

# Funds and Investment Management News

September 2024

Welcome to Clifford Chance's Funds and Investment Management News. This monthly update covers legal and regulatory developments from around the world in the funds and investment management sector, as well as our briefings and details of our conferences, events, and [Insights for Asset Managers webinar series](#).

If you would like to know more about a particular development, please get in touch with your usual Clifford Chance contact or any of our team listed at the end of this newsletter.

Further details and related resources, including [previous editions of this newsletter](#) and [our ESG newsletter](#), can be found on the [Clifford Chance Financial Markets Toolkit](#) and [Clifford Chance Funds and Investment Management page](#).

You are welcome to share this round-up with colleagues, who may like to subscribe to future editions by completing our [preferences form](#). If you would like to unsubscribe, you can do so by clicking the link at the end of this email.

---

## Headlines

The EU Commission has published a first set of extensive [FAQs](#) to help stakeholders to implement the EU corporate sustainability reporting rules, with a particular focus on the EU's Corporate Sustainability Reporting Directive (CSRD).

The European Securities and Markets Authority (ESMA) has released translations of its [guidelines](#) on using ESG or sustainability claims and provide asset managers with clear criteria for using such terms. As a result, the date of application of these guidelines is now confirmed as 21 November 2024.

---

## Table of contents

- [Developments in the United States](#)
  - [Developments in Europe](#)
    - [European Union](#)
    - [Germany](#)
    - [Italy](#)
    - [UK](#)
  - [Developments in APAC](#)
    - [Australia](#)
    - [Hong Kong](#)
    - [Singapore](#)
  - [Clifford Chance publications](#)
  - [ESG Index](#)
  - [Contacts](#)
- 

## United States

### Amendments to Forms N-PORT and N-CEN

In a 3-to-2 vote, the SEC [adopted amendments](#) to Form N-PORT and Form N-CEN under the Investment Company Act of 1940, which are reporting requirements for open-end funds, such as mutual funds. The SEC also provided guidance related to open-end fund liquidity risk management program requirements. According to the SEC, the amendments are designed to provide the Commission and the public with timelier information about a large segment of registered investment companies' portfolio investments and, in turn, improve transparency and facilitate better monitoring of these funds by, among other things, requiring funds to file Form N-PORT reports on a monthly basis, rather than quarterly, within 30 days after the end of each month. These amendments are likely to result in increased compliance costs and oversight.

### SEC Enforcement Action Highlights Private Credit and MNPI Risks

The SEC [issued an order](#) on instituting administrative and cease-and-desist proceedings against a registered investment adviser ("RIA") for failing to establish, maintain, and enforce policies and procedures to prevent the misuse of material non-public information ("MNPI") concerning the RIA's trading of collateralized loan obligations.

### Off-Channel Communications Enforcement Actions

The SEC announced [26 enforcement actions](#) against broker-dealers, investment advisers and dually-registered broker-dealers and investment advisers for unapproved communications methods ("off-channel communications") and recordkeeping violations totalling \$390 million. Three of the firms involved had self-reported their violations and therefore paid significantly lower monetary penalties.

### The NFL Opens its Doors to Private Equity

Owners of the US National Football League ("NFL") [approved an update](#) to the NFL investment and ownership rules to allow private equity investment in teams. From its inception, the NFL has limited team ownership to a select "chosen" group of individuals, making NFL owners the most exclusive club in US professional sports. Over the last five years, however, there's been a confluence of factors that have energized the NFL to allow private equity off the sidelines and into the field of play. The average NFL team is now worth \$6.49 billion, with no team valued at less than \$5.25 billion. Lofty valuations, coupled with the \$700 million debt limit imposed on teams, significantly limit the number of individuals able to write equity checks in excess of a billion dollars, making ownership highly illiquid and presenting a lucrative investment opportunity for private equity investors.

[Back to top](#)

## Europe

### European Union

#### **EU Commission publishes FAQs on implementation of corporate sustainability reporting rules**

The EU Commission has published [FAQs](#) to help stakeholders implement the EU corporate sustainability reporting rules. These FAQs aim to make the EU sustainable finance framework more user-friendly and reduce administrative burdens, addressing topics like rule scope, application dates, and exemptions.

#### **ESMA publishes translations of guidelines on funds' names using ESG or sustainability-related terms**

The European Securities and Markets Authority (ESMA) has released translations of its [guidelines](#) on using ESG or sustainability claims and provide asset managers with clear criteria for using such terms. National competent authorities must notify ESMA of their compliance status by 21 October 2024, with the guidelines becoming applicable from 21 November 2024

#### **MiCA: ESMA issues opinion on global crypto firms using non-EU execution venues**

ESMA has published an [opinion](#) addressing risks posed by global crypto firms seeking authorisation under the MiCA Regulation while keeping significant activities outside EU regulation. ESMA highlights concerns about complex structures and urges national authorities to ensure firms comply with MiCA obligations, particularly for multifunction cryptoasset intermediaries. The opinion calls for vigilant assessment of business structures to prevent bypassing MiCA requirements.

#### **ESMA publishes second trends, risks and vulnerabilities report of 2024**

The European Securities and Markets Authority (ESMA) has released its second risk monitoring [report](#) of 2024, highlighting trends, risks, and vulnerabilities in EU financial markets for the first half of the year. The report notes that external events continue to significantly impact financial markets, with high or very high overall risks, particularly due to interest rate changes, credit risk, and political news. Additionally, ESMA provides updates on structural developments in market-based finance, sustainable finance, and financial innovation, and reviews key sectors such as asset management and securities markets.

[Back to top](#)

## Germany

## **German Federal Ministry of Finance publishes draft Second Future Financing Act**

The German Federal Ministry of Finance (BMF) has released a [draft](#) of the Second Future Financing Act (ZuFinG II), aiming to enhance Germany's competitiveness as a financial hub and improve financing options for young companies. This draft law, part of the Growth Initiative approved on 17 July 2024, also seeks to boost investments in infrastructure and renewable energy by establishing a secure legal framework. The next step is for the draft to be reviewed and potentially amended by the German Federal Cabinet.

[Back to top](#)

## **Italy**

### **Sustainable finance: Consob publishes new guidance**

CONSOB has issued [Notice No. 1/2024](#), urging financial institutions to present sustainable finance information more clearly and understandably, especially for retail customers. The notice highlights key elements from monitoring activities and operational practices, providing a list of positive and negative practices to aid compliance. CONSOB will continue to supervise intermediaries to ensure full regulatory compliance.

[Back to top](#)

## **UK**

### **FSMA 2023 (Commencement No. 7) Regulations made**

The Financial Services and Markets Act 2023 (Commencement No. 7) Regulations 2024 ([SI 2024/891](#)) have been enacted. Effective 1 November 2024, these regulations will revoke the EU Securitisation Regulation and related instruments, including the Securitisation Regulations 2018 and Commission Delegated Regulation (EU) No 625/2014, which supplemented the Capital Requirements Regulation.

### **FCA expands dormant assets scheme for investment assets and client money**

The FCA has published [PS24/10](#), expanding the dormant assets scheme to include investment assets and client money. This policy statement outlines changes to the FCA Handbook for the second phase of the scheme's expansion, which began with the inclusion of insurance, pensions, and securities sectors in August 2022. The new rules, effective from 2 August 2024, primarily impact Reclaim Fund Ltd, managers, depositaries of authorised collective investment schemes, and firms holding client money.

### **FRC consults on digital reporting**

The Financial Reporting Council (FRC) has published a [discussion paper](#) on the future of digital reporting, in collaboration with several regulatory bodies. The paper explores changes in the regulatory landscape, including the impact of the Economic Crime and Corporate Transparency Act 2023, and covers topics such as alternatives to the ESEF taxonomy, mandatory assurance of digital tagging, and strategies to help stakeholders adapt to new requirements. Comments are due by 1 November 2024.

### **FCA sets out good practices in cryptoasset financial promotion**

The FCA has published a [document](#) outlining good and poor practices in cryptoasset financial promotion, based on a review of firms' compliance with rules introduced in October 2023. The document provides examples to help firms meet their obligations and support informed consumer decisions, advising against relying on industry comparisons and encouraging firms to follow the FCA's guidance.

[Back to top](#)

## Asia Pacific

### Australia

#### **ASIC publishes corporate plan for period 2024–25 and beyond**

The Australian Securities and Investments Commission (ASIC) has released its [corporate plan](#) for 2024–25, outlining key strategic priorities. These include improving consumer outcomes in financial products and services, enhancing market integrity, supporting better retirement planning, managing technology and cyber risks, and strengthening market integrity across public and private sectors. The plan focuses on areas such as climate-related disclosure, greenwashing, and resilience against technology-enabled scams.

[Back to top](#)

### Hong Kong

#### **HKMA issues circular on climate-related risk governance good practices**

The Hong Kong Monetary Authority (HKMA) has issued a [circular](#) highlighting good practices and key observations on authorised institutions' (AIs) governance of climate-related risks. The HKMA noted that AIs have developed climate risk governance structures aligned with supervisory expectations, focusing on climate strategy, risk management oversight, and fostering a strong climate risk culture. The HKMA encourages AIs to adopt these practices and plans to enhance its supervisory approach to address common challenges like data insufficiency and risk measurement difficulties.

[Back to top](#)

### Singapore

#### **Anti-Money Laundering and Other Matters Bill passed in Singapore Parliament**

The Singapore Parliament has passed the [Anti-Money Laundering and Other Matters Bill](#), aiming to align casino operators' frameworks with Financial Action Task Force standards and enhance government agencies' ability to detect and act against money laundering. The Bill also clarifies processes for dealing with seized properties linked to criminal activities and includes amendments to several acts. The Government emphasized that the Bill does not introduce additional regulatory requirements for the financial and real estate sectors but aims to improve law enforcement capabilities without imposing undue burdens on legitimate businesses.

#### **Phase 2B of Financial Services and Markets Act 2022 comes into effect**

Phase 2B of the [Financial Services and Markets Act 2022](#) (FSMA) came into effect on 31 July 2024, enhancing the Monetary Authority of Singapore's (MAS) powers to address financial sector risks. This phase introduces broader powers for MAS to issue prohibition orders and includes several regulatory

updates to ensure compliance. The FSMA, passed in April 2022, has been implemented in phases to migrate and expand regulatory provisions.

### **MAS revises forms, FAQs, guidelines and compliance toolkits regarding fund management**

Following the repeal of the registered fund management regime on 1 August 2024, the Monetary Authority of Singapore (MAS) has **updated** the application process for a capital markets services licence (CMS Licence). From 29 August 2024, all applicants, including those for fund management (LFMC) and venture capital fund management (VCFM), must use the same application form (Form 1) and submit through eLicensing. Additionally, several guidelines and forms, including Form 3A and Form 25A, have been revised to reflect these changes.

[Back to top](#)

---

### **Clifford Chance publications**

- (30 August) Briefing - [Ukraine – the latest global sanctions and export controls](#) as at 3:30pm GMT on 29 August 2024
- (30 August) Briefing - [US Restrictions on Foreign Ownership Analysis](#)
- (29 August) Briefing - [The new UK prospectus regime – filling in the blanks](#)
- (28 August) Briefing - [SEC Enforcement Action Highlights Private Credit and MNPI Risks](#)
- (20 August) Briefing - [Dormant Assets Act 2022 and Client Money – does this help?](#)

[Back to top](#)

---

### **ESG Index**

- [EU](#):
  - EU Commission publishes FAQs on implementation of corporate sustainability reporting rules
  - ESMA publishes translations of guidelines on funds' names using ESG or sustainability-related terms
- [Italy](#)
  - Sustainable finance: Consob publishes new guidance
- [Hong Kong](#):
  - HKMA issues circular on climate-related risk governance good practices

[Back to top](#)

---

### **Contacts**

**Marian Cheng**  
Regulatory Services Manager, Hong Kong

**Charlotte Chopping**  
Senior Associate, London

**Thien Folkemer**  
Associate, New York

**Dennis Morrisroe**  
Associate, New York

**Fiona Grafton**  
Director, Client & Market Development, Global

**Eric Haskell**  
Business Development Senior Specialist, New York

**Delphine Madar**  
Business Development Manager, Luxembourg

**Katy Seedhouse**  
Head of Practice Development, Private Funds

**Anne-Lise Vandevoyr**  
Senior Associate, Luxembourg

**Amy Watt**  
Knowledge Director, London

## Follow us



## Browse our podcasts



### ***Additional Information***

This publication does not necessarily deal with every important topic nor cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. Clifford Chance is not responsible for third party content. Please note that English language translations may not be available for some content.

The content above relating to the People's Republic of China (PRC) is based on our experience as international counsel representing clients in business activities in the PRC and should not be construed as constituting a legal opinion on the application of PRC law. As is the case for all international law firms with offices in the PRC, whilst we are authorised to provide information concerning the effect of the Chinese legal environment, we are not permitted to engage in Chinese legal affairs. Our employees who have PRC legal professional qualification certificates are currently not PRC practising lawyers.

UK: We are sending this email on the assumption you do not live or work in New York State. If that is not the case, please [follow this link](#).

If you prefer, you can write to us with your marketing or monitoring request at Marketing Department, Clifford Chance, 10 Upper Bank Street, London, E14 5JJ, UK.

This email does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. Prior results do not guarantee a similar outcome.

Clifford Chance LLP is a limited liability partnership registered in England & Wales under number OC323571. The firm's registered office and principal place of business is at 10 Upper Bank Street, London, E14 5JJ. The firm uses the word "partner" to refer to a member of Clifford Chance LLP or an employee or consultant with equivalent standing and qualifications. The firm is authorised and regulated by the [Solicitors Regulation Authority](#) (SRA) under SRA number 447778.

For further details about Clifford Chance, including our [Privacy Statement](#) see our [website](#).

Copyright: © Clifford Chance. 2024. All rights reserved.

[Unsubscribe](#)