

// FINANCIAL REGULATION

Central Bank 2022 Financial Regulation Priorities

March 2022

INTRODUCTION

On 11 March 2022, in a press release and speech by Derville Rowland, Director General, Financial Conduct, the Central Bank detailed its consumer and investor protection priorities for 2022. Against a backdrop of global shocks, including the war in Ukraine, Ms Rowland spoke about the role of financial services regulation in building resilience, anticipating risk and protecting citizens. Seven key areas of focus for 2022, were highlighted.

1. THE IMPORTANCE OF RESILIENCE

A key message from the Central Bank is that a resilient system has the capacity to respond to shocks large and small, and to innovate appropriately over time.

MACROPRUDENTIAL FRAMEWORK FOR FUNDS

Banks and insurers have respectively benefitted from Basel III and Solvency II 2022 regulatory frameworks. Development of an equivalent macroprudential framework for investment funds is a priority for regulators. During the pandemic, the investment funds sector showed operational resilience in some areas and vulnerabilities in others.

CYBER RESILIENCE

Operational resilience of the financial sector, including supervision of technology-related change and cyber resilience, are a key focus for the Central Bank given their potential impact on firms and their customers, and the risks for financial stability. On 1 December 2021, the Central Bank published cross-industry operational resilience guidelines (the Guidelines) for regulated financial service providers (RFSPs). The Guidelines, which were preceded by an industry consultation process (CP140) earlier that year, set out a recommended approach for ensuring operational resilience through the management of disruptive events under the three pillars of (i) identify and prepare; (ii) respond and adapt; and (iii) recover and learn. The Guidelines, which are additional to and do not supersede RFSP governing regime rules, should be applied by RFSPs on a proportionate basis taking account of a firm's nature, scale and complexity. For further information please see the [William Fry Client Briefing December 2021](#).

2. THE CHANGING FINANCIAL SERVICES LANDSCAPE

AUTHORISATIONS

The Central Bank will continue to operate a forward-looking approach to the authorisation of financial services firms, being clear about its expectations to prospective and applicant firms. The experience of the Central Bank has shown that:

- where the authorisation process is done well, it mitigates risks which can emerge in supervision; and
- firms that required significant guidance or work to get to a point of authorisation are also the firms that later present compliance issues.

INNOVATION HUB

A review of the functioning of the Innovation Hub, which is a contact point between fintechs and their incumbents and the Central Bank on innovation, will be conducted in 2022.

BANKING SECTOR CHANGES

The Central Bank is focussed on ensuring that customers are protected and treated fairly throughout the Ulster Bank and KBC withdrawal from the Irish market. On 25 June 2021, the Central Bank published a “Dear CEO letter” setting out expectations of firms in the changing retail banking landscape.

3. DRIVING FAIR OUTCOMES FOR CONSUMERS AND INVESTORS

REPORTS

The Securities Markets Risk Outlook was published in February 2022 and the Consumer Protection Outlook Report was published in March 2022.

DISTRESSED DEBT

Firms must ensure lenders have suitable supports in place to help borrowers.

DIFFERENTIAL PRICING

A ban on differential pricing in the home and private motor insurance market will apply from July this year. New customer discounts will continue to be permitted to the customer subject to clear and informative disclosure. Insurance firms will also have to provide enhanced information to customers seeking to switch providers.

CONSUMER PROTECTION CODE

Publication of a discussion paper is expected to follow the conclusion of a root-and-branch review of the code, which is currently underway. It is expected that the discussion paper will be published over the summer.

4. EFFECTIVE GOVERNANCE WITHIN FIRMS - THE INDIVIDUAL ACCOUNTABILITY FRAMEWORK (IAF)

A significant milestone in the path to greater individual accountability within RSFPs was reached on 27 July 2021 with the publication of the Heads of Bill of the Central Bank (Individual Accountability Framework) Bill 2021 (Bill).

The Central Bank anticipates that the Bill will be enacted in the first half of 2022 and a consultation phase will follow. It is likely that the legislation will come into effect in the first half of 2023. Even in the absence of draft legislation, there are a significant number of steps that can be taken to prepare for the regime.

In the section of her speech relating to effective governance within firms, Ms Rowland stated that the IAF can be seen as a governance tool which helps firms to strengthen their internal processes and ensures that firms and their staff know what is expected of them. For further information on IAF please see our [July 2021 Briefing](#).

5. ENHANCING THE REGULATORY FRAMEWORK

KEY PIECES OF WORK IN THE PERIOD AHEAD

Enhancements to the following core frameworks are in the pipeline:

- capital requirements framework for banks (CRR3/CRD6);
- solvency framework for insurers (Solvency II);
- Alternative Investment Funds Directive (AIFMD);
- Markets in Financial Instruments Regulation and Directive (MiFID II); and
- the second Payment Services Directive (PSD2).

DEEPER CAPITAL MARKETS TO SUPPORT THE GREEN AND DIGITAL TRANSITIONS

The Central Bank is focussed on its role in advancing Capital Markets Union and completing Banking Union. Climate and transition risks must be reflected in the business of financial firms and green products and services must meet high standards of quality and disclosure. Reference was made to the industry letter setting out regulatory expectations in this regard.

AIFMD REVIEW

The Central Bank supports proposed changes that focus on enhancing the effectiveness of fund managers to discharge their obligations. Proposals on reporting requirements around delegation arrangements will require careful consideration.

6. AML/CFT OVERHAUL OF REGIME

The European Commission's AML/CFT package represents an overhaul of the current EU framework. There will be a new single AML authority, which marks a change in the European approach to combatting money laundering and terrorist financing.

7. CRYPTO-ASSETS AND THE RISKS TO RETAIL INVESTORS

At European level, regulators are working to close the gap caused by crypto assets and related products and services generally falling outside existing protection under EU financial services rules. The European regulatory framework must be strengthened to prevent the risk of fraud to institutional and retail investors. The European Parliament's Economic and Monetary Affairs Committee (ECON) recently announced that it has adopted its report on the European Commission's legislative proposal for a Regulation on Markets in Crypto Assets (MiCA) (2020/0265(COD)).

The following amendments are proposed by ECON in its report:



CLIMATE CHANGE

The European Commission would be mandated to adopt a legislative proposal to include, in the EU taxonomy for sustainable activities, any crypto asset mining activities that contribute substantially to climate change by 1 January 2025. ECON also calls on the European Commission to work on legislation addressing issues arising from other industries that consume energy resources, such as the video games and entertainment industry, and data centres.



SUPERVISION

European Securities Markets Authority (ESMA) would be responsible for supervising the issuance of asset-referenced tokens and the European Banking Authority (EBA) would be responsible for supervising electronic money tokens.

CONCLUSION

RFSPs should take note of the signalling of supervisory priorities for 2022 by the Central Bank. If you require assistance or further information on the topics discussed in this article, please contact a member of the Financial Regulation Unit or your usual William Fry contact

CONTACT US

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