



FINANCIAL REGULATORY

An overview in which our Banking and Finance Practice Group highlights:

- Loyens & Loeff publications which may be of interest to you;
- Legislative dates for your diary.

Loyens & Loeff publications

ESAs publish final draft RTS on ESG disclosures

The ESAs published their final report including the draft RTS on disclosures under the EU Regulation on sustainability-related disclosures in the financial services sector.

To read this update, [click here](#)

Servicing of family funds possibly exempt from VAT (the Netherlands)

On December 4, the Dutch Supreme Court ruled that MiFID products can benefit from the VAT exemption for fund management, provided certain criteria are met. We refer to our [news item](#) for more details (only in Dutch). Simply put, the Dutch Supreme Court ruled that a MiFID product can benefit from the VAT exemption for fund management, provided it is “sufficiently comparable” to an investment fund.

Several tax inspectors have now informally confirmed that under this new ruling, MiFID-regulated investment management / advisory services provided for the benefit of family funds should be eligible for the VAT exemption for fund management. In this context, “family fund” should be viewed as any investment structure in which the funds of two or more family members are pooled and collectively invested.

Taking this development into consideration, we recommend considering the following actions:

- (i) filing objections (*bezwaar*) against already filed VAT returns insofar such VAT returns include VAT in respect of MiFID-regulated management and advisory services for family funds (this can be done up to 6 weeks after payment of the VAT to the Tax Authorities).
- (ii) request the Tax Authorities to confirm in writing the application of the VAT exemption to MiFID-regulated management and advisory services for family funds.

Needless to say, the members of our Indirect Tax team are more than happy to answer any questions you may have in this respect.

New CSSF interactive digital portal: e-Prospectus (Luxembourg)

The CSSF has built a new digital portal (e-Prospectus) where issuers will, as of 1 March 2021, be able to submit and follow their application requests under the Prospectus Regulation and the Luxembourg Prospectus Law. Access to the e-Prospectus platform will require the possession of a LuxTrust certificate.

To read this update, [click here](#)

Luxembourg's landscape for Virtual Asset Service Providers starts to take shape (Luxembourg)

Virtual Asset Service Providers (VASPs) are already subject to anti-money laundering / terrorist financing (ML/TF) obligations. In December 2020, the Luxembourg Ministry of Justice released its ML/TF risk assessment with respect to VASPs, which provides interesting insights on the inherent risk of different virtual assets and VASPs as well as the exposure of the traditional financial sector to VASP ML/TF risks. The report also sets out what is expected of VASPs in order to mitigate these risks.

To read this update, [click here](#)

Everything you need to know on Luxembourg investment funds (Luxembourg)

From the regulatory and tax environment to the fund formation, get a comprehensive overview of the Luxembourg investment funds market.

To read this update, [click here](#)

Comprehensive. Banking. Regulatory. (Luxembourg)

Discover our latest guide to banking regulation in Luxembourg.

To read this update, [click here](#)

Tax on securities accounts 2.0 enters into force (Belgium)

The law on the new tax on securities accounts 2.0 has been published in the Belgian Official Gazette on 25 February 2021 and enters into force on 26 February 2021. The tax on securities accounts 2.0 subjects securities accounts with a(n) (average) value of more than €1.000.000 to a tax of 0,15%.

To read this update, [click here](#)

UK grants equivalence to Switzerland's stock exchanges (Switzerland)

On 3 February 2021, the UK parliament granted equivalence to Switzerland's stock exchanges. In turn, measures taken by Switzerland to protect its trading venues will cease to apply to the UK market. Again an important step towards a closer cooperation between Switzerland and the UK.

To read this update, [click here](#)

Data Protection & Privacy Updates

For updates on the GDPR, please visit the [webpage](#) of the Loyens & Loeff Data Protection and Privacy Team.

Legislative dates for your diary

Consultations EU

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| 01.02.2021 | EIOPA consultation deadline: Survey on the application of the Insurance Distribution Directive (IDD) click here |
| 01.02.2021 | European Commission consultation deadline: Long-term investment funds – review of EU rules click here |
| 02.02.2021 | European Commission consultation deadline: on the review of Regulation on improving securities settlement in the European Union and on central securities depositories click here |
| 03.02.2021 | EBA consultation deadline: Discussion Paper on management and supervision of ESG risks for credit institutions and investment firms (EBA/DP/2020/03) click here |
| 08.02.2021 | ESMA consultation deadline: Guidelines on marketing communications under the Regulation on cross-border distribution of funds click here |
| 17.02.2021 | EIOPA consultation deadline: Statement on supervisory practices and expectations in case of breach of the Solvency Capital Requirement click here |
| 17.02.2021 | European Commission consultation deadline: <ul style="list-style-type: none">- EU recognition of US Prudential Regulators' rules on OTC derivatives click here- EU recognition of Hong Kong's rules on OTC derivatives click here- EU recognition of Australia's rules on OTC derivatives click here- EU recognition of Singapore's rules on OTC derivatives click here- EU recognition of Canada's rules on OTC derivatives click here- EU recognition of Brazil's rules on OTC derivatives click here |
| 26.02.2021 | EIOPA consultation deadline: Discussion Paper: Methodology on potential inclusion of climate change in the nat cat standard formula click here |
| 26.02.2021 | EIOPA consultation deadline: Discussion paper on nonlife underwriting and pricing in light of climate change click here |
| 03.03.2021 | European Commission consultation deadline: on the establishment of a European single access point (ESAP) for financial and non-financial information publicly disclosed by companies click here |
| 05.03.2021 | EBA consultation deadline: on the third amendment to the revised draft ITS on credit assessments by ECAIs under CRR Article 136 click here |
| 09.03.2021 | European Commission consultation deadline: EU trade repositories – 2021 fees click here |
| 13.03.2021 | ESMA consultation deadline: Consultation Paper MiFID II/MiFIR review report on Algorithmic Trading click here |
| 15.03.2021 | EIOPA consultation deadline: on the Supervisory Statement on ORSA in the context of COVID-19 click here |
| 15.03.2021 | EBA consultation deadline: on the monitoring of the threshold for establishing an intermediate EU parent undertaking click here |
| 15.03.2021 | ESMA consultation deadline: on Fees charged to Credit Rating Agencies by ESMA click here |
| 16.03.2021 | EBA consultation deadline: on draft RTS on the calculation of risk-weighted exposure amounts of CIUs under Article 132a(4) of the CRR click here |
| 17.03.2021 | EBA consultation deadline: on Guidelines on remuneration policies for investment firms click here |
| 17.03.2021 | European Commission consultation deadline: on Guidelines on internal governance for investment firms click here |
| 20.04.2021 | European Commission consultation deadline: on the review of the crisis management and deposit insurance framework click here |
| 23.04.2021 | EBA consultation deadline: on draft RTS on colleges of supervisors for investment firms groups click here |

- 23.04.2021 EBA consultation deadline: on draft RTS and ITS on information exchange between the competent authorities of home and host Member States [click here](#)
- 28.04.2021 EIOPA consultation deadline: on open insurance, focused on access to and sharing of insurance-related data [click here](#)
- 29.04.2021 ESMA consultation deadline: on Guidelines on appropriateness and execution only [click here](#)
- 30.04.2021 ESMA consultation deadline: on methodology to calculate a benchmark in exceptional circumstance [click here](#)
- 07.05.2021 European Commission consultation deadline: Targeted consultation on the review of the Directive on settlement finality in payment and securities settlement systems [click here](#)
- 07.05.2021 European Commission consultation deadline: Targeted consultation on the review of the Directive on financial collateral arrangements [click here](#)
- 11.05.2021 EBA consultation deadline: on the draft technical standards on supervisory disclosure under the Investment Firms Directive [click here](#)
- 17.05.2021 European Commission consultation deadline: on Guidelines on large exposures breaches and time and measures to return to compliance [click here](#)
- 20.05.2021 European Commission consultation deadline: Banking Union – review of the bank crisis management & deposit insurance framework (SRMR review) [click here](#)
- 20.05.2021 European Commission consultation deadline: Banking Union – review of the bank crisis management & deposit insurance framework (DGSD review) [click here](#)
- 20.05.2021 European Commission consultation deadline: Banking Union – review of bank crisis management & deposit insurance framework (BRRD review) [click here](#)
- 28.05.2021 ESMA consultation deadline: on draft technical standards on crowdfunding under the European crowdfunding service providers regulation [click here](#)
- 01.06.2021 EBA consultation deadline: EBA launches public consultation on draft technical standards on Pillar 3 disclosures of ESG risks [click here](#)

Consultations The Netherlands

- 14.02.2021 Dutch legislative consultation deadline: *Wet implementatie richtlijn grensoverschrijdende distributie van beleggingsinstellingen en icbe's* [click here](#)

Effective Dates EU

- 13.02.2021 Application date: Regulation (EU) 2021/168 of the European Parliament and of the Council of 10 February 2021 amending Regulation (EU) 2016/1011 as regards the exemption of certain third-country spot foreign exchange benchmarks and the designation of replacements for certain benchmarks in cessation, and amending Regulation (EU) No 648/2012 [click here](#)
- 17.02.2021 Entry into force: Commission Implementing Regulation (EU) 2021/178 of 8 February 2021 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 December 2020 until 30 March 2021 in accordance with Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance [click here](#)
- 18.02.2021 Entry into force: Commission Delegated Regulation (EU) 2021/236 of 21 December 2020 amending technical standards laid down in Delegated Regulation (EU) 2016/2251 as regards to the timing of when certain risk management procedures will start to apply for the purpose of the exchange of collateral [click here](#)

- 18.02.2021 Entry into force: Commission Delegated Regulation (EU) 2021/237 of 21 December 2020 amending regulatory technical standards laid down in Delegated Regulations (EU) 2015/2205, (EU) 2016/592 and (EU) 2016/1178 as regards the date at which the clearing obligation takes effect for certain types of contracts [click here](#)
- 22.02.2021 Publication date (application date 19.12.2020): European Securities and Markets Authority Decision (EU) 2021/272 of 16 December 2020 renewing the temporary requirement to natural or legal persons who have net short positions to lower the notification thresholds of net short positions in relation to the issued share capital of companies whose shares are admitted to trading on a regulated market to notify the competent authorities above a certain threshold in accordance with point (a) of Article 28(1) of Regulation (EU) No 236/2012 of the European Parliament and of the Council [click here](#)
- 24.02.2021 Publication date: ESMA Guidelines on common procedures and methodologies on supervisory review and evaluation process of CCPs under Article 21 of EMIR [click here](#)
- 25.02.2021 Publication date: Joint ESA Supervisory Statement on the application of the Sustainable Finance Disclosure Regulation [click here](#)
- 25.02.2021 Publication date: Corrigendum to Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Official Journal of the European Union L 150 of 7 June 2019) [click here](#)
- 27.02.2021 Entry into force: Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis [click here](#)
- 01.03.2021 Publication date: EBA Guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions ('The ML/TF Risk Factors Guidelines') under Articles 17 and 18(4) of Directive (EU) 2015/849 [click here](#)
- 18.03.2021 Entry into force: Regulation (EU) 2021/337 of the European Parliament and of the Council of 16 February 2021 amending Regulation (EU) 2017/1129 as regards the EU Recovery prospectus and targeted adjustments for financial intermediaries and Directive 2004/109/EC as regards the use of the single electronic reporting format for annual financial reports, to support the recovery from the COVID-19 crisis [click here](#)

Effective Dates The Netherlands

- 10.02.2021 Entry into force: *Implementatiebesluit kapitaalvereisten 2020* [click here](#)
- 01.09.2021 Entry into force: *Besluit van 11 februari 2021 tot vaststelling van het tijdstip van inwerkingtreding van artikel II van het Besluit tijdelijke verlaging kredietvergoeding* [click here](#)

Contact

Should you require any assistance in the field of Financial Regulatory, please contact your trusted adviser of our Financial Regulatory Team.

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