



Key ICMA regulatory policy messages



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ICMA is engaged with a wide range of policy makers and regulators in cooperation with our members. Our key messages and information for the regulatory and policy initiatives on which we are most actively engaged are summarised below. Information on other regulatory and policy initiatives on which ICMA is focusing can be found elsewhere in this Quarterly Report.

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EU Central Securities Depositories Regulation (mandatory buy-in regime)

- **Regulatory initiative:** [Review](#) of the EU Central Securities Depositories Regulation (CSDR).
- **Key issues:** Settlement discipline (SD), including revised mandatory buy-in (MBI) proposal.
- **Key messages:** ICMA cautions against imposing an MBI regime, particularly for bond markets. Penalties should first be allowed time to run and possibly be recalibrated. In parallel, other measures to improve settlement efficiency should be exhausted in the first instance (either market-based or regulatory, eg auto partialling, auto borrowing and lending facilities). If MBIs are implemented, this should be through market regulation, not post-trade regulation. The Level 1 CSDR text should exempt Securities Financing Transactions (SFTs) from the buy-in process.
- **Legislative stage:** The European Commission's (EC) CSDR review [proposal](#) of March 2022 is now being debated by the European Parliament (EP) and the Council of EU Member States (the Council) with a view to agreeing on a final text, possibly in 2023. In July 2022, the ECB published its [opinion](#) on the EC's CSDR review proposals, favourably suggesting among other things to discard the application of the MBI provisions altogether.
- **Recent ICMA engagement and materials:** Meetings with the EC, EP and Council representatives. ICMA published its [feedback](#) on the EC proposal in May 2022 and a briefing [note](#) in September 2022.

Contacts: [Andy Hill](#) and [Alexander Westphal](#).

Working Group/Lead Committee: CSDR-SD Working Group/Secondary Market Practices Committee (SMPC).

More information: The Secondary Markets section of this Quarterly Report and ICMA's dedicated [webpage](#).



EU MiFIR and UK Wholesale Markets Review

- **Regulatory initiatives:**

- [EU Review](#) of the Markets in Financial Instruments Regulation (MiFIR) and certain elements of Markets in Financial Instruments Directive (MiFID).

- UK Wholesale Markets [Review](#) (WMR).

- **Key issues:** Pre- and post-trade transparency and consolidated tape for bond markets, SFT reporting.

- **Key messages:** ICMA members would like to see the introduction of an effective, appropriately calibrated and dynamic post-trade transparency regime for all bonds, including corporate and sovereign bonds. In particular, large and extra-large illiquid trades should benefit from delayed publication of both price and size to prevent undue risk to counterparties involved. Once deferrals have expired, all bond trades should be published in a centralised place. Regarding pre-trade transparency, the current obligations are ineffective and potentially counterproductive and should be removed. Separately, ICMA is advocating for all SFTs to be exempted from EU MiFIR transaction reporting because the MiFIR regime does not cater for the specific nature of SFTs and is inconsistent with SFT Regulation (SFTR). In the UK, SFTs with the Bank of England have been removed from the scope of UK MiFIR reporting.

- **Legislative stage:**

- EU: The EC's MiFIR review [proposal](#) of November 2021 is now being debated by the EP (draft report on [MiFIR](#) and [MiFID](#)) and the Council with a view to agreeing a final text in 2023. On 1 June 2022, the [ECB issued an opinion](#) on the MiFIR transparency proposals, which argues for the SFT reporting requirement to be revoked among other things.

- UK: The [Financial Services and Markets Bill](#) (FSMB), published in July 2022, will introduce powers for HM Treasury (HMT) to repeal the current UK MiFIR (as well as other retained EU financial services regulation) and introduce a new regime in line with the March 2022 [outcome](#) of HMT's July 2021 WMR [consultation](#). In some areas, including UK MiFIR, the FSMB amends the current legislative framework, for example to simplify the fixed income transparency regime and implement certain other outcomes of the WMR.

- **Recent ICMA engagement and materials:** Meetings with representatives of the EU institutions and relevant UK policy makers. ICMA published a position [paper](#) on post-trade transparency in December 2021, [feedback](#) to the EC's proposal in March 2022 and its [response](#) to the WMR consultation in September 2021.

Contacts: [Elizabeth Callaghan](#) and, on MiFIR/SFTR reporting, [Alexander Westphal](#).

Working Group/Lead Committee: MiFID II/R Working Group (MWG) Transparency Taskforce/Secondary Market Practices Committee (SMPC).

More information: The Secondary Markets section of this Quarterly Report.



EU Alternative Investment Fund Managers Directive and EU European Long-Term Investment Fund (ELTIF) Regulation

- **Regulatory initiatives:** [Reviews](#) of:
 - EU Alternative Investment Fund Managers Directive (AIFMD).
 - EU European Long-Term Investment Fund (ELTIF) Regulation.
- **Key issues:**
 - AIFMD: Liquidity management tools, delegation, loan originating funds and reporting.
 - ELTIF: Funds of funds, illiquid assets ratios, securitisation exposure, “green” ELTIF category.
- **Key messages:**
 - AIFMD: ICMA’s Asset Management and Investors Council ([AMIC](#)) in general welcomes the EC’s targeted review of the AIFMD and supports the Council’s and EP’s proposals for recognising the critical risk management responsibilities that should remain with Alternative Investment Fund (AIF) managers. However, there are several outstanding concerns regarding delegation, shareholder loans, leverage cap limits for loan originating AIFs and proposals for duplicating existing UCITS reporting requirements. AMIC views the draft EP proposals on a delegation equivalence regime, leveraged buy-out (LBO) operations, performance fees and undue costs, securities lending and ESG references as duplicative of other existing conduct, disclosure and sustainable finance rules.
 - ELTIF: AMIC generally welcomes the positions adopted by both the Council and EP, especially with respect to the proposals to raise the market capitalisation threshold further and the additional derogation allowing for open-ended ELTIFs. AMIC has noted the draft proposals to include sustainability-related disclosures, cautioning against duplicative or inconsistent requirements as compared to the EU Sustainable Finance Disclosure Regulation (EU SFDR) and EU Taxonomy Regulation (the EU Taxonomy).
- **Legislative stage:** EC’s [AIFMD](#) and [ELTIF](#) review proposals of November 2021 are now being debated by the EP (AIFMD draft [report](#) and draft amendments available [here](#) and [here](#) and ELTIF [report](#)) and the Council ([AIFMD](#) and [ELTIF](#) positions) with a view to reaching an agreement, possibly in the first half of 2023 for AIFMD and probably earlier for ELTIF.
- **Recent ICMA engagement and materials:** Meetings with representatives of the EC, EP and Council. ICMA AMIC’s responses to the EC’s proposals on [AIFMD](#) and [ELTIF](#) were published in January 2021.

Contacts: [Nicolette Moser](#) and [Irene Rey](#).

Working Group/Lead Committee: AMIC Risk Management Working Group/AMIC Executive Committee.

More information: The Asset Management section of the [Q3 2022](#) ICMA Quarterly Report, pages 56-57.

EU Green Bond Standard

- **Regulatory initiative:** EU Regulation on European Green Bonds (EU GBS) [proposal](#).
- **Key issues:** The nature of the standard (voluntary vs. mandatory), extension of scope to other sustainable bonds, additional and entity-level transparency requirements, liability risks and legal costs, taxonomy alignment and usability, grandfathering, and external reviewers.



- **Key messages:** ICMA expresses strong support for a voluntary standard and full grandfathering of Technical Screening Criteria alignment to maintain the stability of the EU GBS designation. There are concerns regarding (i) increased legal liability and costs creating significant disincentives for issuers, (ii) Taxonomy usability issues, (iii) unintended barriers to financing of Taxonomy-aligned CapEx plans; (iv) mandatory requirements for all green use of proceeds bonds and environmental sustainability-linked bonds which duplicate entity-level requirements under other EU sustainable finance regulation and create implementation challenges.
- **Legislative stage:** The EC's EU GBS proposal [text](#) of July 2021 is now being debated by the EP ([report](#)) and the Council ([position](#)) with a view to reaching an agreement on a final text possibly over the course of the coming months.
- **Recent ICMA engagement and materials:** Meetings with representatives of the above-mentioned EU institutions. ICMA published a [note](#) analysing the EP's report and Council's position in June 2022. See also ICMA's publication on [Ensuring the Usability of the EU Taxonomy](#) of February 2022 which is relevant to the link between the EU GBS and the EU Taxonomy.

Contacts: [Nicholas Pfaff](#) and [Ozgur Altun](#).

More information: The Sustainable Finance section of the [Q3 2022](#) ICMA Quarterly Report, pages 53-54.

EU and UK Prospectus Regulations

- **Regulatory initiatives:**
 - EU Prospectus Regulation [review](#) (part of the EC's [Listing Act consultation](#), which also covers other matters including the EU Market Abuse Regulation, the EU Transparency Directive and the EU Listing Directive).
 - UK Prospectus Regime [review](#).
- **Key issue:** Appropriately calibrated EU and UK prospectus regimes allowing smooth and efficient cross-border bond issuance in Europe.
- **Key messages:** Wholesale bond markets in Europe currently function reasonably efficiently under the current EU and UK Prospectus Regulations, and this must be preserved. In relation to retail bond markets and SME bond markets, regulation is only one factor among various other commercial and market drivers. Constructing an appropriate regulatory regime would require a holistic consideration of various regulatory tools and incentives.
- **Legislative stage:**
 - EU: The EC [consultation](#) of November 2021 is currently expected to be followed by a legislative proposal before the end of 2022.
 - UK: The [FSMB](#) will introduce powers for HMT to repeal the current UK Prospectus Regulation and introduce a new regime in line with the [outcome](#) of HMT's [consultation](#) on the UK Prospectus Regulation.
- **Recent ICMA engagement and materials:** Meetings with the EC, certain EU national competent authorities (NCAs), EU Ministries of Finance, HMT and FCA have taken place or are anticipated for the coming months. On the EU Prospectus Regulation, see ICMA's [response](#) and [key points from ICMA's response](#) to the EC's Listing Act consultation. On the UK Prospectus Regulation, see ICMA's [article](#) on the UK Prospectus Regulation review outcome.

Contact: [Charlotte Bellamy](#).

Working Group/Lead Committee: Prospectus Regulation Working Group/Legal & Documentation Committee.

More information: The Primary Markets section of this Quarterly Report.



EU Capital Requirements Regulation 3

- **Regulatory initiative:** Review of the EU Capital Requirements Regulation (CRR), the so-called CRR3 proposal, which is a part of a broader [review](#) of EU prudential rules for banks.
- **Key issue:** Capital treatment of Securities Financing Transactions (SFTs).
- **Key message:** ICMA advocates for the recognition of the short-term nature of SFT transactions in Risk Weighted Assets calculation under the standardised approach with respect to banks' counterparty credit risk exposures to non-banks.
- **Legislative stage:** The EC's CRR3 [proposal](#) of October 2021 is now being debated by the EP (draft [report](#) and draft [amendments](#)) and the Council with a view to agreeing on a final text, possibly in 2023.
- **Recent ICMA engagement:** Outreach to key representatives in the Council and EP. ICMA published a briefing [note](#) in July 2022.

Contacts: [Andy Hill](#) and [Alexander Westphal](#).

Working Group/Lead Committee: European Repo and Collateral Committee (ERCC).

More information: The Repo and Collateral Markets section of this Quarterly Report.

Wholesale Central Bank Digital Currency (wCBDC) consultation

- **Regulatory initiative:** European Central Bank (ECB) consultation on the potential use of new technologies such as Distributed Ledger Technology (DLT) for wholesale central bank money settlement.
- **Key issue:** Whether to introduce a wholesale digital euro (CBDC) for wholesale payments, securities settlement and collateral management or use the existing TARGET platform via a so-called "trigger solution".
- **Key message:** ICMA advocates for a wholesale digital euro (CBDC) to support next-level automation, more efficient securities settlement and post-trade processing and increase the attractiveness of capital markets.
- **Policy development stage:** Following the consultation and a stakeholder meeting in September 2022, the ECB is considering next steps.
- **Recent ICMA engagement and materials:** ICMA [responded](#) to the ECB consultation in June 2022, published a one-page [viewpoint on wholesale CBDC](#) and participated in an ECB stakeholder meeting in September 2022. ICMA also published [FAQs on DLT and blockchain in bond markets](#) in September 2022.

Contacts: [Georgina Jarratt](#), [Gabriel Callsen](#) and [Rowan Varrall](#).

Working Group/Lead Committee: DLT Bonds Working Group.

More information: The FinTech and Digitalisation section of this Quarterly Report.



EU and UK Money Market Funds Regulations

- **Regulatory initiative:**

- EU: [Review](#) of the EU Money Market Funds (MMF) Regulation.
- UK: [Review](#) of the UK Money Market Funds (MMF) Regulation.

- **Key issues:** MMF market and fund composition, measures to enhance resilience and EU MMFs' access to third country repo clearing.

- **Key messages:** ICMA highlights the unintended consequences of changes to the composition of certain MMF structures. In addition, ICMA suggests a shift of focus towards strengthening the efficiency and resilience of the underlying market, noting ICMA's [The European Commercial Paper and Certificates of Deposit Market White Paper](#) of September 2021. ICMA raises member concerns related to a provision in the EU and UK MMF Regulations which restricts the ability of regulated MMFs to access third-country CCPs for transacting cleared repo. ICMA suggests that authorities discuss reciprocal arrangements for repo clearing access for MMFs with their relevant international counterparts.

- **Legislative stage:**

- EU: Following the EC's [consultation](#) of April 2022, its report may be expected in autumn 2022 at the earliest.
- UK: A consultation may be released following the joint FCA and Bank of England [Discussion Paper on the Resilience of MMFs](#) in May 2022.

- **ICMA engagement, recent materials and next steps:** Outreach to key representatives in EC, Council and EP. ICMA [responded](#) to the EC's consultation in May 2022. ICMA responded to the FCA and Bank of England Discussion Paper in July 2022. ICMA has set up a CP Transparency Taskforce to investigate where and how greater transparency can be achieved in the CP market.

Contacts: [Katie Kelly](#) and, on repo clearing, [Andy Hill](#) and [Alexander Westphal](#).

Working Group/Lead Committee: Commercial Paper and Certificates of Deposit Committee (CPC).

More information: The Asset Management section of this Quarterly Report.