

Legal and Regulatory Updates

30/08/2021 – 03/09/2021

Key Highlights

- This Legal & Regulatory Update covers the week commencing **30/08/2021**.
- [PRA](#) publishes Regulatory Digest – August 2021.
- [FRC](#) publishes its latest project report on reporting on risks, uncertainties, opportunities and scenarios.
- [ESMA](#) publishes its second Trends, Risks and Vulnerabilities (TRV) Report of 2021.
- [ECB](#) publishes a contribution on climate change and monetary policy by Isabel Schnabel to the International Monetary Fund's magazine Finance and Development.
- [ESRB](#) publishes EU Non-bank Financial Intermediation Risk Monitor 2021.
- [FSB](#) hosts a virtual outreach workshop to discuss their interim lessons learnt report.
- 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)

1 September 2021: PRA publishes Regulatory Digest – August 2021

The Prudential Regulation Authority (PRA) [published](#) its Regulatory Digest for August 2021. The PRA Regulatory Digest is for people working in the UK financial services industry and highlights key regulatory news and publications delivered for the month.

30 August – 03 September 2021: Speeches, Letters & Other Publications

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

- [Letter from Andrew Bailey \(Chair of the Prudential Regulation Committee \(PRC\)\)](#) – this Letter addresses the recommendations set out by the Chancellor of the Exchequer on the remit of the PRA
- [Andy Haldane talks about social mobility with Dr Louise Ashley](#) – 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
- [Monthly Decision Maker Panel \(DMP\) data August 2021](#) – the DMP is a survey of Chief Financial Officers from small, medium and large UK businesses. The BoE use it to monitor developments in the economy and to track businesses' views. In August, businesses estimated that their sales and investments in 2021 Q3 would be 7% lower than they otherwise would have been because of Covid, with employment 6% lower
- [PRA releases statement on Remuneration Benchmarking and High Earners 2020 submissions](#) – this statement provides an update on the Remuneration Benchmarking and High Earners 2020 submissions, relevant to PRA-regulated firms within scope
- [Upcoming events - w/b 6 September and 13 September 2021](#)
- [Westminster Business Forum keynote seminar "Sustainable growth and finance in the era of net-zero carbon"](#) – 13 September 2021 (10.35 am)

Financial Reporting Council (FRC)

02 September 2021: FRC publishes its latest project report on reporting on risks, uncertainties, opportunities and scenarios

The Financial Reporting Lab has published its latest project Report on reporting on risks, uncertainties, opportunities and scenarios. It outlines what investors want to understand from corporate [reporting on risks, uncertainties, opportunities and the use of scenarios](#).

It provides several practical examples of corporate reporting that better meet investors' needs and includes high-level insight into how investors would like reporting on resilience to develop.

Alongside the Report, the Lab has released a [one-page summary](#) of the Report and a [podcast](#) where the Lab's Project Manager, Andrew Hyland, speaks to Ben Peters, Fund Manager and Director at Evenlode Investment Management Ltd, and Thomas Toomse-Smith, Head of Innovation and Digital at the Financial Reporting Council (FRC). They discuss potential areas for improvement in the disclosures of risks, how an understanding of risks and related topics assists investors in making assessments about a company's longer-term prospects, how climate risk may reshape risk reporting and the value of business resilience reporting.

European Securities and Markets Authority (ESMA)

01 September 2021: ESMA publishes its second Trends, Risks and Vulnerabilities (TRV) Report of 2021

The European Securities and Markets Authority (ESMA), the EU securities markets regulator, [published](#) its second Trends, Risks and Vulnerabilities (TRV) Report of 2021. The Report highlights the continued rise in valuations across asset classes in an environment of economic recovery and low interest rates, the increased risk taking of investors and the materialisation of event risks such as GameStop, Archegos and Greensill. ESMA continues to see elevated risks and fragile fundamentals, with an outlook for continued high risk and uncertainty over the sustainability of

7 September 2021

corporate and public debt as well as rising inflation expectations. Current market trends need to show their resilience over an extended period of time to allow for a more positive risk assessment. The extent to which these risks will materialise will critically depend on market expectations on the continuation of monetary and fiscal policy support, as well as on the pace of the economic recovery and on inflation expectations.

In addition to its risk monitoring, ESMA provides four in-depth articles looking at financial stability risks of cloud outsourcing, Credit Rating Agencies and green bonds:

- Cloud outsourcing and financial stability risks: The article analyses the growing use of cloud service providers by financial institutions and how the concentration of those providers can create financial stability risks in case of outage.
- COVID-19 and credit ratings: The analysis investigates how credit ratings evolved during the exceptional period of early 2020, exploiting ESMA's RADAR database.
- Market for small credit rating agencies in the EU: Using SupTech-related techniques and the CRAR database, the article assesses the network of CRAs and the concentration in the CRA market.
- Environmental impact and liquidity of green bonds: In this article, ESMA investigates the CO2 emissions of green bond issuers, and then compares the liquidity of green and conventional corporate bonds.

30 August – 03 September 2021: Speeches, Letters & Other Publications

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

- [Practical Guide on National rules on notifications of major holdings under the Transparency Directive](#)

European Insurance and Occupational Pensions Authority (EIOPA)

30 August – 03 September 2021: Speeches, Letters & Other Publications

During the week, the European Insurance and Occupational Pensions Authority (EIOPA) released the following speeches, announcements and publications that might be of interest to our readers:

- [Petra Hielkema takes up her role as Chairperson of EIOPA](#) – the Council of the European Union had adopted on 26 May 2021 a decision to appoint Ms Hielkema based on the shortlist of candidates for the position of chairperson drawn up by EIOPA's Board of Supervisors and following confirmation by the European Parliament

European Central Bank (ECB)

31 August 2021: ECB publishes a contribution on climate change and monetary policy by Isabel Schnabel to the International Monetary Fund's magazine Finance and Development

The European Central Bank (ECB) [published a contribution](#) on climate change and monetary policy by Isabel Schnabel, Member of the Executive Board of the ECB, to the International Monetary Fund's magazine Finance and Development.

The contribution states that central banks must do their part in fighting global warming by explaining that the devastating effects of climate change being increasingly evident.

It explains that the main reason that central banks should increase their attention to climate change is the likelihood it will affect their ability to achieve their mandates. The ECB's primary mandate is price stability, an objective shared by most central banks. Evidence suggests that climate change has crucial implications for price stability and also affects other areas of central bank competence, such as financial stability and banking supervision.

The contribution states that climate change affects price stability through at least three channels.

- The consequences of climate change might impair the transmission of central banks' monetary policy measures to the financing conditions faced by households and firms, and hence to consumption and investment;
- climate change could further diminish the space for conventional monetary policy by lowering the equilibrium real rate of interest, which balances savings and investment, and
- both climate change and policies to mitigate its effects can have a direct impact on inflation dynamics.

Climate change considerations formed an integral part of the ECB's [monetary policy strategy](#) review that concluded in July 2021. They published an ambitious action plan and a detailed roadmap confirming their strong commitment to further incorporating climate change considerations into their monetary policy framework. Their comprehensive strategy review demonstrated that there are many areas in which central banks can contribute to the fight against global warming, and further areas may open up in the future.

30 August – 03 September 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:

- [Interview with TIME](#) – Interview with Christine Lagarde, President of the ECB, conducted by Klaus Schwab, Founder and Executive Chairman of the World Economic Forum, on 30 August 2021
- [Interview with El Confidencial](#) – Interview with Luis de Guindos, Vice-President of the ECB, conducted by Miquel Roig and Jorge Zuloaga on 26 August and published on 1 September 2021
- [Euro area bank interest rate statistics: July 2021](#)

European Systemic Risk Board (ESRB)

30 August 2021: ESRB publishes EU Non-bank Financial Intermediation Risk Monitor 2021

The European Systemic Risk Board (ESRB) [published](#) the EU Non-bank Financial Intermediation Risk Monitor 2021 (NBFIMonitor). This is the sixth issue in an annual series monitoring non-bank financial intermediation, an area which has grown in recent years and now accounts for around 40% of the EU financial system.

This issue of the NBFIMonitor focuses on data up to end-2020 and includes three special features on the following topics:

- the vulnerabilities of commercial real estate (CRE) funds; data are used to analyse the leverage and liquidity of real estate funds in view of the outbreak of the coronavirus (COVID-19) pandemic;
- the role of insurers in credit intermediation, their interconnectedness with funds and the derivatives they hold, and

7 September 2021

- the Gamestop, Greensill and Archegos incidents, which highlight search for yield behaviour, interconnectedness and the use of derivatives to increase leverage positions.

The NBFMI Monitor also identifies cyclical risks and structural risks and vulnerabilities affecting the non-bank sector. Cyclical risks are:

- uncertainty about the pace of economic recovery;
- rising indebtedness, increased credit risk and risks from associated rating downgrades;
- decoupling of the real economy and financial markets, and
- the fragile nature of liquidity in some markets.

And the key structural risks and vulnerabilities are:

- excessive risk-taking, liquidity transformation, and risks associated with the use of excessive leverage among some types of investment funds and other non-bank financial institutions;
- domestic and cross-border interconnectedness and the risk of contagion across sectors and within the non-bank financial system, and
- risks related to the low interest rate environment.

Central Bank of Ireland**30 August – 03 September 2021: Speeches, Letters & Other Publications**

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

- [An Analysis of Medium-Term Risks to the Public Finances](#)
- [Governor Makhoul's pre-budget letter published](#) – the CBI published the pre-budget letter from Governor Gabriel Makhoul to Minister for Finance, Paschal Donohoe, ahead of Budget 2022

Financial Stability Board (FSB)**1 September 2021: FSB host a virtual outreach workshop to discuss their interim lessons learnt report**

On 1 September the Financial Stability Board (FSB) [hosted a virtual outreach workshop](#) to discuss the FSB's interim lessons learnt report. The agenda can be found [here](#). The [Report](#) identifies preliminary lessons from the COVID-19 experience and aspects of the functioning of the G20 financial reforms that may warrant attention at the international level. Stakeholder feedback will help inform the FSB's final report, which will be published ahead of the G20 Summit in October 2021.

7 September 2021

In the News

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

- [Banks and investors gear up for US corporate debt binge](#)
“Bankers and investors are bracing for a bumper month of debt issuance in the US, with pent-up supply from a quiet end to August set to be unleashed following the Labour day holiday this weekend.”
- [There is a huge amount of corporate debt, and that might be OK](#)
“Corporate debt has never been higher, neither in absolute terms nor relative to GDP. From 2010 to 2020, corporate debt grew at over 6 per cent a year, almost twice the rate of the economy.”
- [Private equity is leveraged equity](#)
“Does the heavy use of leverage by private equity mean that investors should discount the industry’s reported returns, or can PE firms manage the leverage risk away?”
- [US banks ease loan standards in battle to lend](#)
“Bank lending standards eased at a record pace in the second quarter as loose monetary policy and the continuing economic recovery fuelled competition for loans. A net 25 per cent of banks loosened lending standards in both consumer loans and corporate loans to small companies over the second quarter, according to analysts at UBS, drawing in part from US Federal Reserve data. It marks a record pace of easing in credit conditions based on data going back to the turn of the millennium.”
- [BlackRock ETF helps drive jump in Europe-based China bond fund flows](#)
“Huge inflows to a BlackRock China bond exchange traded fund have helped sustain a 25 per cent rise in Europe-domiciled China fund assets under management in the first seven months of the year.”
- [Evergrande bond trading halted on growing fears of cash crunch](#)
“Trading in some debt issued by China Evergrande was temporarily halted on Friday, as the under-pressure property developer’s bonds tumbled to new lows on fears of a deepening liquidity crisis. Investors were briefly unable to buy and sell the company’s debt in Shenzhen in morning trading after prices fell more than a daily limit of 20 per cent, according to the southern Chinese city’s stock exchange.”
- [US corporate debt binge, FT Weekend podcast preview \(podcast transcript available\)](#)
“Banks and investors are preparing for a flood of new corporate debt hitting the market. And Germany’s blue-chip stock index, the Dax, is getting a makeover, thanks in part to the Wirecard debacle.”
- [MSCI chief: Push to standardise ESG ratings is ‘misplaced’](#)
“As companies race to prove their ESG credentials, hard numbers validating those claims are becoming essential. For index provider MSCI there is serious revenue to be made in data involving environmental, social and governance (ESG) metrics.”
- [Letter: More bosses must get aboard the bandwagon on ESG reporting](#)
“How future generations judge today’s ESG reporting, measuring, assessment and independent assurance must be on the agenda of all boards of directors and their audit and risk committees. Evidence today shows the ESG bandwagon has too few travellers. This has to change, for the planet, for all people and for the prosperity of all nations.”
- [FTSE 100 bosses urged by UK government to set net zero targets](#)
“FTSE 100 bosses have been urged to sign up to net zero goals as part of a final push this autumn by the government to gather corporate support for global targets ahead of the COP26 climate conference in Scotland. Andrew Griffith, the UK’s net zero business champion, has written to chief executives across the FTSE 100 telling them there was a “real imperative” for companies to set net zero targets.”
- [Don’t let climate goals be lost in culture wars](#)
“If any further proof was needed, this summer’s UN climate change report established beyond doubt that time is running out for humanity to contain catastrophic climate change. There are reasons for hope: accelerating progress in technology, growing business acceptance, and a clear prioritisation by policymakers mean that a pathway to net zero has a fighting chance to become a reality. But for societies confidently to take the next steps on this path, a deeper and broader political consensus behind them is needed.”
- [DWS probes spark fears of greenwashing claims across investment industry](#)
“Asset managers fear exaggerated claims over sustainability-focused investments could become a mis-selling scandal across the industry after regulators on both sides of the Atlantic sharpened their focus on environmental, social and governance investing at Germany’s DWS. Investigations by regulators in Germany and US, triggered by allegations made by DWS’s former global head of sustainability, have put greenwashing — unjustified claims about environmental practices — centre stage for Europe’s investment industry.”

**7 September 2021**

- [Europe's markets regulators are worried. About everything](#)
“Before the summertime tans had even faded on the continent, the cheerful souls of the European Securities and Markets Authority dropped a 110-page report, dedicated in part to outlining risks to investors based on observations from the opening half of this year.”
- [Rishi Sunak has strong fiscal cards waiting to be played](#)
“If the OBR used the Bank of England’s assumptions, for example, careful work by the Institute for Government shows Sunak should count on a £25bn annual windfall — enough to fund additional longer-term public spending and to run sustainable public finances.”
- [Former HSBC boss John Flint to run new UK infrastructure bank](#)
“A former HSBC chief executive has been appointed the first head of the UK Infrastructure Bank, a state lender designed to channel billions of pounds into capital projects as part of the government’s “levelling-up” agenda.”
- [Eurozone inflation rises to decade high of 3%](#)
“Inflation in the eurozone has risen to its highest level in almost a decade, increasing pressure on the European Central Bank to slow the pace of its bond purchases.”
- [Investors step up pay protests at European companies](#)
“European companies have been hit with a rise in shareholder protests over pay at annual meetings this year as big investors sought to punish businesses they think funnelled too much cash to executives during the pandemic.”

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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