge, sending Nasdaq into correction territory
  "US technology stocks suffered their worst sell-off since the depths of the market turmoil in March, with the Nasdaq Composite diving into correction territory and Tesla losing more than a fifth of its value in a single day"

- SoftBank shareholders push for answers on 'Nasdaq whale' bets
  "SoftBank shareholders are calling on the technology conglomerate to reveal who is running the unit at the centre of its large US equity options trades, with nerves over an unexplained strategic shift stoking a 10 per cent decline in its share price"

- JPMorgan says staff and customers may have broken law on Covid-19 loans
  "JPMorgan Chase is investigating whether its staff helped customers to gain funds illegally from the US government's small business bailout programme"

- JPMorgan fires several employees who took Covid relief funds
  "JPMorgan Chase has dismissed several employees who allegedly pocketed bailout funds that were supposed to help businesses dealing with the Covid-19 crisis, a person familiar with the situation said"

- Citi becomes first big Wall Street bank to be run by female CEO
  "Citigroup has become the first major Wall Street bank to appoint a female chief executive, announcing on Thursday that Jane Fraser will succeed Mike Corbat. The succession was teed up by the Scottish woman's appointment as Citi's president last year, which insiders said was a precursor to her ultimately becoming chief executive of the bank, whose $2.2tn balance sheet makes it one of the world's top lenders"

- Uber goes green
  "Uber is committing to become a fully zero-emission platform by 2040, with 100 per cent of rides taking place in zero-emission vehicles, on public transit, or with micromobility"

- UBS backs sustainable investing with landmark recommendation
  "The Swiss bank, which oversees $2.6tn in client assets under its wealth management division, is recommending sustainable investments over traditional investments for all of its clients that invest globally"

- Global regulatory body to harmonise 'plethora' of ESG standards
  "The global umbrella body for securities regulators is seeking to harmonise the patchwork of rules governing how companies disclose sustainability risks in a move that could be a game-changer for the fast-growing green finance sector. The International Organization of Securities Commissions said on Monday it would work to identify "commonalities" among the vast range of sustainability disclosure standards from across the world in order to make it easier to compare information"

- How to separate the good from the bad and ugly ESG funds
  "Environmental, social and governance investing has been one of the hottest sectors of 2020, as investors have flooded into the market looking to immunise their portfolios against climate risk and help promote a sustainable recovery from the pandemic. But what are people actually getting when they buy an exchange traded fund labelled "ESG"? The answer can vary wildly depending on which fund they choose"

- Hedge funds need to deliver in their year of opportunity
  "The turbulent financial market conditions dominating 2020 are providing hedge funds with one of their best chances to shine in years. Many are not taking advantage"

- Central banks will win the tug of war in markets
  "Financial markets are being pulled in different directions by two big forces: the injection of liquidity from central banks and concerns over a "second wave" of Covid-19 infections"

- Is audit fit for purpose?
  "The Wirecard scandal, along with the collapse of businesses such as Carillion, the outsourcing group, and Patisserie Valerie, the café chain, have shone a fresh spotlight on the audit role and whether its ultimate clients — company shareholders — are being properly serviced"

- Why Libor's demise threatens small businesses most
  "In death as in life, Libor's demise is seldom discussed without mentioning that the rate underpins contracts worth hundreds of trillions of dollars. Yet, as efforts to ditch the interest rate benchmark intensify, are we missing out on where the true difficulties in dumping Libor lie"

- How Covid-19 sparked a dividend drought for investors
  "A tentative economic recovery has allowed some businesses to restore dividends. Yet many are still reeling from the impact, after stumbling into the crisis in poor shape"

- Petra Diamonds accused of human rights abuses in Tanzania
  "Mining group Petra Diamonds is facing accusations that its security guards caused multiple deaths and injuries at its diamond mine in Tanzania"

- Is China the closest thing to investing normality now?
  "China's real-time economic indicators are mostly back to pre-Covid levels"

- Why Warren Buffett could lead other money managers into overlooked Japan
  "Berkshire's move could be presented as a reminder that no global money manager should pass by the real treasures in Japan's curiosity shop: such as the solidly managed, cash-rich companies in robotics, factory automation and speciality chemicals that are dominant in their sectors — and a long, long way from Wall Street"

- Nissan bonds: the comfort of strangers
  "Tokyo cynics say Nissan likes foreign investors because they do not fully realise how much trouble it is in"

- Nissan loan guarantee adds to questions over Renault alliance
  "When Nissan was asked about the chances of tapping into Japanese government money in late May, the lossmaking carmaker acknowledged it was exploring "all possible options" to survive the coronavirus meltdown in vehicle demand"

**Thomson Reuters**

- Competition watchdog blocks Lloyds' unfair treatment of COVID-19-hit firms
  "Britain's competition watchdog has stopped Lloyds Banking Group LLOY.L from forcing small business customers hit by the COVID-19 pandemic to open business current accounts to access emergency state-backed funding"

- UK economy extends recovery from COVID crash, growth seen fading
  "Britain's economy recovered half of its COVID-19 crash by the end of July, helped by pubs and restaurants reopening from lockdown, but the bounce-back is expected to slow as job losses mount and Brexit tensions rise"

- Factbox: Companies seeking restructuring to secure post-COVID future
  "A slew of companies are expected to launch restructuring plans in the coming months as the world emerges from the COVID-19 crisis and government support measures ease"

- EU resumes LSE, Refinitiv deal probe, decision by December 16
  "EU antitrust regulators have set a new Dec. 16 deadline for their decision on the London Stock Exchange's LSE.L $27 billion takeover of data company Refinitiv after resuming their investigation into the deal"

- Capital markets have key role in EU recovery from COVID: report
  "European Union companies must turn to capital markets in greater numbers to repair their new coronavirus-ravaged balance sheets as banks alone can't plug the funding gap, the New Financial think tank said in a report"

- KKR injects funds into Selecta amid debt revamp
  "Financial investor KKR KKR.N is injecting 125 million euros ($147 million) in additional capital into crisis-hit Swiss snack machine operator Selecta under a debt restructuring agreement"

- Euronext and Italy's CDP confirm talks to bid for Borsa Italiana
  "Euronext ENX.PA and Italy's Cassa Depositi e Prestiti (CDP) confirmed on Friday they were in talks to make a joint bid for Borsa Italiana, as Germany's Deutsche Boerse submitted a rival offer and one from Swiss exchange Six was expected"

- Italy to use golden power over Milan bourse, wants Euronext merger
  "Italy is ready to use its vetting "golden" powers over strategic assets to ensure the Milan stock exchange, Borsa Italiana, is not sold to an unacceptable bidder, Economy Minister Roberto Gualtieri said"

- Tiffany sues LVMH for reneging on $16 billion deal as France steps in
  "Tiffany & Co TIF.N sued LVMH LVMH.PA on Wednesday after the French luxury goods giant told the U.S. jeweler it could not complete a $16 billion deal to acquire it because of a French government request and the impact of the coronavirus outbreak"

- Investors in LVMH's Tiffany bonds left second-guessing on redemption payout
  "The holders of 9 billion euros (8.36 billion pounds) worth of bonds issued by LVMH to fund its now imperilled acquisition of Tiffany & Co have been left second-guessing as to when they might get their money back"

- Air France-KLM's future in doubt without cost cuts - Dutch minister
  "Air France-KLM AIRF.PA might not survive its current crisis if the airline group cannot lower its costs, Dutch Finance minister Wopke Hoekstra said"

- Equity market turmoil seen unlikely to provoke rapid Fed response
  "The U.S. stock market pullback has raised hopes that the Federal Reserve will ramp up asset purchases to boost the economy, but the sell-off was not steep enough to warrant any action, according to market participants, strategists and an advisor to the U.S. Treasury"

- How California’s wildfires could spark a financial crisis
“Wildfires across the U.S. West are among the sparks from climate change that could ignite a U.S. financial crisis by damaging home values, state tourism and local government budgets, an advisory panel to a U.S. markets regulator found”

- Goldman Sachs sees double-digit returns in emerging market junk
“Analysts at Goldman Sachs have forecast double-digit returns on high yield - also known as junk - emerging market bonds over next 12 months if the world gets over its coronavirus worries”

- BlackRock downgrades IG credit to neutral, ups exposure to high-yield bonds
“The BlackRock Investment Institute said on Tuesday it downgraded investment grade debt to neutral, citing little room for spread compression given that deeper rate cuts and more asset purchases are an unlikely policy response”

- Breakingviews - Citi’s new CEO can lead on ESG if not returns
“Citigroup’s decision to choose Jane Fraser as its next chief executive shows that it is becoming the U.S. banking industry’s ESG leader. Granted, that’s a relatively low bar on environmental, social and governance criteria alike. But the $109 billion lender stands out from the crowd. Cementing that advantage will be one of Fraser’s tasks – but so will boosting the lender’s long-term earnings drag”

- U.S. bankruptcy judge rejects LATAM Airlines proposed $2.4 billion financing deal
“A U.S. bankruptcy judge on Thursday rejected a $2.4 billion financing plan for struggling LATAM Airlines LTM.SN on the grounds that a convertible loan included as part of the package would amount to “improper” treatment of other shareholders”

- Emerging market funds close due to shrinking demand
“Dozens of emerging market funds have closed this year as turmoil unleashed by the coronavirus has damaged investor sentiment towards the asset class, where returns lag those of developed economies”

- Emirates airline issued over $1.4 billion in coronavirus-related refunds
“Emirates airline has issued over 5 billion dirhams ($1.4 billion) in refunds related to the new coronavirus crisis, it said”

- Bahrain sells $2 billion in sukuk and bonds – document
“Bahrain sold $2 billion in a dual-tranche bond deal comprising seven-year sukuk and 12-year conventional bonds on Wednesday, its second international debt sale this year, a document showed”

- Singapore Airlines to cut 4,300 jobs due to pandemic, most in its history
“Singapore Airlines Ltd SIAL.SI said on Thursday it would cut 4,300 positions, or around 20% of its staff, due to the debilitating impact of the coronavirus pandemic on demand in the largest job losses in its history”

- Ex-Goldman banker seeks review of 1MDB charges in Malaysia
“Former Goldman Sachs banker Roger Ng has asked Malaysian prosecutors to review criminal charges against him for allegedly abetting the sale of $6.5 billion in bonds tied to 1Malaysia Development Berhad (1MDB), his lawyer said”

- China’s new yuan loans set to rise in Aug, keep economy on recovery path: Reuters poll
“China’s new bank loans are expected to have risen in August from the previous month, as the central bank sought to keep liquidity flush to support embattled smaller companies and backstop an economy recovering from the coronavirus shock”

- Explainer: A peek into China’s $14.6 trillion asset management industry
“China is further opening up its financial markets to overseas investors, easing restrictions on foreign investments in securities, retail funds, private funds, banking and insurance fields”

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- Japan's Suga says no limit to bonds government can issue
“Japan's Chief Cabinet Secretary Yoshihide Suga, who is set to become prime minister this week, said on Sunday there was no limit to the amount of bonds the government can issue to support an economy hit by the coronavirus pandemic”

- Japanese government exposed to 40% of $6.7 billion Nissan loans: sources
“The Japanese government has guaranteed most of a loan to Nissan Motor Co 7201.T from the Development Bank of Japan (DBJ), a source said, taking its guarantee to more than 40% of 713 billion yen ($6.7 billion) in finance for Japan's No.2 automaker”

- Nissan to issue $8 billion in dollar-denominated debt
“Japan's Nissan Motor Co 7201.T will issue $8 billion in dollar-denominated debt and is considering euro-denominated bonds, it said on Friday, as the troubled automaker looks to diversify its funding”

- Australia business conditions soften, confidence still fragile: survey
“A measure of Australian business conditions fell sharply in August reflecting weakness in employment, sales and profitability as Victoria relapsed into a coronavirus lockdown, and though confidence rose it still remained fragile”

- Rio Tinto exits seen reverberating across boardrooms
“The departure of Rio Tinto Chief Executive Jean-Sebastien Jacques over the destruction of ancient Aboriginal heritage sites in Australia has put mining executives globally on notice – ignore cultural and social issues at your peril”

- Manager at Brazil's Petrobras investigated in latest graft probe
“A Petrobras manager was among the subjects of search warrants issued to police on Thursday, part of a years-long investigation into alleged corruption at the Brazilian state-controlled oil firm, according to court documents seen by Reuters”

- Brazil airline Gol expects to halve cash burn for remainder of 2020
“Brazil's Gol Linhas Aereas Inteligentes GOLL4.SA said on Thursday it expects to burn through 3 million reais ($565,195.27) a day for the rest of 2020, half of its previously announced expected cash consumption”

- Argentina debt deal opens door for $13 billion provincial revamp
“Argentina's provinces from Buenos Aires to wine region Mendoza are readying to revamp a combined $13 billion in debt, after a successful sovereign debt restructuring opened the door for local governments to resolve their regional crises”

- Mexico may extend relaxed bank credit rules to help economy grow
“Mexico's finance ministry is considering extending relaxed banking credit rules to help its battered economy recover, a top official said on Wednesday, after it presented an austere 2021 budget that leaves little room to maneuver”

## Regulators & Associations Monitored

1. FCA
2. BoE
3. The Pensions Regulator
4. FRC
5. ESMA
6. EBA
7. EIOPA
8. ECB
9. European Commission
10. BCBS
11. Autorité des Marchés Financiers (AMF) of France
12. CSSF
13. FINMA
14. CBI
15. ICMA
16. IOSCO
17. FSB

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## Important Information: