WILLIAM FRY

Asset Management & Investment Funds Update

July 2024

Key Dates & Deadlines: Q2/Q3 2024

The following are key dates and deadlines in Q2/Q3 2024 along with possible impacts and action items arising for fund managers.

Date	Source	Summary	Action/Impact
25 June		Crypto- Assets End of consultation period for third package under the Markets in Crypto-Assets Regulation (**MiCA**).	See here for further details.
30 June		UK Sustainability Disclosures Requirements (SDR) First entity-level and (if applicable) public product-level disclosures due for firms with £5-50bn AUM under the UK SDR.	See here for further details.
30 June		Central Bank Dear Chair Letter; Revocation of sub fund/funds Fund managers with funds which are either: (i) authorised by the Central Bank of Ireland but never launched (i.e., did not issue any shares within 18 months of authorisation); or (ii) fully liquidated to commence revocation process.	Fund Managers to identify any funds which fall into categories 1 or 2 described in the Dear Chair Letter and commence revocation with the Central Bank.

30 June		CSA Asset Valuation Deadline for completion of review of asset valuation frameworks by fund managers, as required by the Central Bank in its 'Dear Chair' letter detailing findings from the CSA on Asset Valuation.	The Central Bank expects fund managers to evaluate the adequacy of their asset valuation control frameworks, take any necessary steps to strengthen arrangements where weaknesses are identified following a review of the Central Bank's CSA findings published on 14 December 2023. See here for further details.
6 July		Corporate Sustainability Reporting Directive (CSRD) Deadline for Ireland and other EU Member States to transpose CSRD into national law.	See here for further details.
26 July		Central Bank Liquidity Management Tools Questionnaire Deadlines for firms to complete and return the questionnaire as part of the Central Bank's thematic review on liquidity management tools.	See here for further details
29 July		Macroprudential framework for GBP-denominated liability driven investment (LDI) funds Existing (as at 29 April 2024) GBP LDI AIFs subject to yield buffer under new regulatory framework.	See here for further details.
7 August		Review of UCITS Eligible Asset Directive (EAD) Deadline for responses to ESMA's Call for Evidence on the UCITS EAD Review.	See here for further details.
3 September		The EBA and ESMA published a discussion paper on the potential review of the investment firm prudential framework to gather early feedback to inform a response to a European Commission Call for Advice. The consultation is open for responses until 3 September 2024.	See here for further details

ESMA statement on good practices in relation to pre-close calls between an issuer and analysts

On 29 May 2024, ESMA published a statement in relation "pre-close calls" and good practices. "Pre-close calls" are communication sessions between an issuer and an analyst or group of analysts who generate research, forecasts, and recommendations related to the issuer's financial instruments for their clients. These "pre-close calls" usually take place immediately before the periods preceding an interim or a year-end financial report during which issuers refrain from providing any additional information or updates. "Pre-close calls" can influence market expectations and instrument prices.

ESMA considers that "pre-close calls" carry inherent risks of inadvertent unlawful disclosure of inside information increased by the lack of publicity of these events and the absence of records of what was presented.

Issuers are reminded about the prohibition of unlawful disclosure of inside information and that public disclosure of inside information should take place in accordance with Article 17 of the Market Abuse Regulation and Commission Implementing Regulation (EU) 2016/10552.

Central Bank Update on the Markets in Crypto Assets Regulation (MiCAR) authorisation process

On 29 May 2024, at Blockchain Ireland Week, Gerry Cross, Director for Financial Regulation, Policy and Risk at the Central Bank of Ireland (**Central Bank**), updated the crypto assets industry on the Central Bank's approach to applications for authorisation under the Markets in Crypto Assets Regulation (**MiCAR**).

Mr Cross confirmed that the Central Bank plans to outline its authorisation and supervisory expectations in detail at an industry event in July 2024 and that they will be published thereafter. The Central Bank intends to open its MiCAR authorisation gateway in early Q3 2024.

While further details are awaited, Mr Cross encourages firms seeking to provide services or products under MiCAR to engage with the Central Bank as soon as possible. He also took the opportunity to outline some high-level expectations for firms and to recommend steps that the industry can take now to prepare for the MiCAR authorisation process.

Approach to authorisation and key expectations

The Central Bank's approach to assessing MiCAR authorisation applications is underpinned by consumer and investor protection risks associated with these assets and services. The assessments are guided by several perspectives, including the use case and utility, suitability for target markets and risks associated with the crypto products or services. As a rule of thumb, the higher the inherent conduct and investor protection risks in the products offered to customers and investors, the higher the Central Bank's expectations will be regarding a firm's ability to manage those risks.

Key Central Bank considerations/expectations include:

Governance. Firms must be able to demonstrate an appropriate level of "substance" in Ireland and be led by a local crypto-competent executive and board with a strong grasp of the local regulatory environment. Firms must maintain high-quality governance and risk management arrangements.

Target customer and investor base. Whether the services are retail-focused or aimed at institutional clients, shapes the Central Bank's view of risk.

Backed by underlying assets. It is important whether and how the crypto product/service that is issued or offered is backed by underlying assets.

Business model sustainability. The Central Bank pays close attention to the sustainability of the business model of the crypto issuer or crypto-asset service provider. The Central Bank takes a sceptical view of business models where profitability is driven by the heavy marketing, offering, and distribution of unbacked crypto to retail customers for speculative purposes.

Client Assets. The local firm must have full control of all client assets and prompt access to reserve assets to meet redemption demands.

AML risks. Firms must always know who their customers are and how they are funding their crypto activities and ensure these funds are not emanating from criminal activities.

Conflicts of interest. Conflicts of interest must be identified and managed appropriately. Firms must ensure a robust system is in place, which can proactively identify and subsequently remedy any conflicts in a timely manner so that no risks are posed to consumer interests.

Authorisation process

The Central Bank intends to ensure clarity, transparency and predictability for applicant firms looking to be authorised while maintaining the high standards the public expects for regulated financial services providers. Through that assessment, it expects firms to demonstrate, should they be authorised, that they can continue to meet the Central Bank's supervisory expectations on an ongoing basis. Applicant firms can expect the authorisation assessments to be thorough and robust, efficient, timely and outcome-oriented, especially in the context of technological innovation where the Central Bank acknowledges that time to market is an important aspect of success (a UCITS management company or an AIFM with an IPM bolt-on licence is eligible to provide crypto-asset services equivalent to the management of portfolios of investment and non-core services if it undertakes a notification process (effectively a form of authorisation process) with its home Member State).

Key factors for success

Transparency. Applicant firms should act fully transparently and openly regarding their proposed application and the MiCAR activity they intend to undertake, including whether they are speaking with other EU regulators.

Preparation. Applicant firms should prepare well, understand the local regulatory environment, and be appropriately resourced to engage with the Central Bank throughout the assessment process.

Supervisibility. Authorised firms should operate with strong local autonomy and be accountable for all aspects of the local entity.

Consumer focus. All firms – and particularly those with retail-facing business models – should ensure that securing customer interests is at the core of their business.

Existing regulatory relationships. Where the Central Bank has existing regulatory relationships with firms, supervisory knowledge and existing risk assessment will be taken into account for firms moving from an EMI licence or VASP registration to a MiCAR authorisation. However, application for authorisation under MiCAR is a separate process and should certainly not be assumed to be automatic.

Authorisation of Crypto Funds

As regards authorisation of investment funds investing in crypto assets, Mr Cross referred to the Central Bank Q&A's published in 2023, indicating QIAIFS would be permitted to invest in digital assets subject to clear disclosure requirements and exposure limits. Limits are 20% if the QIAIF is open ended and 50% if limited liquidity or closed. So far, this approach has only been implemented for indirect crypto exposures.

The Central Bank is also open to direct exposure funds, subject to their being able to demonstrate that the custody/safekeeping requirements are met. The Central Bank is unlikely to approve such exposures in a RIAIF, which is aligned with its position to forbid such exposures through UCITS. The approach in relation to

digital assets in investment funds will be kept under review and continues to be informed by European regulatory discussions (including the current review of the Eligible Assets Directive, which will consider digital assets in the context of UCITS).

Virtual Asset Service Providers (VASPs)

On 2 May 2024, the Central Bank published an update on the impact of MiCAR on VASPs. For further information, please see our article here.

All registered VASPs eligible to avail of the MiCAR grandfathering provisions that intend to continue to operate following the 12-month transitional period, will require a CASP authorisation from the Central Bank prior to 30 December 2025.

For firms that are not registered VASPs but are considering seeking CASP authorisation, at least ten months is required to conclude the assessment of a VASP application. Therefore, the Central Bank has indicated that such firms should focus their efforts on preparing for a CASP application rather than seeking a VASP registration at this time. For applicant VASPs in the registration pipeline, the Central Bank will continue to assess these applications and will engage bilaterally with these firms on the progress of their applications.

European Supervisory Authorities Opinion on Proposed Improvements to the Sustainable Finance Disclosure Regulation (SFDR)

On 18 June 2024, the European Supervisory Authorities (**the ESAs**) published their joint opinion on proposed improvements to the Sustainable Finance Disclosure Regulation (**SFDR**) (**the Opinion**) . The ESAs' stated aim is that the Opinion " will be considered as part of the European Commission's assessment of stakeholders' responses to support policy considerations to improve the European framework for sustainable finance based on the experience on the implementation of SFDR".

The ESAs write that they "are well placed to offer the Commission their unique perspective on how instrumental SFDR has been in both increasing transparency on sustainability features for the benefit of investors in the context of the Green Deal objective and to channel capital towards sustainable investment".

The Opinion calls for a coherent sustainable finance framework that caters for sustainable finance transition and investor protection considering the lessons learned from the functioning of the SFDR and building on the objectives of the proposals of the Retail Investor Strategy. In their Opinion the ESAs strongly encourage the European Commission to undertake consumer testing when developing policy options to use a strong evidence basis for amendments to the regulatory framework. Retail investors must be able to clearly understand how the underlying sustainability profile of financial products facilitate capital allocation to sustainable investments.

The Opinion summaries the ESAs' recommendations to the European Commission:

"*a) The Commission could consider the introduction of a product classification system, based on regulatory categories and / or sustainability indicator(s) to help consumers navigate the broad selection of sustainable products and support the full transition to sustainable finance;*

b) The categories should be simple with clear objective criteria or thresholds, to identify which category the product falls into. The ESAs encourage, at least, categories of 'sustainability' and 'transition';

c) A sustainability indicator could refer to environmental sustainability, social sustainability or both, illustrating to investors the sustainability features of a product in a scale;

d) Options for product categorisation and /or sustainability indicator(s) should be consumer tested and

consulted on. With clear product categories and/or sustainability indicator(s), sustainability disclosures would not need to be as detailed and extensive;

e) The Commission could revisit the coexistence of the two parallel concepts of "sustainable investment" as defined in the SFDR and Taxonomy-aligned investment as defined in the EU Taxonomy. The EU Taxonomy constitutes a science-based reference point against which to measure environmental sustainability, whereas the SFDR is more principle based and less prescriptive than the EU Taxonomy when it comes to measurement of sustainable investments. The Commission should prioritise completing the EU Taxonomy and extend it to social sustainability;

f) The ESAs strongly recommend that the Commission ensures that sustainability disclosures cater to different investor needs, and improvements in sustainability disclosures should take into account different distribution channels, including digital ones, and ensure consistency of information provided. The Commission should prioritise only essential information for retail investors while professional investors may benefit from more detailed information;

g) The Commission could carefully reflect on whether to include other products in the SFDR scope to ensure harmonised disclosures for both products currently in the scope of SFDR and any other products that could be brought in to the scope;

h) Information on key adverse impact indicators could be considered for all financial products, based on a cost-benefit analysis justifying the introduction of such requirement; and

i) The Commission could evaluate the introduction of a framework to assess the sustainability features of government bonds, taking into account the specificities of that asset class ".

Next Steps

The Opinion was prepared by the ESAs on their own initiative as a contribution to the future direction of SFDR and it remains to be seen the impact the Opinion will have on the approach of the European Commission.

Central Bank's Individual Accountability Framework – Questions from Stakeholders

On 1 July 2024 the Central Bank published a document entitled Individual Accountability Framework – Questions from Stakeholders (**IAF Questions from Stakeholders**).

The Central Bank writes that this document contains answers to questions about the Individual Accountability Framework (**IAF**) asked by stakeholders and that it should be read in conjunction with other Central Bank publications on the IAF, notably the Guidance on the IAF, and on the related Administrative Sanctions Procedure and the Fitness and Probity Regime.

The IAF Questions from Stakeholders will be integrated into the Final Guidance on the IAF, which was released in April 2024, when it is updated from time to time by the Central Bank. The document's first section on the Conduct Standards relate to and clarify aspects of Paragraphs 4.18 to 4.20 of the Guidance on the IAF.

Section 1.

1.1 The Conduct Standards set out a single set of applicable standards of behaviour which will apply to relevant individuals in all firms, irrespective of sector. Does this extend to individuals in CF roles providing services on a freedom of services basis?

Answer : *The Central Bank confirms that CF role holders providing incoming services on a freedom of services basis are subject to the Conduct Standards.*

1.2. To what extent are individuals in group entities considered to exercise a significant influence on the conduct of a subsidiary/related RFSP's affairs, and accordingly be subject to the Additional Conduct Standards as CF-1 role holders of the RFSP?

Answer : *In the main, it is not anticipated that individuals in group entities will ordinarily exercise significant influence on the conduct of the subsidiary/related RFSP's affairs, and as such constitute CF-1 role holders of the relevant RFSP and be subject to the Additional Conduct Standards (as well as the Common Conduct Standards). However, where such an individual can effectively direct/exercise a significant influence on key aspects of the business of the RFSP, they will be a CF-1 and therefore they will be subject to both the Common and Additional Conduct Standards as a matter of law.*

1.3. There is a statutory obligation on the firm to provide training to individuals in CF roles on the Common Conduct Standards and to individuals in PCF/CF-1 roles on the Additional Conduct Standards to ensure that they have appropriate knowledge of them and how they apply to an individual performing that function. In a situation where CF and/or PCF roles are outsourced, is the firm subject to the IAF itself required to provide this training?

Answer : *While the firm itself is responsible for providing appropriate training, it is permissible that the delivery of such training can be facilitated by a third party.*

Central Bank Authorisations and Gatekeeping Report 2024

The Central Bank of Ireland (**Central Bank**) has published its Authorisations and Gatekeeping Report (**the Report**). The is the first edition of what will be an annual report, providing ongoing information about the Central Bank's approach to the authorisation of regulated entities in Ireland and its gatekeeping role.

The Report provides information on the Central Bank's authorisation framework and risk appetite, including explaining the Central Bank's priorities and expectations of applicants for authorisation and outlines key challenges that the Central Bank sees for firms seeking authorisation. Insights into the operation of the Central Bank's fitness and probity regime are also included in the Report and explored further below.

Key Central Bank expectations for authorisations

The Report outlines that the Central Bank continually seeks to evolve and enhance its authorisation process but emphasises that an authorisation granted by the Central Bank is an entry point for providing services into the Irish and European financial markets and therefore the Central Bank has an important role as a gatekeeper to those markets. The Report highlights that the phrase "*regulated by the Central Bank of Ireland*" has to hold meaning in setting standards and providing reassurance to the people of Ireland and across Europe.

The Central Bank states that it takes a risk-based and proportionate approach to authorisations reflective of the nature, scale and complexity of the applicant's business model. The Central Bank also acknowledges that the authorisation process has to be efficient and transparent.

Regarding engagement with industry and stakeholders in relation to the authorisation process, the Central Bank notes its fresh approach of being open to hearing a wider range of views and focusing on clearer communications and expectations to enhance the authorisation process for firms. The Central Bank also points

out its wider outreach activities, providing opportunities for engagement and dialogue with firms and industry and its publication of updated guidance material for firms seeking authorisation across a number of sectors.

In considering applicants' engagement with the application process, the Central Bank notes that firms should plan for a comprehensive authorisation process and that the authorisation timeline is strongly influenced by:

- the nature, scale complexity of the proposed business model;
- the completeness and quality of the application submission; and the applicant firm's timeliness in responding to the Central Bank's queries and the quality of those responses.

Some key Central Bank expectations and insights for the authorisation process set out in the Report include:

Awareness of regulatory obligations: The process is more productive and efficient where firms have fully considered their regulatory obligations in their applications.

Tailoring the application: Applications should not be generic, they must be tailored and specific to the authorisation sought, the applicant's business model and its enterprise risks and risk frameworks.

Early engagement with the Central Bank: Applicants should engage with the Central Bank at an early state to clarify expectations and to support their application. Firms with new and innovative business models should consider engaging with the Central Bank's Innovation Hub.

Awareness of post-authorisation regulatory expectations: Applicants are not only expected to meet the minimum authorisation standards but are also expected to be aware of the Central Bank's broader expectations post-authorisation. William Fry is on hand to assist firm's with understanding these broader regulatory expectations.

Organisation to ensure ongoing compliance: Applicants should be well organised and prepared to comply with the current regulations and guidance for their sector on an ongoing basis in addition to being prepared for any upcoming rule changes.

Awareness of business model risks and mitigants: Applicants should fully understand the risks arising from their business models and operations and how to mitigate those risks.

The Report also contains information about average authorisation times by sector. The Central Bank states that for the full year 2023 it met or exceeded the service standards to which it has committed.

Key challenges faced by applicants

The Central Bank identify the following common challenges experienced by applicants in the authorisation process:

- **Business models**: An inability to describe the proposed business model, with clarity on underlying assumptions made and customer offering may result in a prolonged assessment period. The Central Bank notes that similarly, substantial changes made by applicants during the course of the assessment to their proposed business model, may cause an extended assessment period.
- **Delays in responding to Central Bank queries:** Long delays by firms in responding to queries or providing clarifications to questions posed during the authorisation process.
- **Governance:** A lack of substantive presence and adequate staffing for both pre-approval controlled function (PCF) and non-PCF roles in the jurisdiction.
- **Inadequate preparation and application completeness**: Inadequate preparedness for the application process and low quality and/or incomplete information in application submissions can hold up a timely authorisation assessment. The Central Bank outlines that firms which have made the necessary senior appointments at the application point generally submit a more complete application which has been subject to appropriate review and therefore tend to progress through the authorisation process in a timelier manner.
- **Localised risk frameworks**: The Report notes that the Central Bank supervises many international financial services firms with various structures however it expects local risk frameworks, tailored to the

Irish applicant entity, to be in place to ensure all risks are managed. This is often not appropriately considered by applicants and there is an over-reliance on group risk frameworks which do not achieve that outcome.

- **Sector specific analysis**: Within its analysis of authorisations in each sector, the Central Bank also points out some challenges specific to some sectors.

Fitness and Probity Insights

The Report provides some insights into the current fitness and probity (F&P) regime and particularly relating to the exercise of the Central Bank's gatekeeping prior approval function in the assessment of PCF candidates for fitness (i.e. competence and capability) and probity (i.e. honesty, ethical behaviour and integrity). The F&P regime is noted as being critical for the protection of the public interest and ensuring that there is public trust and confidence in the financial system.

In 2023, 3359 PCF applications were received by the Central Bank, with 2603 applications approved and 279 applications withdrawn by the applicant. The Central Bank states that the quality of PCF applications has improved since the introduction of the new portal for PCF application submission. However, 361 PCF applications were returned as incomplete due to errors in initial submission which include, failure to upload necessary documentation, insufficient due diligence performed by the proposer or the applicant applying for the wrong PCF role or being unable to answer questions regarding key aspects of their F&P requirements. The Central Bank also interviewed 126 PCF applicants as part of the F&P approval process.

The Central Bank also references some recent developments including:

- The independent review of the F&P approval process, which was commissioned by the Central Bank in March 2024, with findings expected to be published in Summer 2024;
- The introduction of the Central Bank (Individual Accountability Framework) Act 2023 (IAF) which introduced the Senior Executive Accountability Regime (SEAR), Conduct Standards, enhancements to the current F&P regime (including strengthening the responsibility of firms in the ongoing assessment of the F&P of individuals in PCF and controlled function (CF) roles including firm certification of F&P) and a simplified regulatory enforcement process; and
- The inclusion of holding companies for banking, insurance and MiFID firms in the F&P regime from 29 December 2023 and the introduction of the new PCF roles of Head of Material Business Lines for insurance and investment firms.
- With SEAR having come into effect for in-scope firms from 1 July 2024, the Central Bank adds that in-scope new entrants must now submit a statement of responsibilities with their PCF application.

William Fry AI Summit: Key Insights

Artificial intelligence (AI) is rapidly transforming many aspects of everyday life. From a business perspective, how do we keep up with the significant changes and navigate the complexities in this emerging field and how do we as individuals play a role in successful integration? From a legal perspective, with the AI Act set to become law by 1 August, what do organisations need to be doing in terms of setting up legal compliance frameworks?

On 28 May 2024, William Fry hosted *The AI Summit: Discussions at the Cutting Edge*, at the Aviva Stadium, gathering world-leading experts and leaders in AI, to share their experiences and insights, and to discuss the opportunities and challenges that AI presents.

The insightful event saw four panels of leading experts explore topics including AI & data protection, responsible AI & the AI Act, AI implementation and AI & intellectual property.

Opening the inaugural AI Summit, Andrew Trimble, former international rugby player and co-founder of Kairos was joined by William Fry's managing partner Owen O'Sullivan where they highlighted the evolving AI landscape and how businesses can harness the benefits of AI while navigating the complexities with AI and EU law.

AI & data protection

William Fry's technology partner, Rachel Hayes opened the first panel session which focused on AI & data protection, emphasising that we are "very much at chapter one" as regards to the regulatory aspect of AI.

Among the panel members were Emma Redmond – Member of Ireland's AI Advisory Council and Head of EU Data Protection (OpenAI), Nish Imthiyaz – Global Privacy Counsel (Vodafone), Richard Greene – Senior EMEA Privacy Counsel & DPO (Autodesk).

During the session, speakers discussed the basics of AI and how it leverages human intelligence to produce artificial intelligence. A spotlight in this session was the importance of collaboration in the implementation and use of AI and the pressing area of data protection. The AI & data protection panel concluded with some practical tips that people and businesses can follow to help guide them on their AI journey.

Responsible AI & the AI Act

The second panel, 'Responsible AI & The AI Act' included speakers Sasha Rubel, Member of Ireland's AI Advisory Council and Head of AI Policy EMEA (Amazon Web Services), Kieran McCorry, National Technology Officer (Microsoft Ireland) and Barry Scannell, technology partner (William Fry) and was moderated by William Fry's technology partner, David Cullen.

Panellists highlighted the interests of trust and ethical standards with AI – a fundamental aspect giving its ever-evolving nature. They also analysed the main features of the AI Act in light of recent and oncoming developments, providing insights on how to navigate the regulatory landscape, mitigate risks when faced with challenges and continuously ensure compliance with EU law, as and when it progresses.

AI implementation

Moderated by William Fry partner and head of the firm's Technology Group, Leo Moore, the AI Implementation panel was joined by thought leaders Dr. Omar Hatamleh, Chief Advisor, AI & Innovation (NASA) Deborah Threadgold, General Manager, Ireland (IBM), Prag Sharma, Global Head of AI Centre of Excellence (Citi) to share their insights on the implementation of AI.

This dialogue saw more reflection on the culture of collaboration whereby speakers underlined the value of people when integrating AI. Collectively, the panellists addressed the need for five influential factors in AI implementation: people, processes, technology, infrastructure and data.

Deborah Threadgold said: "Bringing people from your organisations on this journey is fundamental because no matter how great the technology is, no matter how super your process is, if people are not with you, you're not going to be successful".

AI & intellectual property

The final panel of the afternoon brought our very own AI & intellectual property (IP) experts to the stage, technology partner, Barry Scannell and litigation & investigations partner, Colette Brady, to speak about AI and IP. First, Barry provided an overview of the various IP issues being raised by AI and discussed some of the nuanced issues William Fry's clients are facing in this area. Barry was then joined by Colette for a fireside chat where they examined the intersection of AI and IP, disclosing issues and concerns of ownership, protection and exploitation of AI-generated and AI-assisted creations. They talked about the legal implications of copyright infringement, what is going to be protected under intellectual copyright laws, and how AI can be deployed to help protect IP.

Key takeaway

- The AI Summit delivered key insights into the development of AI and how it impacts society and business. This technological advancement is growing at a pace not seen before, faster than any regulation in the EU. Staying up to the date with the latest developments in AI and the regulations alongside it is vital for both people and businesses as we move forward.

- William Fry is committed to empowering clients to achieve a state of compliance-readiness while they undergo digital transformation and AI implementation. Our cross-functional team consists of technology, AI, data protection and intellectual property experts, ensuring that businesses not only prevail the impacts of EU regulatory requirements, but also harness the significant benefits that AI can bring.

For more information on how we are assisting clients in relation to the EU Digital Strategy Framework, please download William Fry's EU Technology Regulation Playbook. The purpose of the playbook is to give key stakeholders in your business a high level overview of what is to come and the impact this is expected to have on your business.

Your DORA Journey

The Digital Operational Resilience Act (**DORA**) is an EU Regulation which will apply from 17 January 2025. It marks a significant change and a raising of standards in relation to cyber security and operational resilience across the entire financial services sector in the European Union. While outsourcing and operational resilience guidelines published to date by the EU supervisory authorities (i.e. EBA, ESMA & EIOPA), as well as the Central Bank of Ireland, do not generally have the force of law, DORA as an EU Regulation (like the GDPR) is mandatory law which regulated financial services firms offering their services within the EU are required to comply with.

Implementing DORA can be a significant task particularly for firms that have several complex third-party ICT arrangements upon which they are heavily dependent. With that in mind, we have included links to some relevant information which we are encouraging you to engage with.

These resources include links to three episodes of a William Fry podcast focused on DORA and some other DORA related articles.

Episode One: Overview of DORA

In this first episode of the William Fry Legal Podcast miniseries focusing on DORA, our Fintech team provide an overview of DORA, including the rationale behind its adoption and who it applies to, and discuss some of its key themes.

Listen Here

Episode Two: ICT-Third Party Risk Management and Contract Remediation

In this second episode of the William Fry Legal Podcast miniseries on DORA, the Fintech team take an in-depth look at one of the key themes of DORA – ICT Third-Party Risk Management and Contract Remediation.

Listen Here

Episode Three: Practical Initial Steps to Compliance

In this third and final episode of the William Fry Legal Podcast miniseries on DORA, the Fintech team look at how businesses should approach implementing DORA and provide some practical initial steps to compliance.

Listen Here

Digital Operational Resilience – Are you DORA ready?

In this article we reviewed the first batch of draft technical standards required under DORA.

Read Article

Digital Operational Resilience Act – second batch of technical standards launched for consultation

This article serves as a direct follow on from the article on the left regarding the first batch of technical standards, as this article focuses on the second batch, with the consultation having begun in December 2023.

Read Article

How critical is critical? – ESAs publish technical advice on critical service provider designation under DORA

This article looks at the other type of entity caught directly under DORA – ICT service providers who are deemed "critical" by the European Supervisory Authorities. This article looked at the requirements to be deemed "critical" under DORA.

Read Article

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