

## Legal and Regulatory Updates

16/08/2021 – 20/08/2021

### Key Highlights

- This Legal & Regulatory Update covers the week commencing **16/08/2021**.
- [FRC](#) publishes its Corporate Governance Research Summary.
- [EBA](#) publishes 12 indicators and updates data used for the identification of global systemically important institutions (G-SIIs).
- [ECB](#) issues a statistical press release on the Euro area financial vehicle corporation statistics for the second quarter of 2021.
- [ECB](#) issues a new monetary policy strategy.
- [European Commission](#) publishes a proposal for a directive about Sustainable transport.
- [BCBS](#) publishes its bulletin on whether corporate credit losses could turn out higher than expected.
- In this update, we also cover some of the most important [news on leveraged finance](#) published by the Financial Times during the week.

### Bank of England (BoE)

#### 16 – 20 August 2021: Speeches, Letters & Other Publications

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

- [Andy Haldane talks about social mobility with Liz Robinson](#) – the BoE aims to develop a diverse workforce and inclusive workplace. Part of that diversity is social background. This podcast series is part of a five-year social mobility strategy that was launched in February 2020
- [Minutes of the Productive Finance Working Group - 22 June 2021](#) – minutes of the fifth Technical Expert Group (TEG) meeting of the Working Group on Productive Finance
- [Minutes of the Productive Finance Working Group - 16 July 2021](#) – minutes of the sixth Technical Expert Group (TEG) meeting of the Working Group on Productive Finance
- [Minutes of the Productive Finance Working Group - 28 July 2021](#) – the third meeting of the Steering Committee
- [Comparing minds and machines: implications for financial stability](#) – Staff Working Paper No. 937
- [Did movements in exchange-traded funds act as a price signal for open-ended fund investors during the 'dash for cash' stress period?](#) – Bank Overground

### Financial Conduct Authority (FCA)

#### 16 – 20 August 2021: Speeches, Letters & Other Publications

During the week, the Financial Conduct Authority (FCA) released the following speeches, announcements, and publications that might be of interest to our readers:

- [Portfolio strategy letter: investment-based crowdfunding](#) – Letter to ensure that crowdfunding firms promote investment opportunities appropriately so that consumers can understand the risks these speculative and high-risk investments pose

### Financial Reporting Council (FRC)

#### 17 August 2021: FRC publishes Corporate Governance Research Summary

In 2021, the Financial Reporting Council (FRC) [released three research reports](#) which explore the [Code's provisions on Remuneration](#), [Workforce Engagement](#) and [Board Diversity and Effectiveness](#). The FRC hope that the research will stimulate conversations in companies and ultimately lead to further improvements in corporate governance. The FRC will also consider the findings and will take them into account in any future reviews of the UK Corporate Governance Code.

The FRC published the findings of research conducted with the University of Portsmouth into Board remuneration practices and policies. The research showed that there have been improvements in remuneration reporting against the provisions of the 2018 Corporate Governance Code but crucially that there is still room for improvement. For example, engagement with the workforce on remuneration out comes could be improved and there should be a move away from boilerplate reporting.

The FRC published the findings of research commissioned from the Involvement and Participation Association (IPA) and Royal Holloway, University of London (RHUL) on workforce engagement practises at FTSE350 companies. The research report considers the effectiveness of methods companies employ to engage with the workforce and explains how engagement with the workforce can offer valuable insight for boards, but that to maximise the benefits boards must be clear about what is it they are trying to understand from the engagement, this should determine the most appropriate engagement method. A non-executive director working alongside an advisory panel was often the best way to focus on key issues, and where relevant pass to the board and feedback actions to the workforce.

The FRC published the findings of this research in conjunction with London Business School, Leadership Institute and SQW that found that the effort to diversify boards pays benefits in terms of

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boardroom culture and performance. To maximise these benefits boards should recognise that change takes time and that diversity without active inclusion is unlikely to encourage new talent to the board.

## European Securities and Markets Authority (ESMA)

### 16 – 20 August 2021: Speeches, Letters & Other Publications

During the week, the European Securities and Markets Authority (ESMA) released the following speeches, announcements, calls and publications that might be of interest to our readers:

- [ESMA publishes Final Guidelines on the MiFID II/ MiFIR obligations on market data](#) – these guidelines are based on Article 16(1) of the ESMA Regulation. The objectives of these guidelines are to establish consistent, efficient and effective supervisory practices within the European System of Financial Supervision (ESFS) and to ensure the common, uniform and consistent application of the provisions in Articles 13, 15(1) and 18(8) of MiFIR and Articles 64(1) and 65(1) and (2) of MiFID I. These guidelines aim to ensure that financial market participants have a uniform understanding of the requirement to provide market data on a reasonable commercial basis (RCB), including the disclosure requirements, as well as the requirement to provide the market data 15 minutes after publication (delayed data) free of charge. These guidelines also aim to ensure that NCAs will have a common understanding and develop consistent supervisory practices when assessing the completeness, comprehensibility and consistency of the RCB and delayed data provisions
- [ESMA publishes a Reference on the CSD register](#)
- [Teleconference of the working group on euro risk-free rates](#)

## European Banking Authority (EBA)

### 19 August 2021: EBA publishes 12 indicators and updates data used for the identification of global systemically important institutions (G-SIIs)

The European Banking Authority (EBA) [published 12 indicators and updated the underlying data](#) from the 31 largest institutions in the EU. This end-2020 data serves as input for the internationally agreed standards on which a smaller subset of banks will be identified as global systemically important institutions (G-SIIs), following the final decision from the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board (FSB). The EBA, acting as a central data hub in the disclosure process, updates this data on a yearly basis and provides a user-friendly platform to aggregate it across the EU.

### 16 – 20 August 2021: Speeches, Letters & Other Publications

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

- [EBA Report on high earners for 2019](#) – the Report analysis showed that the number of high earners in EU banks remained overall stable in 2019

## European Central Bank (ECB)

### 17 August 2021: ECB issues a statistical press release on the Euro area financial vehicle corporation statistics for the second quarter of 2021

The European Central Bank (ECB) [issued a statistical press release](#) on the Euro area Financial Vehicle Corporation statistics (FVCs) for the second quarter of 2021. In the second quarter of 2021, outstanding amount of debt securities issued by euro area FVCs

engaged in securitisation rose to €1,607 billion, from €1,595 billion in previous quarter. Net issuance of debt securities by FVCs during second quarter of 2021 amounted to €17 billion. Euro area FVCs disposed €27 billion of securitised loans in second quarter of 2021, with outstanding amounts totalling €1,243 billion.

### 19 August 2021: ECB issues a new monetary policy strategy

The ECB [issued a new monetary policy](#) strategy which incorporates two innovations that warranted an update to the ECB's forward guidance on interest rates: first, the redefinition of the ECB's price stability objective as a symmetric two per cent inflation target over the medium term; and, second, a conditional commitment to take into account the implications of the effective lower bound when conducting policy in an environment of structurally-low nominal interest rates.

The two per cent inflation target is intended to provide a sufficient safety margin to protect the effectiveness of monetary policy in responding to disinflationary shocks. The symmetry of the inflation target means that the Governing Council considers negative and positive deviations of inflation from the target to be equally undesirable.

The conditional commitment to take into account the implications of the effective lower bound when conducting policy in an environment of structurally-low nominal interest rates reflects the asymmetric nature of the constraint imposed by the effective lower bound. While central banks can technically raise nominal interest rates without limits, there is only limited space to lower rates into negative territory, owing to the lower bound on cash. This limited ability to lower rates, if left unaddressed, will result in persistent downward deviations of inflation from the target, especially if the economy is repeatedly hit by disinflationary shocks. In turn, this could result in inflation expectations settling below the central bank's target inflation rate.

To address the asymmetry of the effective lower bound constraint, the commitment to a symmetric inflation target requires especially forceful or persistent monetary policy action when the economy is close to the effective lower bound, to avoid negative deviations from the inflation target becoming entrenched. Proximity to the lower bound can arise either from a low equilibrium real interest rate or from large and persistent disinflationary shocks influencing the inflation expectations embedded in nominal interest rates, or from a combination of the two factors.

An especially forceful or persistent response to negative deviations is warranted by the need to support the anchoring of longer-term inflation expectations at two per cent, which helps to maintain price stability over the medium term. This implies that, faced with large adverse shocks, the ECB's policy response will include an especially forceful use of its monetary policy instruments. In addition, closer to the effective lower bound, it may also call for a more persistent use of these instruments. This may also imply a transitory period in which inflation is moderately above target.

### 16 – 20 August 2021: Speeches, Letters & Other Publications

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

- [A walk around the central banking wildlife park!](#) – Podcast published on the connection between animals and central banking

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- [Interview with Focus](#) – Interview with Isabel Schnabel, Member of the Executive Board of the ECB, conducted by Carla Neuhaus on 17 August and published on 20 August 2021
- [ECB Survey of Monetary Analysts \(SMA\)](#) – the survey’s purpose is to gather analysts’ expectations of the evolution of monetary policy instruments and initiatives that the ECB has already announced, as well as their expectations for the economy and financial markets

**European Commission****19 August 2021: European Commission publishes a proposal for a directive about Sustainable transport**

The European Commission [published a proposal](#) for a directive about Sustainable transport. The Combined Transport Directive supports the shift from road freight to lower emission transport modes such as inland waterways, maritime transport and rail. In light of the European Green Deal’s calls for higher ambition and the need to implement the ‘polluter pays’ and ‘user pays’ principles, this initiative will review:

- which transport operations should be supported, and
- which support measures would be most effective in this regard.

This roadmap is open for feedback for 4 weeks. Feedback will be taken into account for further development and fine tuning of the initiative. The Commission will summarise the input received in a synopsis report explaining how the input will be taken on board and, if applicable, why certain suggestions can’t be taken up. Feedback received will be published on the Commissions’ site and therefore must adhere to the feedback rules. Feedback can be given [here](#).

**16 – 20 August 2021: Speeches, Letters & Other Publications**

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

- [European Commission issues a press release](#) giving the green light to new synthetic securitisation product under the European Guarantee Fund to further support SMEs affected by the coronavirus outbreak in 22 Member States
- [Deepening international cooperation on emissions trading](#) – LIFE DICET is bringing global carbon credit markets together through a combination of research, training, communication and networking

**Commission de Surveillance du Secteur Financier (CSSF)****17 August 2021: CSSF updates its FAQ COVID-19 questions**

The Commission de Surveillance du Secteur Financier (CSSF) [updated](#) its FAQ COVID-19 questions. These FAQ COVID-19 questions cover a wide range of topics aimed at different sectors of the Financial Services Industry such as Banks, Investment Firms, UCIs, Specialised investment funds, Management Companies, Pension Funds and Securities markets.

**Basel Committee on the Banking Supervision (BCBS)****18 August 2021: BCBS publishes its bulletin on whether corporate credit losses could turn out higher than expected**

The Basel Committee on the Banking Supervision (BCBS) [published](#) its bulletin on whether corporate credit losses could turn out higher than expected. The key takeaways were:

- Credit risk forecasts should provide information both about losses in a baseline scenario (“expected losses”) and about the potential for extreme outcomes (“unexpected losses”);
- Policy support measures have kept debt service costs low during the pandemic, thus underpinning benign baseline forecasts of corporate credit losses up to 2024, and
- High indebtedness, built up when the pandemic impaired real activity, suggests increased tail risks: plausible deviations from the baseline scenario feature ballooning corporate insolvencies.

**16 – 20 August 2021: Speeches, Letters & Other Publications**

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

- [“I don’t see Basel III as a burden – I see a compelling case to get it done.”](#) – Interview with Carolyn Rogers, Secretary General of the Basel Committee on Banking Supervision, ECB Supervision Newsletter

**Financial Stability Board (FSB)****16 – 20 August 2021: Speeches, Letters & Other Publications**

During the week, the Financial Stability Board (FSB) released the following speeches, announcements and publications that might be of interest to our readers:

- [Continuity of access to FMI services \(FMI intermediaries\) for firms in resolution](#) – the framework set out in the document published today seeks to help FMI intermediaries better understand which information clients and their resolution authorities (RAs) may need from them. It does so by providing an overview of the baseline information that is potentially relevant for clients and RAs, which they and FMI intermediaries can then discuss, as needed, in their bilateral engagement. Thus, the framework makes it more predictable for FMI intermediaries which topics could be part of information requests from their clients and/or from their clients’ RAs. This could potentially allow them to identify opportunities to streamline their response process, reducing the resources required to provide this information
- [Continuity of access to FMIs for firms in resolution](#) – this questionnaire updates the previous questionnaire for FMIs, which was published in August 2020. The questionnaire was developed in consultation with FMIs, FMI participants and FMI oversight authorities. It covers general information on the FMI and its legal structure; (the rulebook/contractual provisions regarding termination; and arrangements and operational processes to facilitate continued access in resolution

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## In the News

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

- [Greensill loan sets up battle for control of US car start-up](#)  
“One person familiar with the matter said that in buying up Greensill’s loan to Fair, SoftBank and its Vision Fund had employed tactics more typically associated with distressed debt investing.”
- [Rating agencies caution on corporate debt after US borrowing frenzy](#)  
“Sales of low-rated, “speculative-grade” debt have already reached \$650bn this year, according to S&P Global Ratings, putting them on track to surpass all-time borrowing records with more than four months left to go in 2021.”
- [Investment-grade vs high-yield: first a slope then a cliff](#)  
“But according to recent research from Moody’s, “fallen angels” that tumble from high-grade to high-yield, and “rising stars” who do the opposite, experience step changes in their borrowing costs.”
- [Is ESG a bottom-line risk?](#)  
“In its annual 10k regulatory filing, Procter & Gamble added “ESG matters” to its legal and regulatory risks. Increasing government and social attention to ESG — combined with new reporting requirements — could increase risks, the consumer staples giant said.”
- [UK business is on notice for ‘greenwashing’ claims](#)  
“This week the government launched an investigation into the deals branded “green” or 100 per cent renewable by energy suppliers, amid concerns that consumers are being misled.”
- [Sir Ronald Cohen on the impact accounting ‘revolution’](#)  
“The power of accounting rules must now be applied to ESG and impact investing, according to Sir Ronald Cohen, who, after a successful career in venture capital, has become a force for sustainability.”
- [Business can stop the ESG backlash by proving it’s making a difference](#)  
“Whether stakeholder capitalism will live up to its billing is still debatable, but it would be counter-productive to write off all ESG efforts as empty or harmful.”
- [The ESG investing industry is dangerous](#)  
“Almost everything that Tariq Fancy says about environmental, social and corporate governance, or ESG, investing has been said before, in one form or another.”
- [Goldman Sachs to buy European asset manager for €1.6bn](#)  
NN Investment Partners has a strong position in environmental, social and governance investing, notably in areas such as green bonds, impact equity and sustainable equity. “We’re focused on responding to our clients’ needs and desires around ESG,” said Solomon.
- [London office market recovers yet risks are ‘bubbling under the surface’](#)  
“Marina Petroleka, global head of ESG research at Fitch Ratings, doubts this. Hybrid working “will hit every landlord with varying degrees of intensity”, she said.”
- [Evergrande on course to hit record number of legal cases](#)  
“S&P Global Ratings downgraded Evergrande this month to triple C, deeper into speculative grade territory, as it noted a recent rise in contractor disputes.”
- [‘No one wants to go back’: Covid scuttles IPO and debt roadshows](#)  
“This year it has taken an average of 11.8 days from the announcement of a loan deal financing a leveraged buyout to the debt being allocated to investors, according to data from S&P Global Market Intelligence. It is the shortest period on record for data going back to 2010, when the average was closer to 21 days.”
- [Are hedge funds charting a comeback?](#)  
“According to this Big Read by the FT’s Robin Wigglesworth and Laurence Fletcher, 2020 was the best year for hedge funds since the aftermath of the financial crisis in 2009. Things are also looking up for 2021, prompting some to ask whether we’ll see a revival of the hedge fund industry.”
- [Goldman Sachs/NN: recurring income inspires steady relationship](#)  
“Goldman Sachs announced on Thursday its largest acquisition yet under boss David Solomon, taking on NN Investment Partners for €1.6bn (\$1.9bn). No racy alternatives specialist, NNIP specialises in fixed income, mostly for its Dutch insurance parent NN Group.”
- [Baidu’s \\$1bn bond draws strong demand despite China tech crackdown](#)  
But Baidu’s first environment, social and governance bond drew strong demand as investors appeared confident in the tech group’s ability to pay off its debt despite sharper regulatory scrutiny.

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- [Norway's oil fund propelled to 9% return by strong equity performance](#)  
“The fund's fixed income portfolio had a negative return of 2 per cent in the first half while its property assets — which include prime real estate on properties such as Regent Street in London, Fifth Avenue in New York and Boulevard Haussmann in Paris — returned 4.6 per cent. Its fledgling renewable energy assets, comprising one wind farm in the Dutch North Sea, returned minus 1.9 per cent, entirely due to currency moves.”
- [Top Fed official warns massive bond purchases are ill-suited for US economy](#)  
“Asset prices are another point of concern, with many investors increasingly taking on more risk. The additional yield above Treasuries, or “spread”, demanded by investors for owning high-yield bonds, for example, is hovering close to its all-time lows.”

## Regulators and Associations Monitored

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

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