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From obligation to opportunity

2023 Regulatory map

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SUSTAINABILITY DISCLOSURES

After the **Sustainable Finance Disclosure Regulation (SFDR)** Level I entered into force on 10 March 2021, certain product and entity level disclosures by **Financial Market Participants (FMPs)** were introduced. SFDR Level II, effective since 1 January 2023, has completed the framework by increasing the granularity of disclosures with the goal of improving the management of MiFID II sustainability preferences.

On 5 January 2023, the **Corporate Sustainability Reporting Directive (CSRD)** entered into force. This extension of the **Non-Financial Reporting Directive (NFRD)** accounting directive will impose an annual report that complements financial institutions' SFDR information with a non-financial (environmental) report.

The CSRD report details sustainability matters including environmental, social, human rights and governance factors and will be phased along a timeline starting in 2024 (figures from 2024). It will apply to companies that are listed and/or meet two of the following:

- 250+ employees;
- €40 million net revenue; and
- ≥ €20 million on the balance sheet.

CSRD will also apply to any global, non-EU firms with a net turnover of €150 million and at least one significant subsidiary or branch in the EU. Accordingly, financial firms— large and small— will have to comply to support the EU's net-zero strategy.

CYBER AND DIGITAL RESILIENCE

The **Digital Operational Resilience Act (DORA)** will introduce new obligations for nearly all financial firms in the EU in the field of cyber organization and resilience, meaning it should already be a priority for all financial firms.

DORA aims primarily at:

- Harmonizing ICT risk management and cyber resilience rules across EU financial services sectors.
- Harmonizing ICT incident classification and reporting, with the opening of a single EU-hub for major ICT-related incidents.
- Bringing "critical ICT third party providers" including cloud service providers into the supervisory perimeter.

In addition to DORA, the digital regulations framework will also encompass the **Distributed Ledger Technology (DLT)** pilot regime that will allow for the issuance, trade and transfer of fully digital blockchain financial instruments from March 2023. The **Markets in Crypto-Assets (MiCA)** regulation for other digital or tokenized assets (currencies and non-financial) should go live beginning of 2025 and, with the later Artificial Intelligence (AI) Act and Data Governance Act, will complete the digital regulatory framework.

With these, the EU will have one of the most comprehensive and harmonized regimes for digital financial services and products, reaching more than 500 million consumers and countless corporates or SMEs.

INVESTMENT FUNDS

The **Alternative Investment Fund Managers Directive (AIFMD) II** reviews address three challenges: loan funds, delegation and governance or risk framework. Discussions have progressed quietly in 2022 with text already agreed by the European Council and to be agreed in early 2023 by the European Parliament before trilogues. Accordingly, a potential final agreement should be reached in spring 2023 with later publication and enforcement 24 months thereafter.

For **European Long-Term Investment Funds (ELTIF) II**, discussions concluded at the end of 2022 with a live date expected beginning 2024. The review promises to make ELTIF II much more successful, resolving the two major stumbling blocks: management and distribution to retail. With the live date planned, ELTIF II could successfully support the EU economy in aligning ESG demands with a dedicated and passportable vehicle. Thus 2023 should be dedicated to feasibility business cases.

FINANCIAL CRIME

In July 2021, the European Commission unveiled its new **EU AML/CFT package** composed of legislative updates, including the creation of the new EU **Anti-Money-Laundering Authority (AMLA)**. AMLA's core activities will focus on:

- Supervising a direct lead on **"selected obliged entities"** and cooperating with national authorities through an increasingly convergent approach. The AMLA will also indirectly supervise the non-financial sector.
- **Harmonizing the AML/CFT single rule book** that will be better enforced throughout the EU.
- Enhancing **cooperation among Financial Intelligence Units (FIUs)**, via AML, to simplify and accelerate information sharing.

These updates are currently being finalized at European level. Even if implementation is delayed until 2026/2027, the potential impact on the financial sector suggests firms should already implement compliance and risk assessment measures.

DERIVATIVES MARKETS

On the **European Market Infrastructure Regulation (EMIR)** front, recent market dynamics, high volatility and regulatory updates should encourage market participants to examine mandatory clearing and margining thresholds with increased scrutiny over the next 18 months.

Furthermore, a massive EMIR reporting overhaul is coming on 29 April 2024. Not only will the format of the report to trade repositories change, but it will be accompanied by a sharp increase in the number of reported fields as well as a change in most field definitions. In addition, regulators will be expecting a higher level of data quality to better mitigate systemic risks.

As a result, counterparties will face changes at the system, operations, and data-management levels, and this will likely hold true at the product or service level as well. Without question, the next 18 months should be planned wisely to meet these new demanding expectations.

12 new regulations

8 priority topics

TRACK	2023 Q1	Q2	Q3	Q4	2024 Q1	Q2	Q3	Q4	2025 Q1	Q2	Q3	Q4

SUSTAINABLE FINANCE

- **EU Taxonomy Article 8 disclosures (eligibility): go live 01 January 2023.**
- **Sustainable Finance Disclosure Regulation (SFDR)**: application of Level 2 RTS as of **1 January 2023**.
- **SFDR PAI disclosure:** complement SFDR regarding PAI disclosures starting **30 June 2023**.
- **Corporate Sustainability Reporting Directive (CSRD)**: member states to transpose CSRD by **January 2024**.
- **EU Taxonomy Article 8 disclosures alignment (KPIs-GAR, GAR KPI stock, GAP KPI flow, etc.)** green asset ratios and other key performance indicators **go live June 2024**.
- **Green Washing ESAs Guidelines & ESMA Funds' name**: expected release – Complementary regulatory approach to prevent greenwashing in financial products (ESAs consultation closed January 2023 and ESMA consultation closed February 2023) **live date 2024**.
- **Corporate Sustainability Reporting Directive (CSRD)**: applies and replaces NFRD for entities subject to it, **go live 1 January 2025**.
- **CS3D (Corporate Sustainability Due Diligence Directive)**: applies mandatory organization rules for large organizations regarding their sustainability **live date 2025**.

DIGITAL

- **Digital Operational Resilience Act (DORA)**: published in the Official Journal in December 2022, Technical Standards will be issued in 2023-2024 to complement the ICT risk requirements related to resilience.
- **Markets in Crypto-Assets**: creates a pan European market for tokenized assets and crypto currencies, publication in the OJEU expected Q2 2023, **expected to apply from Q1 2025**.
- **Distributed Ledger Technology (DLT) Pilot regime**: will allow issuers to test digital financial securities (equities, bonds, and funds) under a pilot environment; **go live 23 March 2023**.
- **Central Bank Digital Currency CBDC-EUR**: expected Draft Regulation on digital euro to be released in Q1 2023 with a target **live date beyond 2025**.
- **eIDAS 2**: on the use of electronic identification card, expected to **go live from Q4 2023**.
- **Digital Operational Resilience Act (DORA)**: on cyber operational resilience **live date 16 January 2025**.
- **Cyber Resilience Act**: introduces complementary requirements for large institutions under DORA, target date of application **first half of 2025**.
- **Artificial Intelligence Act**: on the use of Artificial intelligence in financial services and products, Parliament opinion published in September 2022; expected application from **2025**.
- **European Single Access Point (ESAP)**: aims to create the first products and services providers central EU Database offering open access; target date for first submissions to ESAP by authorities to be phased-in **between 2024 and 2026**.

PAYMENTS

- **Central Electronic System of Payment (CESOP)**: identification and reporting of payments subject to VAT, **start 1 January 2024**.
- **Payment Services Directive 3 (PSD III), Instant payment**: proposal issued to complement PSD II with instant payment features for all providers, expected **live date first half of 2025**.

INVESTMENT FUNDS

- **AIFMD II/UCITS VI Directive**: brings evolution to the AIFMD via loan funds, updates in the governance structure & delegation, expected final agreement first half of 2023 and **live date from 2025**.
- **ELTIF Regulation II**: on the review of the European Long-Term Investment Funds, final agreement reached in December 2022, expected publication first half of 2023. Expected **go live date second half of 2024**.

FINANCIAL CRIME

- **Regulation establishing the EU AML/CFT Authority (AMLA)**: partial agreement reached in June 2022. Expected to be operational in **2024**.
- **Recast of the Transfer of Funds Regulation (TFR)**: final compromise reached in October 2022; publication in OJEU target is Q1 2023, expected to **be live 18 months after entry into force**.
- **AML/CFT Regulation**: full rulebook update, including RTS/ITS expected to enter into force by **end of 2025**.
- **AML/CFT Directive (AMLD) 6**: European Parliament acceptance of the report for the AMLD6 proposal, including the creation of an EU register for beneficial owners, live date expected **end of 2025**.

CAPITAL MARKETS AND CONDUCT

- **Retail finance review**: a cross regulation provision aimed at reviewing the rules of engagement with retail clients (investors & borrowers) draft **first half of 2023**.
- **CSDR II**: review of the Central Securities Depositories Regulation on settlement discipline, banking licenses of CSDs and crossborder-intra EU issuance and settlement, **live date beyond 2025**.
- **Clearing review, EMIR review II**: EMIR review to mandate clearing into the EU, use of trade identifier, draft issued December 2022 and set to **go live in June 2025**.
- **European Market Infrastructure Regulation (EMIR)**: reporting technical standards: new reporting/template requirements to be live **29 April 2024**.
- **Extension of the UK central counterparties (CCP) equivalence**: terminates **30 June 2025**.
- **Markets in Financial Instruments Directive (MiFID) III**: will introduce a consolidated tape, review of SI status and additional evolution on the trading requirements. Expected **live date first half of 2025**.

PRUDENTIAL REGULATION

- **Capital Requirements Regulation/Directive (CRR III/CRD VI)**: The finalization of Basel III will imply a deep review of Pillar I approaches and the introduction of an output floor. Final text is expected **second half of 2023**.
- **CRR III/ CRD VI**: The new rules are expected to **go live 1 January 2025**.
- **Crisis Management Deposit Insurance (CMDI) framework:** proposal aims at strengthening the framework for bank crisis management and national deposit guarantee schemes, **draft to be issued Q1 2023.**
- **Stress test:** EU-wide stress tests exercise conducted by the EBA.
- **ITS on credit exposures in banking book to credit purchasers (NPL Transactions Data Templates)**: expected in **Q1 2023**.
- **Non-performing loans (NPLs):** directive on credit servicers and credit purchasers must be transposed into Members States' law by 29 December 2023 to **go live 30 December 2023**.
- **Loan Origination and Monitoring:** Circular CSSF 22/824 imposing adherence to EBA Guidelines on Loan Origination and Monitoring (EBA/GL/2020/06) on all LSI enters into force, **go live 31 March 2023.**

OTHER SIGNIFICANT UPDATES

- **Insolvency procedures**: European Commission proposed a review of the insolvency procedures across the EU to harmonize practices and better anticipate crossborder insolvency situations, draft text proposed December 2022, target date **second half of 2025**.
- **Review of prospectus regulation (issuance of financial instruments)**: European Commission released draft December 2022, important from a digital issuance of financial instruments perspective, target date **second half of 2025**.
- **UK's Consumer Duty and Edinburgh review**: Consumer Duty substantially reviews the rules of engagement with retail clients in financial services. Edinburgh review aims at a large-scale review of UK financial regulations from trading to delegation outside the UK impacting banking, investment management, insurance and provision of these services across their different channels. Potential high impact if close links with UK entities or market. From **Q1 2023 onward**.
- **IFRS 17:** review and solvency starting. IFRS and solvency III agreement expected **second half of 2023.**

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