

TRAINING & DEVELOPMENT PROGRAMME

Knowledge Network

Webinar Series

Legislation of 2021 and Anticipated Developments of 2022: Finance and Financial Services

Thursday, 17 February 2022 | 8.30 am to 9.30 am



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Legislation of 2021 and Anticipated Developments of 2022: Finance and Financial Services

17 February 2022

Martin O'Neill, Senior Associate, Knowledge Team and Joanne O'Rourke, Senior Associate, Knowledge Team



Overview

- AML
- Benchmarks
- Real Estate Finance
- Credit Servicing
- Insolvency
- Anticipated Developments



AML – Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021

- 5th AMLD
- New “designated persons”
- Expanded customer due diligence (CDD)

Irish Times, Monday 14 February 2022

In numbers: Crypto crime

\$3.6 billion

Value of bitcoin seized by US authorities this week as they arrested two people in connection with cryptocurrency stolen during a 2016 hack of the Bitfinex exchange.

\$71 million

Value at the time of the 119,754 bitcoin that Ilya “Dutch” Lichtenstein and his wife, **Heather Morgan**, allegedly conspired to launder. US deputy attorney general Lisa Monaco said their arrests and the seizure proved that cryptocurrency was “not a safe haven for criminals”.

\$4.5 billion

Current estimated value of the stolen bitcoin. Lichtenstein and Morgan, who also goes by the pseudonym Razzlekhan, are accused of funnelling the proceeds into everything from gold and non-fungible tokens to a \$500 Walmart gift card.

AML – European Union (Anti-Money Laundering: Beneficial Ownership of Trusts) Regulations 2021

2019 Regulations

Central Register reporting requirement

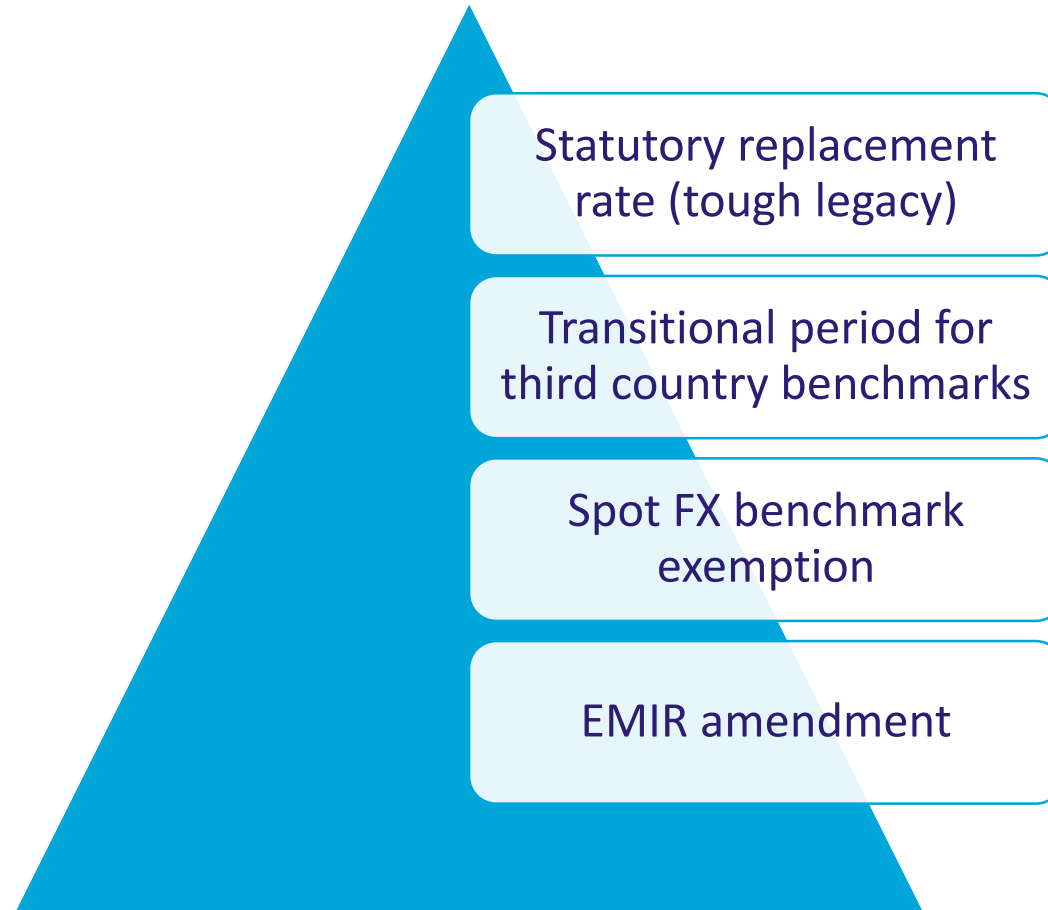
Updated obligations

Trustees

Designated persons

“Beneficial Owner”

EU Benchmark Regulation Amended (Regulation (EU) 2021/168)



Real Estate Finance

- Housing for All
- Affordable Housing Act 2021
- Land Development Agency Act 2021
- Residential Tenancies Acts (x3)
- Finance Act 2021 (ZLT)
- Finance (Covid-19 and Miscellaneous Provisions) Act 2021 (stamp duty)



Figure 1:
Four Pathways
to *Housing for All*

EU Credit Servicing Directive (EU) 2021/2167

- Credit Institutions – NPLs on balance sheet
- Credit servicer authorization
- Contrast to Irish regime



Insolvency

- Companies (Rescue Process for Small and Micro Companies) Act 2021 (“SCARP”)
 - “Examinership-lite”

	Turnover not exceeding:	Balance sheet total not exceeding:	Average number of employees not exceeding:
Micro Company	€700,000	€350,000	10
Small Company	€12,000,000	€6,000,000	50

- No automatic enforcement moratorium (but available from Court)
 - Revenue may “opt out”
- Personal Insolvency (Amendment) Act 2021
 - S115A (PIA secured on family home): 1 January 2015 requirement deleted

Anticipated

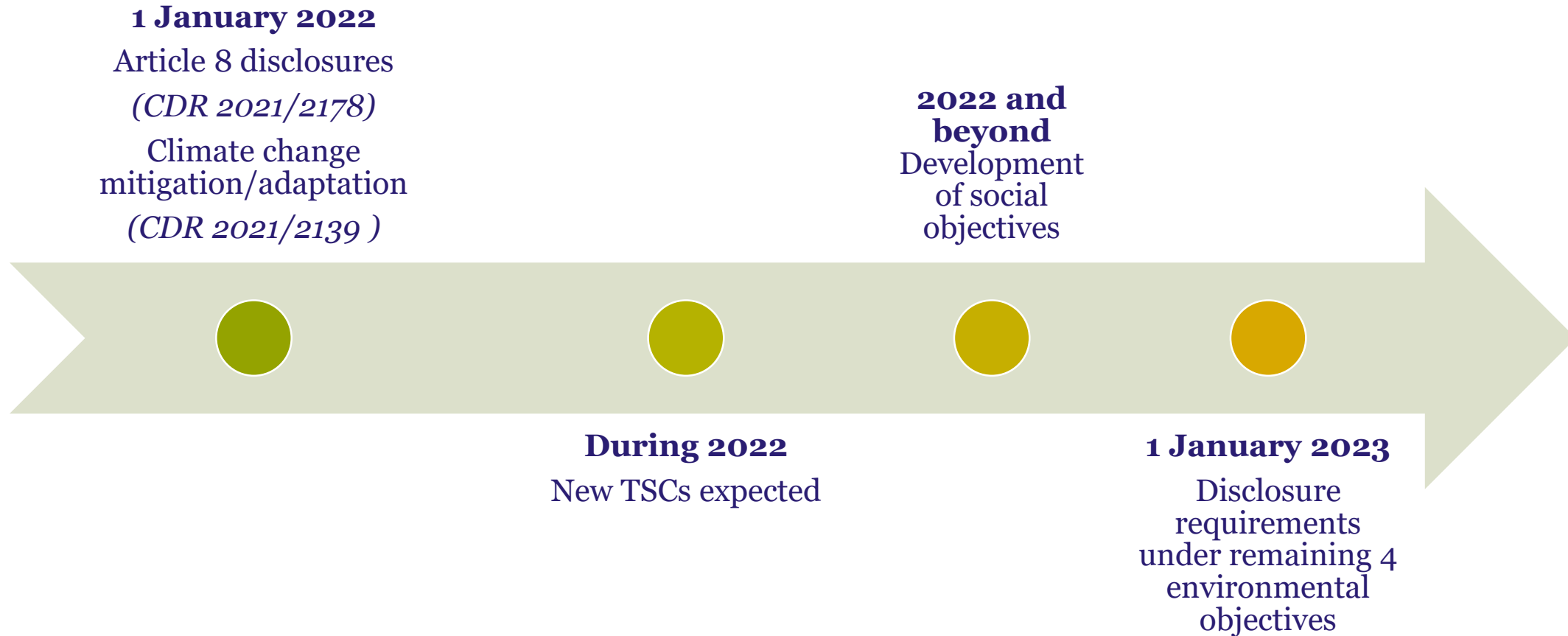
- Further “Tough Legacy” Regulations (LIBOR)
- Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill 2021
- Consumer Rights Bill
- Consumer Credit (Amendment) Bill



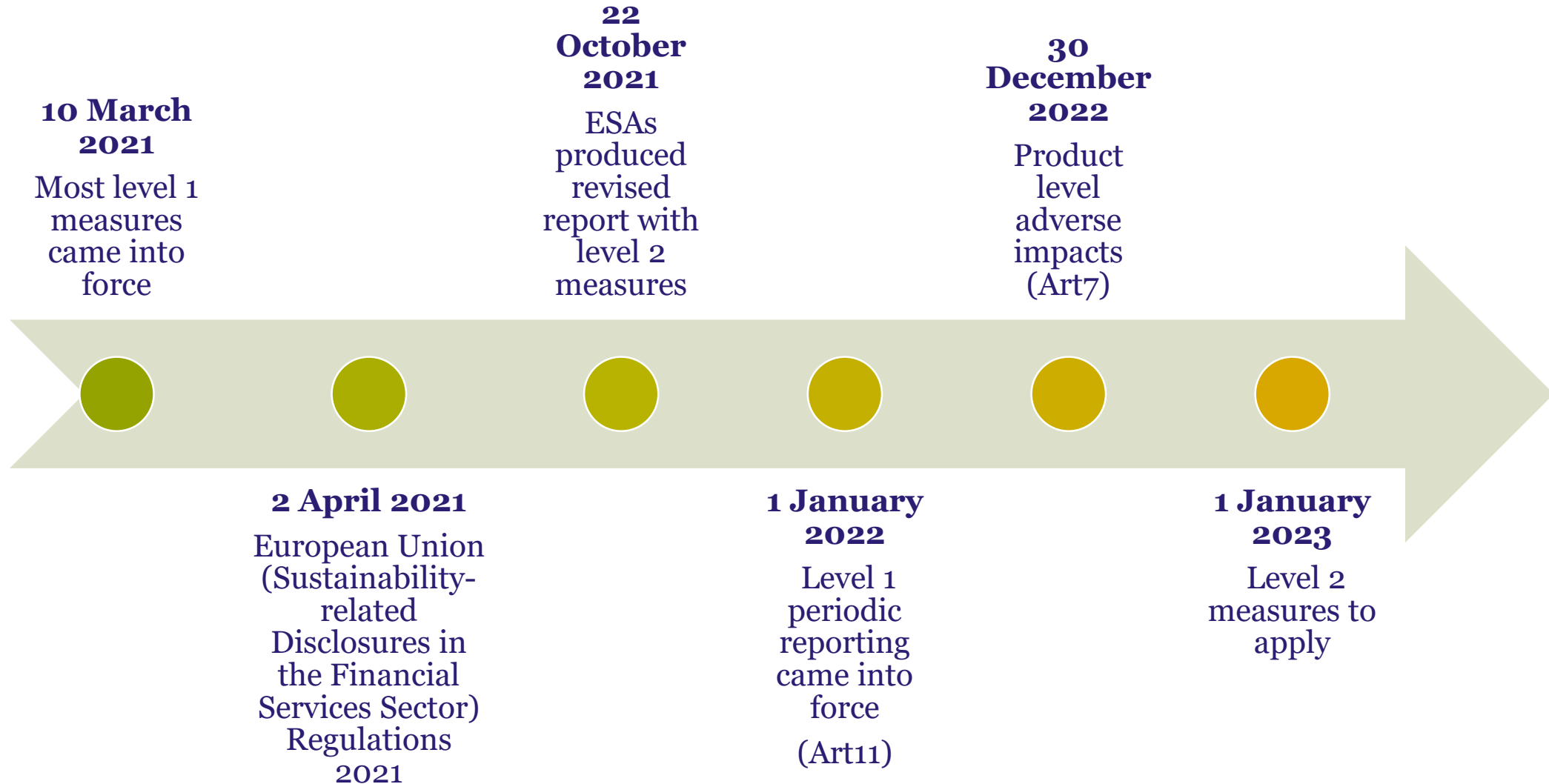
Outline

- Sustainable Finance
- Investment Firms
- Asset Managers
- Insurers
- Credit Institutions
- Anticipated Developments for 2022

Sustainable Finance - Taxonomy Regulation



Sustainable Finance – Sustainable Finance Disclosure Regulation



Sustainability - CSRD and Regulator Focus

Corporate Sustainability Reporting Directive

CBI 'Dear CEO' letter outlining supervisory expectations relating to climate and sustainability issues

CBI Securities Markets Risk Outlook Report 2022

"Firms will need to devote sufficient resource and management focus to ensure the continued successful implementation of [SFDR] obligations"

Investment Firms – Transposition of IFR/IFD

European Union (Investment Firms) Regulations 2021 and European Union (Investment Firms) (No 2) Regulations 2021

- Effective on **21 September 2021**
- New prudential framework for investment firms
- Incorporation of K-factors
- Remuneration and governance standards
- Reclassification as a credit institution

Investment Firms - MiFID '*Quick-Fix*' Directive (Directive (EU) 2021/338)

- Effective on **28 February 2022**

Includes provisions:

- Reducing client information requirements
- Reducing product governance requirements
- Temporarily suspends best execution reporting (until **28 February 2023**)

Investment Firms – Sustainability in MiFID

Organisational

- CDR (EU) 2021/1253 of 21 April 2021 as regards the integration of sustainability factors, risks and preferences into certain organisational requirements and operating conditions for investment firms.
- Effective on **2 August 2022**.

Product Governance

- CDD (EU) 2021/1269 of 21 April 2021 as regards the integration of sustainability factors into the product governance obligations.
- Effective on **22 November 2022**.

Asset Managers

- ILPs

Investment Limited Partnerships (Amendment) Act 2020 (Commencement) Order 2021 (effective on **1 February 2021**)

- Cross-Border Distribution

European Union (Undertakings for Collective Investment in Transferable Securities) (Amendment) Regulations 2021 (effective on **6 August 2021**)

European Union (Alternative Investment Fund Managers) (Amendment) Regulations 2021 (effective on **6 August 2021**)

Asset Managers – Sustainability in UCITS/AIFM Framework

UCITS

- CDD (EU) 2021/1270 of 21 April 2021 as regards the sustainability risks and sustainability factors to be taken into account for UCITS
- Effective on **1 August 2022**.

AIFM

- CDR (EU) 2021/1255 of 21 April 2021 as regards the sustainability risks and sustainability factors to be taken into account by Alternative Investment Fund Managers
- Effective on **1 August 2022**.

Insurance

- **Recovery Plans**

Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Recovery Plan Requirements for Insurers) Regulations 2021 (deadline **31 March 2022**)

- **Sustainability**

Solvency II - CDR (EU) 2021/1256 of 21 April 2021 as regards the integration of sustainability risks in the governance of insurance and reinsurance undertakings (effective on **2 August 2022**)

IDD – CDR (EU) 2021/1257 of 21 April 2021 as regards the integration of sustainability factors, risks and preferences into the product oversight and governance requirements for insurance undertakings and insurance distributors and into the rules on conduct of business and investment advice for insurance-based investment products (effective on **2 August 2022**)

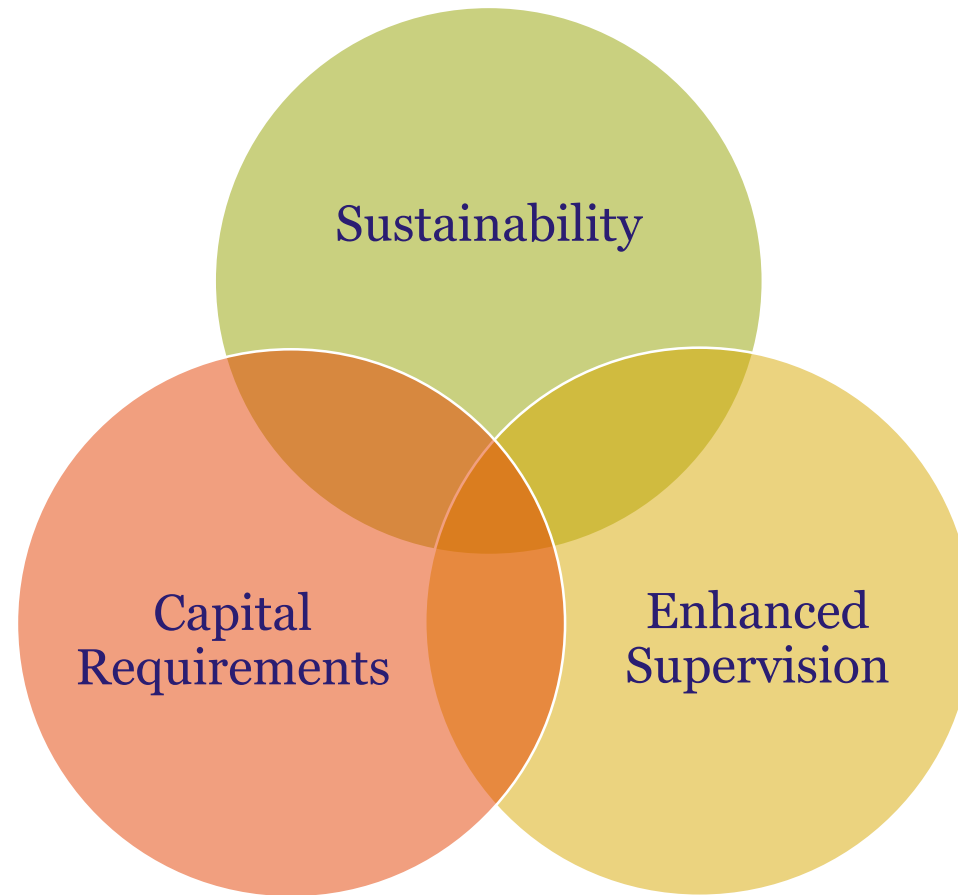
Insurance – Anticipated Developments

Insurance
(Miscellaneous
Provisions) Bill

Commission
Review of
Solvency II

D/Finance
Consultation –
National
Resolution
Framework

Credit Institutions - Banking Package 2021



Anticipated Developments

Fitness and Probity

- Central Bank (Individual Accountability Framework) Bill
- Amendments to PCF List

EU Digital Finance Package

- DORA
- MiCAR and DLT Pilot Regime

BREXIT

- CCPs - extension of equivalence decision
- MoU on financial services regulatory co-operation
- House of Lords' Inquiry

Thank you!

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