



2019 European Parliament election

## TABLE OF CONTENT

<b>NEWS FROM THE INSTITUTIONS</b>	<b>2</b>
<i>The next European elections take place on 23-26 May 2019, whereby the EP remains committed to the “Spitzenkandidatenprozess”. The EU Summit of March focused on the economy, climate change and the upcoming summit with China. The European Commission has completed its Brexit “no-deal” preparations.</i>	
<b>CAPITAL MARKETS UNION</b>	<b>5</b>
<i>The Commission calls in a Communication for renewed efforts to complete the CMU before the May 2019 European Parliament elections.</i>	
<b>SOLVENCY II</b>	<b>8</b>
<i>The Commission has called for advice from EIOPA for the Solvency II directive review. It has also issued the amended delegated act which is now in the hands of EP and Council for scrutiny. The trilogue on the ESA review package has reached an agreement, to be sealed in plenary and formal Council meeting.</i>	
<b>PENSIONS</b>	<b>13</b>
<i>Trilogue discussions on the PEPP proposal and on the disclosures relating to sustainable investments and sustainability risks proposal have reached political agreement.</i>	
<b>CONSUMERS AND FINANCIAL SERVICES</b>	<b>16</b>
<i>EIOPA issued a framework for assessing conduct risk. The possibility of duplicating information requirements for investment funds (PRIIPs KID and UCITS KIID) from 1 January 2020 has been diverted.</i>	
<b>NEW TECHNOLOGIES</b>	<b>20</b>
<i>EIOPA is working on guidelines regarding cyberrisk and use of big data. The High Level expert group on AI is working on Ethics Guidelines soon to be delivered to the Commission.</i>	
<b>EUROPEAN AGENDA</b>	<b>22</b>

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## NEWS FROM THE INSTITUTIONS

*The next European elections take place on 23-26 May 2019, whereby the EP remains committed to the “Spitzenkandidatenprozess”. The EU Summit of March focused on the economy, climate change and the upcoming summit with China. The European Commission has completed its Brexit “no-deal” preparations.*

### European elections

The next European elections take place on 23-26 May 2019 giving all adult EU citizens the opportunity to select who will represent them in the European Parliament (EP). Every five years EU citizens choose the members of the EP, the directly-elected institution that defends their interests in the EU decision-making process. Voting practices vary across the EU, but there are also some common elements. Here is a [brief overview](#) of how Members of the European Parliament (MEPs) get elected.

### Spitzenkandidaten process

By voting in European elections, European citizens not only elect the MEPs, but also have a say over who heads the European Commission. What became known as the “[Spitzenkandidaten process](#)” is a procedure whereby each European political party, ahead of European elections, appoints a lead candidate for the role of Commission President. The process, used for the first time for the appointment of Jean-Claude Juncker in 2014, is not written in the EU treaties, but the EP remains firmly committed to repeating the process.

A number of parties have already nominated their “Spitzenkandidaten”: European People's Party (EPP), Manfred Weber; Party of European Socialists (PES), Frans Timmermans; Alliance of Conservatives and Reformists (ACRE), Jan Zahradil; European Green Party (EGP), Ska Keller and Bas Eickhout. The Alliance of Liberals and Democrats in Europe (ALDE) announced seven candidates for the EU's top job, including ALDE Group Leader Guy Verhofstadt and European Commissioner for Competition Margrethe Vestager. More information about these candidates can be found [here](#).

### European Council 21 and 22 March 2019

The European Council met on [21 and 22 March](#) in Brussels. On Thursday 21 March 2019, the EU27 leaders met to discuss Brexit. On Friday 22 March 2019, EU leaders focused on the economy and the upcoming summit with China, to be held on 9 April 2019. Leaders exchanged views on overall relations with China in the global context. They also discussed climate change and called on the Council to intensify its work on a long-term climate strategy ahead of a further discussion in the European Council in June 2019. They also adopted conclusions on securing free and fair elections and fighting

disinformation. Furthermore, EU leaders agreed that a strong economic base is of key importance for Europe's prosperity and competitiveness. They stated that this objective should be achieved through the single market, which should place emphasis on the service economy, through the industrial policy, which should focus inter alia on artificial intelligence and thirdly through the digital policy, which should be fit for an age of digital transformation and data economy. The Commission is invited to develop by March 2020, in close coordination with the Member States, a long-term action plan for better implementation and enforcement of Single Market rules. The Commission is also invited to present, by the end of 2019, a long-term vision for the EU's industrial future. The European Council conclusions can be found [here](#).

## Brexit

The European Council took note of [the letter from Prime Minister Theresa May](#) of 20 March 2019, in which she had requested that Brexit to be delayed till 30 June 2019. The EU27 leaders stressed that any unilateral commitment, statement or other act should be compatible with the letter and the spirit of the Withdrawal Agreement. They called for work to be continued on preparedness and contingency at all levels for the consequences of the UK's withdrawal, taking into account all possible outcomes.

On 22 March 2019 the European Council (Art. 50) adopted a decision formalizing the political agreement reached on 21 March 2019 on extending the period under Article 50. In accordance with the treaties, the decision was taken in agreement with the United Kingdom. The European Council (Art. 50) also approved [the Instrument relating to the Withdrawal Agreement and the Joint statement supplementing the political declaration](#) agreed between the European Commission and the government of the United Kingdom in Strasbourg on 11 March 2019. Under the European Council decision, in the event that the Withdrawal Agreement was approved by the UK House of Commons by 29 March 2019 at the latest, the extension would have been until 22 May 2019. However, [the Withdrawal Agreement and the political declaration](#) as published in the OJ on 19 February 2019 were rejected by the House of Commons a third time on 29 March 2019, albeit with a smaller majority.

Therefore the “no-deal exit” remains the default option under Article 50. The current Brexit deadline is 12 April unless the UK indicates a way forward for consideration by the European Council before 12 April 2019 such as another extension. And that is exactly what Prime Minister May did: she requested on 5 April an extension until 30 June 2019 in a letter to European Council President Donald Tusk. In the meantime she is holding talks with the Labour Party. Prime Minister Theresa May said that the Government and the Labour Party both agreed on ‘ending free movement, ensuring we leave with a good deal, protecting jobs, protecting security’. The talks between the Government and Labour party are due to continue as they seek to find a compromise on a Brexit deal. European Council President called for a [special Council](#) meeting of EU27 leaders to take place on 10 April 2019 to discuss these new developments. Donald Tusk will reportedly suggest to EU27 leaders to offer the UK a “flexextension”, a one-year-long extension to Article 50 which would require the UK to hold European Parliament elections, but which would give the UK the option to leave the EU as soon as the House of Commons approves the Withdrawal Agreement.

**The Withdrawal Agreement is closed.** Both the European Union and Downing Street have been clear that the Withdrawal Agreement cannot be renegotiated, May's spokesman has reiterated. The plan 'is and will be the only one', the EU's chief Brexit negotiator Michel Barnier said earlier. According to EU law there are only three options: no deal, no Brexit, or Theresa May's negotiated deal. The EU is prevented by law from negotiating future trade relations with an existing Member State. That is why, in theory, the UK first needs to leave in order to start these negotiations.

### **“No-deal” Contingency Action Plan in specific sectors**

In the meantime, the European Commission has completed its “no-deal” preparations on 25 March 2019. In a “no-deal” scenario, the UK will become a third country without any transitional arrangements. All EU primary and secondary law will cease to apply to the UK from that moment onwards. There will be no transition period, as provided for in the Withdrawal Agreement. This will obviously cause significant disruption for citizens and businesses. In such a scenario, the UK's relations with the EU would be governed by general international public law, including rules of the World Trade Organisation. The EU will be required to immediately apply its rules and tariffs at its borders with the UK. This includes checks and controls for customs, sanitary and phytosanitary standards and verification of compliance with EU norms.

The EU has prepared for this scenario since December 2017 (see the [European Commission preparedness website](#)). *‘It is now important that everyone is ready for and aware of the practical consequences a “no-deal” scenario brings’*, according to the Commission. To make sure that the future EU27 legal framework remains fully operational after the withdrawal the Commission has published 90 [preparedness notices](#), 3 Commission [Communications](#), and many [proposals and legal acts](#).

The **“no-deal” contingency measures for financial services** include: temporary, limited measures to ensure that there is no immediate disruption in the central clearing of derivatives, central depositaries services for EU operators currently using UK operators, and for facilitating novation, for a fixed period of 12 months, of certain over-the-counter derivatives contracts, where a contract is transferred from a UK to an EU27 counterparty. Member States have also been engaged in intensive national preparations. An overview of residency rights in the EU27 Member States is available [here](#), as well as direct links to [national preparedness websites](#).

### **EIOPA**

**EIOPA** early March that it and all National Competent Authorities (NCAs) of the European Economic Area (EEA) with competencies in insurance had agreed **Memoranda of Understanding (MoUs)** with the Bank of England in its capacity as the Prudential Regulation Authority (PRA) as well as with the UK's Financial Conduct Authority (FCA). The MoUs take effect should the UK leave the European Union (EU) without a withdrawal agreement, the so-called “No-deal” Brexit scenario.

## CAPITAL MARKETS UNION

*The Commission calls in a Communication for renewed efforts to complete the CMU before the May 2019 European Parliament elections.*

The Capital Markets Union (CMU) is one of the priorities of the Juncker Commission to develop and build deep and liquid capital markets, strengthen Europe's economy and promote a more integrated and stable financial system.

On 15 March 2019 the European Commission presented a **Communication on the CMU: “Progress on building a single market for capital for a strong economic and monetary union”**. In this Communication, the Commission takes stock of the progress made in completing the building blocks of the CMU, including as regards sustainable finance. It is a follow-up to the **last progress report of November 2018** and **the call by EU leaders in December 2018 for ambitious progress** by spring 2019 on the CMU. Ahead of the May 2019 European Parliament elections, it stresses the need for the European Parliament and the Council to accelerate work on the pending proposals to ensure their completion by the end of the legislative cycle. The report fed into **the European Council of 21-22 March** where EU leaders discussed the further development of the single market, including the CMU.

### Sustainable finance

There are still several CMU legislative proposals outstanding with the co-legislators (see full overview **on p. 11&12 of the Communication**), including the **three legislative proposals** of May 2018, aimed to enable the financial sector of the Union to lead the way to a greener and cleaner economy. The EP and the Council have reached a political agreement on two of them, progress is still needed on the first one regarding the taxonomy:

- 1) Establishing a unified EU classification system of sustainable economic activities (“taxonomy”) (**Proposal for a Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment**). The co-legislators are still deliberating on the unified EU classification system (taxonomy) to determine which economic activities are environmentally sustainable. This will give clarity to investors and other economic operators on what activities can be considered to be “green”. On 11 March 2019, the joint committees ECON and ENVI adopted their report on the proposal, calling for a number of changes. The criteria and indicators for determining the degree of environmental sustainability of an economic activity should be gradually harmonised at EU level. Such harmonised criteria and indicators should be reasonable and proportionate, as well as ensuring coherence with existing EU legislation. Furthermore, they should take into account the environmental impact on the entire industrial value chain and the life-cycle of technologies (for more info on the report see the fact sheet **“At a glance”** from the EP). The plenary **voted on 26 March 26** (see also **EP Procedure file**). The dossier is still



under discussions within the Council Working Party on Financial Services - Sustainable finance – Taxonomy, which will next meet on 9 April 2019. It is expected that the Finish presidency will finalize the dossier.

- 2) **Improving disclosure requirements on how institutional investors integrate environmental, social and governance factors in their risk processes.** On 7 March 2019, the Romanian EU Council Presidency and the EP reached a preliminary agreement in trilogue negotiations. The text of the provisional agreement can be found [here](#). (for more information see the “Pensions” chapter of this newsletter).
- 3) **Creating a new category of benchmarks which will help investors compare the carbon footprint of their investments.** The Romanian EU Council Presidency and the EP reached a preliminary agreement in trilogue on the proposal on 25 February 2019. Subject to technical finalization of the text, the **political agreement** was submitted to COREPER for endorsement. The EP adopted the proposal on 26 March 2019 and the Council awaits adopting the proposed regulation at first reading (see also [EP Procedure file](#)).

A number of non-legislative measures in sustainable finance are also well underway, in which the Technical Expert Group on Sustainable Finance (TEGSF) plays a crucial role (see hereunder). Work is also undertaken to prepare the ground for a **future EU Ecolabel for financial products** and assessing, together with ESMA, whether to integrate sustainability in ratings. Lastly, EBA, EIOPA, and the ESRB are analyzing the feasibility of integrating sustainability in prudential requirements.

## High-level Conference on a Global Approach to Sustainable Finance

The European Commission organised its **second high-level conference on sustainable finance** on 21 March 2019 to encourage a global approach to sustainable finance. The conference was hosted by President Juncker and Vice-President Dombrovskis, who gave the welcoming **speech**. Representatives of China, Japan, India, Morocco next to EU Member States’ central banks representatives and ministers underlined the need for action. This one-day event provided the opportunity to embrace a common vision and a strong commitment towards a coherent international financial system that supports channeling private capital towards sustainable projects. Mark Carney, Governor of the Bank of England, said that the building blocks for a transition to a low-carbon economy are being put in place and markets are beginning to understand the costs of climate risks. In the future, climate and ESG considerations will likely be at the heart of mainstream investing. But further progress will be driven by the coherence and credibility of government policies on climate change, according to Carney’s **speech**.

## Technical Expert Group on Sustainable Finance

The Commission set up a [Technical Expert Group on Sustainable Finance](#) to assist it in line with the [Commission's legislative proposals of May 2018](#). The TEGSF will operate until June 2019, with a possible extension until year-end 2019. There are 4 subgroups. Their outreach plans can be found [here](#).

- In terms of its first task, developing an EU taxonomy, the TEG has been asked to publish a report in June 2019 in which it should define environmentally sustainable economic activities (in addition to the Commission's legislative proposal). It should provide **a first taxonomy with a particular focus on 1<sup>st</sup> round climate change mitigation activities and the usability of the taxonomy**. The call for feedback on the first report closed on 22 February 2019 and the TEG is assessing responses. The group has also identified areas where additional technical expertise is needed. The Commission will therefore host [several workshops](#) to gather this expertise. The list of selected experts that will be invited to the workshops can be found [here](#).
- The Taxonomy working group of the TEG is currently developing **new criteria for the 2<sup>nd</sup> round climate change mitigation activities**, climate change adaptation activities and “do no significant harm” assessment. As part of this process, the TEG sought additional technical expertise and the Commission has invited close to 160 experts to provide technical input in various sector and activity discussions focused on detailed metrics, thresholds or other criteria. A workshop with the selected experts took place on 26-27 March 2019 and the process is due to be completed in April 2019. The TEG will submit its final report to the European Commission in June 2019 (see also [overview of TEG outreach plans](#) from 25 March 2019).
- Furthermore, the TEG has published on 10 January its first report on climate-related disclosure. It contains recommendations that will allow the Commission to update its non-binding guidelines (NBG) on the [Non-Financial Reporting Directive \(Directive 2014/95/EU\)](#) with specific reference to climate-related information, in line with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) established by the Financial Stability Board, and with the [Commission proposal on a 'taxonomy' of sustainable economic activities](#). Stakeholders were invited [to provide written comments on the TEG report](#) by 1 February 2019. The [responses to the call for feedback](#) have been published. The TEG provided the Commission services with a [summary](#) of the comments to be considered in the update of the guidelines. On 20 February 2019 the Commission launched a [targeted consultation on the update of the NBG](#) before their **planned adoption in June 2019**. Stakeholders were invited to provide written comments by 20 March. Once finalized, the new NBG on climate reporting will supplement the existing [NBG on non-financial reporting](#) that the Commission published in 2017. They are intended for use by companies that fall under the scope of the [Non-Financial Reporting Directive](#): these are large listed companies, banks and insurance companies, with more than 500 employees.
- **Technical work** on an [EU Green Bond Standard](#) is also progressing.

## SOLVENCY II

*The Commission has called for advice from EIOPA for the Solvency II directive review. It has also issued the amended delegated act which is now in the hands of EP and Council for scrutiny. The trilogue on the ESA review package has reached an agreement, to be sealed in plenary and formal Council meeting.*

### Level 1 – SII review

The Commission has given the starting signal for the review of the Solvency II directive. On 11 February it sent a **formal request** to EIOPA for technical advice on the review of the Solvency II directive. In the request, the Commission asks for the review of certain areas which must be reviewed by the Commission in 2020, namely:

- long term guarantees measures and measures on equity risk;
- methods, assumptions and standard parameters used when calculating the SCR standard formula, such as the risk margin;
- Member States' rules and supervisory authorities' practices regarding the calculation of the MCR;
- group supervision and capital management within a group of insurance or reinsurance undertakings.

The request includes also a revision of all transitory measures.

Besides the minimum scope, other parts of the Solvency II framework have been identified by the Commission services or by stakeholders as deserving a reassessment, such as the supervision of cross-border activities or the enhancement of proportionality principles, including reporting, macroprudential measures, recovery and resolution and whether there is a need for minimum harmonization of insurance guarantee schemes. EIOPA is also requested to conduct a quantitative assessments of potential alternative approaches to the matching and volatility adjustments.

### **The Commission expects advice from EIOPA by 30 June 2020.**

That deadline will give the Commission 6 months to prepare its report to the EP and to the Council, accompanied, where appropriate, by proposals for amendments of the SII directive as the deadline for this report is 31 December 2020. Member state experts may continue to be consulted to prepare the review.

In addition, the Commission sent also on 8 February 2019 a **separate request** to EIOPA to review the methodology for the activation of the “country component” of the volatility adjustment under Solvency II. While changes to the Directive in this respect can be considered as part of the SII 2020, the Commission invites EIOPA to immediately start exploring if there are other possibilities to improve the functioning and efficiency of the country component of the volatility adjustment that would be in line with the current legal framework. Any technical proposal would need to be accompanied by a robust impact assessment.



As soon as the amendments to Article 43 of Delegated Regulation (EU) 2015/35 (“Solvency II Delegated Act”) enter into force, the European Commission would be in a position to endorse that proposal by sending a formal request to modify the techniques to derive the country component of the volatility adjustment, in order to make it a more effective crisis tool, while ensuring the compatibility of the proposed approach with Article 77d of the Solvency II Directive.

### **Level 1 – European System of Financial Supervision (ESFS) review related Solvency II amendments**

The ESFS review package, proposed by the Commission on 20 September 2017, foresees also [amendments to the Solvency II directive](#). In the proposal, EIOPA is to receive more powers regarding internal model approval, as a complement to the changes proposed in the EIOPA Regulation.

On 21 March, the trilogue parties reached an agreement on the total package, far less ambitious than the Commission had proposed in the areas of governance and funding. The agreement had to be reached urgently so that the legislative process can still be completed before the European elections in May. **The final text has been approved by the European Parliament on 1 April and the Council approval is pending. Once signed and published, it can enter into force.**

The ESAs mandate and powers in the areas of consumer protection and environmental, social and governance risks (ESG risks) will be strengthened: the ESAs shall take into account sustainable business models and the integration of ESG-related factors, they shall monitor market developments with respect to ESG risks; put in place a monitoring system to assess material ESG-related risks, taking into account the COP 21 Paris agreement and include environmental risks into existing stress tests through the development of common methodologies for assessing the effect of adverse environmental developments on the financial stability of institutions (stress tests).

The ESAs will also play a stronger role when it comes to Union-wide supervisory priorities and their implementation and reviews of NCAs. EIOPA will get a limited role to help NCAs in their work on internal models of insurance undertakings. EIOPA will also be able to create collaboration platforms in situations of risks to policy holders in cross-border situations. The EU-wide fight against money laundering will have its center at EBA while EIOPA and ESMA can provide their opinions and object to decisions concerning financial institutions under their auspices within a non-objection period of 20 days. The accountability of the ESAs towards the European Parliament will be increased.

## Level 1 – Sustainable finance related SII amendments

EIOPA [issued](#) on 18 January 2019 a [Call for Evidence](#) aiming to collect information from market participants on the integration of sustainability risks and factors in the prudential assessment of assets and liabilities for insurers and (re)insurers. Deadline for submission was 8 March 2019. EIOPA is to [give an opinion on sustainability within SII by 30 September 2019](#).

## Level 1 – Call for input on the Solvency II reporting and disclosure review 2020

As part of the 2020 SII review, EIOPA will also review the supervisory reporting and public disclosure requirements (Pillar III in SII) with the aim to assess if the requirements remain fit-for-purpose and in particular if the requirements allow a risk-based and proportionate approach. It [called for input](#) 19 December 2018. The call is now closed. As next step, **EIOPA expects to publicly consult the conclusions of this assessment during 2019.**

## Level 1 – LTG measures

On 18 March, EIOPA announced its request addressed to EEA insurance undertakings subject to Solvency II to provide the following information:

- Information on the Long-Term Guarantees (LTG) measures
- Information on the dynamic volatility adjustment
- Information on long-term illiquid liabilities.

The provision of the information is required for the preparation of EIOPA's 4th Annual LTG Report as well as of the Opinion on the LTG measures and of the 2020 Solvency II review.

National supervisors will contact a representative sample of undertakings and groups for information on the dynamic volatility adjustment regarding the provision of information for each information request. Detailed information including the timeline can be obtained [here](#). **Deadline to submit data to NSAs is 17 May 2019.**

## Level 1 – Market and credit risk modelling

On 18 March 2019, EIOPA published its [year end 2017 comparative report](#) of market and credit risk modelling.

## Level 1 – Systemic risk and macroprudential policy in insurance

EIOPA published a [discussion paper on “Systematic Risk and Macroprudential Policy in Insurance”](#). Its aim is to develop a specific policy proposal for additional macroprudential tools or measures as part of the SII review. The deadline for comments is 30 April 2019 (see [here](#)).

## Level 2 – delegated and implementing acts

### Revision of the SII delegated act – 2018 SCR review

The European Commission has finally adopted on 8 March the [Commission Delegated Regulation \(EU\) .../... of 8.3.2019 amending Delegated Regulation \(EU\) 2015/35 supplementing 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 \(Solvency II\)](#). The annexes can be found [here \(1-12\)](#) and [here \(13-16\)](#), as well as a [draft version of a staff working paper on supporting insurer’s investment in equity and unrated debt](#). Once the Commission has published its regulation, the scrutiny by EP and Council can start, this is a period of 3 months, which can be doubled up.

**The EP held its ECON scrutiny debate on 2 April.** There seem to be no obstacles from the side of the EP despite the extensive exchange of letters between Commissioner Dombrovskis and ECON chair Roberto Gualtieri’s (S&D, IT). The Commission closed the exchange explaining its decision on the three contentious points: the treatment of long term investments where the Commission lowered the holding period of 12 to 5 years and deleted the ringfencing requirement, the country component of the volatility adjustment where the Commission recently sent a request to EIOPA for an intermediate solution, and the risk margin, where the Commission asked EIOPA for a broad review of the design in the context of the SII L1 review recently launched with a request to EIOPA.

### Revision of the SII delegated act – Sustainable finance

The EIOPA consultation on its [draft technical advice](#) on possible amendments to the delegated acts under SII and the Insurance Distribution Directive (IDD) concerning the integration of sustainability risks and factors is now closed. In terms of next steps, EIOPA will finalise the draft technical advice after consideration of responses received for submission to the Commission **by end of April 2019**. EIOPA will also monitor the issues raised in this technical advice and assess the need for issuing guidance to specify particular issues raised in this technical advice.

### Corrections and amendments to the implementing technical standards on reporting and disclosure

On 2 April 2019, EIOPA launched a consultation linked to corrections and amendments of the implementing technical standards (ITS) on reporting and disclosure. The proposed amendments are kept to the minimum and do not reflect a detailed review of the

requirements, which will be part of the 2020 Reporting and Disclosure Review. The proposals aim to align the reporting and disclosure with the nearly finalized amendments to the Delegated Regulation (EU) 2015/35. Deadline is **14 May 2019**. The consultation package and the feedback template can be obtained [here](#).

## Level 3 - Guidelines

On 15 November 2018, EIOPA published the findings of its [peer review](#) assessing how NCAs supervise and determine whether an insurer's setting of key functions fulfils the legal requirements of SII with a particular emphasis on proportionality. EIOPA will consider the outcome of this peer review in a **revision of its Guideline 14 on system of governance**, in which a distinction between intra- and extra-group outsourcing taking into account the proportionality principle could be made. In addition, EIOPA will consider how to best reflect the overall results (findings, best practices, recommended actions and observations) of this peer review in its work on the supervisory review process (SRP).

On 25 January 2019, EIOPA published the findings of its second peer review in the governance area. That [peer review examined how NCAs assess the propriety of administrative, management or supervisory body \(AMSB\) members and qualifying shareholders](#). EIOPA reviewed national regulatory frameworks and supervisory practices followed by NCAs to assess the propriety of AMSB members and qualifying shareholders at solo and group level, both at the moment of authorisation and on an ongoing basis. Furthermore, EIOPA assessed the effectiveness of cross-border cooperation. As a result of this peer review, EIOPA will seek to strengthen and support processes of cross-border assessments. A shorter [Executive Summary](#), the full report and the methodology applied in the conduct of the peer review can be obtained via EIOPA's Website.

## Relevant Technical information for actuaries

- The monthly versions of the symmetrical adjustment of the capital requirement on equities, published by EIOPA, can be found [here](#). The last one dates from February 2019. The calculation of the symmetric adjustment based on the behaviour of an equity index is built by EIOPA exclusively for that purpose.
- The [latest version](#) of the monthly technical information on the risk-free interest rate term structure (RFR) published by EIOPA dates from February 2019 (scroll to middle of the page).
- The [Commission Implementing Regulation \(EU\) 2019/228 of 7 February 2019 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 December 2018 until 30 March 2019 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](#) was published on 8 February in the OJ.

## PENSIONS

*Trilogue discussions on the PEPP proposal and on the disclosures relating to sustainable investments and sustainability risks proposal have reached political agreement.*

### Occupational pensions

#### **The Occupational retirement provisions directive (IORP II)**

IORP II updates the 2003 directive for workplace prefunded private pension schemes. The transposition deadline of IORP II (directive (EU)2016/2341) was 13 January 2019. Currently only 11 of the 28 Member States have transposed the directive: Austria, Belgium, Croatia, Denmark, Estonia, Finland, Hungary, Italy, Lithuania, Slovakia and the United Kingdom. Bulgaria and the Czech Republic have communicated only partial transposition measures to the Commission. For a full overview of IORP II transposition status, click [here](#).

EIOPA published a [report](#) in March 2019 on the implementation of IORP II: “*Report on other information to be provided to prospective and current members: Guidance and principles based on current practices*”. It analyses certain national practices existing prior to the implementation of the IORP II Directive on member information. It complements the [EIOPA report Implementation of IORP II: “Report on the Pension Benefit Statement: guidance and principles based on current practices”](#) that was published on 13 November 2018.

#### **IORP-stress test**

On 2 April 2019, EIOPA [launched](#) the 2nd IORP stress test exercise. It is a crucial biennial exercise to assess the resilience and potential vulnerabilities of the European Defined Benefit and Defined Contribution pension sector and is tailored, according to EIOPA, to the specificities of the diverse European pension sector and its potential impact on financial stability. Adverse market scenario mirrors the current risk outlook on financial markets. For the first time, a European stress test includes an assessment of ESG exposures. In Q3/Q4 EIOPA will analyse the results and the publication of the results is expected in December 2019.

#### **Proposal for a regulation on “disclosures relating to sustainable investments and sustainability risks”**

The Commission’s [Proposal for a regulation on disclosures relating to sustainable investments and sustainability risks and amending Directive \(EU\) 2016/2341](#) lays the foundation for an EU framework which puts ESG considerations at the heart of the financial system. The agreed rules will strengthen and improve the disclosure of information by manufacturers of financial products and financial advisors towards end-investors. On 7 March 2019, the Romanian EU Council Presidency and the European Parliament reached a preliminary agreement in trilogue negotiations. The text of the provisional agreement can be found [here](#). Following that, it would be expected to be voted on by Parliament at first reading 16 April, and thereafter finally adopted by the Council. For more information see also the [EU legislation in progress](#) briefing from the EP and the [EP procedure file](#)).



Through Article 10, the proposal would have amended IORP II in order to empower the Commission to adopt delegated act to include ESG factors in internal investment decisions and risk management processes, and to take into account the prudent person rule with respect to ESG risks. This delegation has been deleted in the trilogue.

### **Derivatives clearing**

On 4 May 2017, the Commission proposed a [regulation](#) amending and simplifying Regulation (EU) No 648/2012 in the context of its Regulatory Fitness and Performance (REFIT) programme, to address disproportionate compliance costs, transparency issues and insufficient access to clearing for certain counterparties. Among other things, the Commission proposal would provide for a three-year exemption from central clearing for pension scheme arrangements i.e. IORPs and occupational retirement provision businesses of life insurance undertakings if ringfenced. On 12 June 2018, trilogue negotiations started. On 5 February 2019, the European Parliament and the Council reached a political agreement on the Regulation.

See also [Commission page](#) on EMIR review and the [legislative train schedule](#) from the EP.

## **Personal pensions**

### **Pan-European Personal Pensions (PEPP) regulation**

The Council started negotiating the legislative proposal in (political) trilogue with the EP on 11 October 2018. An agreement was reached on 13 December 2018. EU ambassadors endorsed on 13 February 2019 the agreement. The ECON Committee approved the trilogue agreement on 26 February 2019. A debate and vote in plenary are scheduled 4 April 2019. Once adopted, translated, signed, and published, the Regulation is to apply twenty-four months after its entry into force. Hence, the application date can be expected for 2021. The text of the political agreement can be found [here](#).

The new rules will mean that European consumers have more choice when saving for retirement. The PEPP will also help the EU address the pension gap, caused by rapidly ageing populations across Europe. It will be a voluntary retirement savings scheme, which will complement existing public and occupational pension systems, as well as national personal pension schemes. It will be portable. Mobile citizens will be able to carry their PEPP along when changing residency in the EU. It is not an alternative to public or occupational pension schemes. Under the new rules, PEPPs will have the same standard features wherever they are sold in the EU. They will be offered by a broad range of providers, principally insurance undertakings, insurance intermediaries, banks, occupational pension funds, investment firms and asset managers (see also the [fact sheet](#) of the Commission on PEPP). Extensive Level2 legislative work is foreseen on a number of topics. EIOPA will not be able to authorize PEPPs as originally proposed but will have intervention powers and registration functions. Any PEPP is unlikely to appear in the market before end of 2021.

## High-Level Group on Pensions

The [High-Level Group on Pensions](#) (HLGP) was set up in December 2017 by the Commission. The HLGP is tasked to prepare independent policy advice to the Commission in two stages: an interim report on policy challenges, followed by a final report putting forward policy recommendations by December 2019. The HLGP is currently working on the interim report.

## News from EIOPA

EIOPA published 10 January 2019 its first [Report on Costs and Past Performance](#) of insurance and pension products following a request of the European Commission to the ESAs to periodically report on costs and past performance of retail investment, insurance and pension products. This report provides aggregate data on the costs of insurance-based investment products (IBIPs) across the EU as well as for certain similar personal pension products (PPPs) and sets out the net performance for the period between 2013 and 2017. It is based on data derived from Key Information Documents (KIDs). On past performance insufficient data is available from market providers. Therefore, EIOPA requested additional data from insurance undertakings. Similar requests were necessary for personal pension products. The report shows that costs vary depending on the type of product, premium, risk category and jurisdiction. Variations in asset management costs related to different risk categories are a major factor.

## CONSUMERS AND FINANCIAL SERVICES

*EIOPA issued a framework for assessing conduct risk. The possibility of duplicating information requirements for investment funds (PRIIPs KID and UCITS KIID) from 1 January 2020 has been diverted.*

### Insurance distribution directive (IDD)

#### Level 1 – IDD

The **IDD**'s transposition date was 1 July 2018. No transposition measures have been communicated by Cyprus, Latvia and Spain, and only partial ones by Belgium. For the status, click [here](#).

#### EIOPA's framework for assessing conduct risk through the product lifecycle

On 20 February, EIOPA published its framework for assessing conduct risk through the product lifecycle, i.e. from the point before a contract enters into force through to the point when all obligations under the contract have been satisfied.

The purpose of the framework is to clarify drivers of conduct risk and their implications in the emergence of consumer detriment. It provides an aid for understanding issues faced by consumers and input on the types of conduct risks EIOPA and NCAs should focus on. It sets a common starting point for more practical supervision of particular products, services or market segments, for instance, through “deep dive” thematic work or for future policy development. A strong view on conduct risks is essential for evidence-based and risk-based preventative conduct of business supervision.

The risks set out in this framework cover the following areas:

- **Business model and management risks** – risks arising from how undertakings structure, drive and manage their business and from relationships with other entities in the value-chain;
- **Manufacturing risks** – risks arising from how products are manufactured by insurance undertakings prior to being marketed and how they are targeted to customers;
- **Delivery risks** – risks arising from how products are brought to the market and from the interaction between customers and insurance undertakings or intermediaries at the point of sale;
- **Product management risks** – risks arising after the sale of the insurance product relating to how products are managed and how insurance undertakings or intermediaries interact with and service customers until all obligations under the contract have ceased.

While the framework is not setting out supervisory processes at national level, it nonetheless supports NCAs in identifying conduct and consumer protection risks and it provides a catalogue of risks to consider in practical supervisory work.

Going forward, EIOPA expects the framework to contribute to the effective implementation of [EIOPA's Conduct of Business Supervision Strategy](#) (January 2016). EIOPA anticipates further work in linking the identified conduct risks with the tools for assessing their impact and supervisory importance, leveraging readily available data as far as possible. This approach will evolve into more systematic ongoing conduct risk monitoring as an integral part of practical supervision both at national and European levels. It includes, for instance, the development of periodic conduct risk dashboards as a platform for high-level debate and convergence on the evolving conduct risk landscape. The Framework is accessible via the following [link](#) to EIOPA's Website.

## **Level 2 – IDD - professional indemnity insurance**

EIOPA submitted on 27 June the [draft Regulatory Technical Standards for professional indemnity insurance and for financial capacity of intermediaries](#). The RTS is still not adopted by the Commission and it is for the moment unclear when this will be the case. This means the old values still apply.

## **Level 2 – IDD – integration of ESG considerations and preferences**

EIOPA's consultation on its [draft technical advice](#) on possible amendments to the delegated acts under SII and IDD concerning the integration of sustainability risks and factors closed 30 January 2019. EIOPA's technical advice to the European Commission is expected end of April 2019.

Please note that on 4 January 2019, the Commission published [not yet adopted draft rules to ensure investment firms and insurance distributors consider sustainability topics when advising clients](#). The Commission published draft rules on how investment firms and insurance distributors should take sustainability issues into account when providing advice to their clients. This forms part of the Commission's Action Plan on Financing Sustainable Growth first put forward in May 2018, and would amend delegated acts under MiFID II and IDD. The new draft rules amend Delegated Regulation 2017/2359, and are intended to help integrate ESG considerations and preferences into investment advice and portfolio management, and into the distribution of insurance-based investment products. The Commission can only officially adopt these draft rules once new disclosure provisions for sustainable investments and sustainability risks, which put in place an EU-wide definition for ESG considerations, have been agreed at EU level.

## **Packaged Retail and Insurance based Investment Products (PRIIPs)**

### **Level 1 – PRIIPs – review/deferral**

The European institutions have been working to avoid the possibility of duplicating information requirements for investment funds (PRIIPs KID and the UCITS KIID) from 1 January 2020 onwards. The work on legislative changes to avoid such a situation has advanced.

On 3 December the ECON committee [adopted the Klinz report on the proposal for a regulation of the European Parliament and of the Council on facilitating cross-border distribution of collective investment funds and amending Regulations \(EU\) No 345/2013 and \(EU\) No 346/2013](#). The report provides for

- A review of PRIIPs Regulation (EU) 1286/2014 by 31 December 2019 (amendment to Article 33)
- The extension of the exemption for UCITS and relevant non-UCITS funds until 31 December 2021 (amendment to Article 32).

The expiry date of the PRIIPs derogation had been linked previously to the temporary exemption of UCITS from the PRIIPs Regulation, both of which would originally have expired in December 2019. Thanks to the work of the EP, this expiry date of the UCITS temporary exemption has now been extended until 31 December 2021. But the PRIIPs derogation has not been extended and the review is still to be finished by end 2019 (see hereunder).

A [preliminary trilogue agreement](#) was reached on 5 February 2019. For the text, click [here](#) and [here](#) and here (see Article 13a which amends Article 32 and 33 of the PRIIPs regulation).

In a recent scrutiny debate on PRIIPs in the EP (see [briefing paper](#)), the Commission said to fully support the recent amendments in terms of timing, as they will give the Commission enough time to make the necessary adjustments at level 2. The Commission stressed that it fully agrees with the EP that the overall goal must remain that PRIIPs will be a disclosure standard also for the UCITS funds.

In parallel with the work on Level 2 (see hereunder), the Commission will also launch a wider review of PRIIPs. As part of this, they will initiate the review of the UCITS temporal exemption. Once an agreement on the Level 2 changes is reached, they will come with a report and propose relevant changes to UCITS framework in line with the new timing. Any change of UCITS still needs to be transposed into national law, hence the RTS changes need to be agreed by next year and the change of UCITS also needs to be launched next year. Finally, when conducting a wider review of PRIIPs, the Commission is considering taking an even broader approach than just the PRIIPs KID in isolation. Over the last few years, changes have been made related to MiFID, IDD and other pieces of legislation, and they should look how these can work together.

## Level 2 – PRIIPs

In the context of the PRIIPs KID regulation review, the Joint Committee published on 8 February its [Final Report following joint consultation paper concerning amendments to the PRIIPs KID](#). In terms of next steps, the ESAs want to provide input to a review of the PRIIPs Delegated Regulation during 2019, and they intend to finalise their work, including proposing new RTS by the end of this year, well before the expected end of the exemption for UCITS at the end of 2021.

It is understood that amendments to the PRIIPs Delegated Regulation could be applied to existing PRIIPs during 2020 before the expected end of the exemption for UCITS. Further:



- The ESAs will also work with the European Commission regarding the possibility to test both the existing KID approaches and new proposals on consumers; this was underlined by many respondents to the CP;
- The ESAs will continue to engage with stakeholders, including on any specific legislative changes proposed and would expect to launch a further public consultation during 2019;
- The ESAs will also consider the relevance of re-establishing a consultative expert group in order to gather technical input and expertise from external stakeholders.

In the meantime, the ESAs will examine in further detail the feedback provided to this public consultation as well as the evidence gathered so far following the implementation of the KID.

On past performances, currently a Level 2 issue, the ESAs intend to consider further in the context of their upcoming work if and how information on past performance could be included in the PRIIPs KID and for exactly which types of PRIIPs. This work would be with a view to the amendments needed in relation to the potential inclusion of UCITS within the scope of PRIIPs at a later stage. But to avoid in the meantime that current performance scenario figures are misinterpreted or that there is undue reliance on them, the ESAs issued also on 8 February a Joint ESA [Supervisory statement](#) concerning the performance scenarios in the PRIIPs KID. The Statement recommends PRIIPs manufacturers to include a warning in the KID ensuring that retailing investors are fully aware of the risks.

The Commission however wants these issues to be solved this year, to avoid several rounds of changes of PRIIPs Level 2: they favour a comprehensive review in 2019 that will lay the basis that UCITS can apply PRIIPs end 2021.

Following the trilogue agreement on Article 32 PRIIPs to extend to 31 December 2021 the exemption to prepare a PRIIPs KID for UCITS and relevant non-UCITS funds, the ESA submitted on 7 March a [letter](#) to DG FISMA with a proposal for an RTS intended [to amend the Delegated Regulation covering the rules for the Key Information Document \(KID\) for Packaged Retail and Insurance-based Investment Products \(PRIIPs\)](#). In that proposal, they submit a draft quick fix amendment via an RTS for endorsement to the Commission. It should be noted that the Commission cannot adopt the RTS as long as the amendments to the PRIIPs regulation have not been published in the OJ.

## **Consumer credit directive**

Concerning the evaluation of the consumer credit directive, the Commission is currently [consulting](#) till 8 April 2019.

## NEW TECHNOLOGIES

*EIOPA is working on guidelines regarding cyberrisk and use of big data. The HLEG on AI is working on Ethics Guidelines.*

### Cyberrisk

At a recent FinTech event on 26 February 2019, EIOPA's chair Gabriel Bernardino's speech **Cyber Security and Cyber Risk**: A universal Challenge didn't pass unnoticed, especially because Bernardino concluded that *"As cyber-insurance markets mature, we should start to discuss if cyber insurance should also be mandatory. This would provide a further level of security for companies and consumers in the digital world."*

But the speech was further remarkable as it laid out EIOPA's future work in this area, in line with its supervisory convergence plan for 2018 – 2019. In this plan, cyber risk is identified as a priority under the supervision of emerging risks. As part of its activities, EIOPA will develop **guidelines regarding Information & Communication Technologies (ICT), security and governance, including cyber resilience** and will further develop supervisory practices that seek to assess information system resilience, cyber risk vulnerability and the insurance industry's use of big data. EIOPA will also look into an efficient way of carrying out stress tests on the resilience of the insurance sector to cyber-attacks. It is clear that cyber insurance affects countries across the world, not just in Europe. Issues related to cyber security and cyber risk are, therefore, one of the three priorities of the European Union – United States Insurance Project, in which EIOPA plays a leading role.

### InsurTech

On 27 March 2019, EIOPA published its Report on **"Best Practises on Licencing Requirements, Peer-to-Peer Insurance and the Principle of Proportionality in an InsurTech Context"**. As part of **the European Commission's Fintech Action Plan**, EIOPA presents in this report a mapping of current authorising and licencing approaches to financial innovation, including an assessment of how the principle of proportionality is applied in practice. The Report also includes an analysis of the approach to InsurTech start-ups operating as peer-to-peer (P2P) insurers.

At this stage – also reflecting EIOPA's overall stance of technological neutrality and support for establishing a level playing field for all market participants – there seems to be no need for further regulatory steps on licensing. However, NCAs should adapt their internal processes and knowhow to reflect the impact of digital transformations and avoid diverging supervisory practices taking into account the cross-border and cross-sectoral nature of some InsurTech developments.

On 2 April 2019, the European Commission and the ESAs [launched](#) the European Forum for Innovation Facilitators (EFIF), with the objective to improve cooperation and coordination in support of the application of new technological developments in the EU financial sector.

### Cloud computing

On 27 March, EIOPA published also its Report on [“Outsourcing to the Cloud: EIOPA's Contribution to the European Commission FinTech Action Plan”](#). This is another follow-up from the [European Commission's FinTech Action Plan](#) which requested that the ESAs explore the need for guidelines on outsourcing to cloud service providers by the end of Q1 2019. The purchase of cloud computing services falls within the broader scope of outsourcing. For the (re)insurance sector, the current SII framework includes measures on outsourcing to ensure policyholder protection and financial stability. EIOPA's guidelines on System of Governance provide some further principle based guidance. But current guidance on these measures, including at the national level, is not homogenous. At the same time, the majority of the NSAs responsible for both banking and (re)insurance supervision are considering the EBA [Guidelines on outsourcing arrangements](#) as a reference for the management of cloud outsourcing. The risks arising from the usage of cloud computing by (re)insurance undertakings appear to be, generally, aligned to the risks borne by banking players with few minor (re)insurance specificities. In light of these considerations, to avoid potential regulatory arbitrage, EIOPA has decided to prepare its own Guidelines on Cloud Outsourcing aligned with the EBA Recommendations with minor amendments to reflect the (re)insurance specificities. The intention is that these guidelines will be drafted during the first half of 2019, issued then for consultation and finalised by the end of the year. EIOPA will seek stakeholders' input via a public consultation and a roundtable discussion with the aim to issue the final guidelines by the end of 2019.

### Artificial intelligence (AI)

The European Commission and the Member States published on 7 December 2018 [a Coordinated plan on the development of AI in the EU](#) in order to promote the development of AI in Europe.

The consultation of the [High-Level Expert Group on Artificial Intelligence](#) (AI HLEG) on its first draft of its Ethics Guidelines for the development and use of AI received over 500 [comments](#). All comments received are currently being analysed and considered by the AI HLEG for the preparation of a revised version of the Ethics Guidelines to be delivered to the European Commission by the beginning of April.

The AI HLEG serves also as the steering group for the [European AI Alliance's](#) work, interacts with other initiatives, helps stimulate a multi-stakeholder dialogue, gathers participants' views and reflects them in its analysis and reports. To become a member of the European AI Alliance, click [here](#).

## EUROPEAN AGENDA

08/04/2019	Consumer credit: deadline consultation	
10/04/2019	Brexit: Special meeting to discuss new Brexit extension request	European Council
12/04/2019	Brexit : new deadline for UK decision, including “no deal” Brexit	
30/04/2019	SII and IDD: advice to the EC on sustainability amendments in L2	ESA
14/05/2019	SII: end feedback on amendments ITS on reporting & disclosure	EIOPA
19/05/2019	SII: deadline data on LTG measures for 4 <sup>th</sup> LTG report	EIOPA
23-26/05/2019	European elections (European Parliament)	
Q2 2019	Sustainable finance: publication report EU Green Bond standard	TEGSF
June 2019	Sustainable finance: publication EU taxonomy report	TEGSF
June 2019	SII : publication and possibly entry into force SII L2 amendments	European Commission
Mid 2019	NFRD: update non binding guidelines on non-financial reporting	European Commission
01/07/2019	Start Finish Presidency of the Council	Council
30/09/2019	SII: deadline advice to EC on sustainability amendments in L1	EIOPA
Dec 2019	Pensions: report on pensions	HLG Pensions
Dec 2019	IORP II: publication stress test results	EIOPA
31/12/2019	In-depth review of the PRIIPs framework (proposed)	European Commission
February 2020	Report on the application of the IDD	EIOPA
30/06/2020	SII: deadline technical advice L1 review	EIOPA
31/12/2020	SII: Broader evaluation of L1 SII	European Commission
31/12/2020	Brexit: end transition period if UK accepts Withdrawal agreement	
01/01/2021	IFRS 17: target application date	
2021	PEPP Regulation: possible application date	

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