10 Key Focus Areas

for UK-Regulated Financial Services Firms in 2024

LATHAM & WATKINS

Focus Areas

In this publication, we explore some of the core focus areas for UK-regulated financial services firms in the year ahead. 2023 saw significant progress on the regulatory reform agenda, and many measures consulted on or reviewed as part of the Edinburgh Reforms will be finalised and/or implemented in the course of 2024.

We also saw the passing of the Financial Services and Markets Act 2023, many provisions of which have already come into effect and have made important changes to the UK regulatory architecture.

2024 will see more progress on the reform agenda, and the regulators are likely to be kept well-occupied with the task of reviewing retained EU legislation and rewriting it into their rulebooks, and finalising the Edinburgh workplan, which could well limit the capacity for “new” policymaking. While regulatory divergence between the UK and the EU remains an important topic, we also highlight other areas of focus such as the use of AI in financial services, the ESG regulatory agenda, and recent enforcement trends against both firms and individuals.

1. **Artificial Intelligence**
2. **ESG**
3. **Regulatory Divergence**
4. **Edinburgh Reforms**
5. **Conduct and Culture**
6. **Retail Markets: Direction of Travel**
7. **Investment Research**
8. **Enforcement Against Firms**
9. **Enforcement Against Individuals**
10. **UK Primary Markets Reform**

Regulatory change ahead

Key stage in the regulatory change or implementation cycle

Emerging trend

1. Artificial Intelligence

AI has been deployed in the financial services industry for some time now but, with AI-related capabilities and use cases ever-expanding, 2024 is poised to be a crucial year. Most notably, the UK government is further developing its general policy approach towards AI, the financial services regulators are setting the specific approach in the financial services sector, and firms are deciding how they are going to use (and manage the use of) AI (see this Latham blog post for more detail). Significantly, the FCA recently highlighted that we are now at a pivotal junction for how the regulation of AI develops.

Government Approach

The government plans to take an "agile and iterative" approach to regulating AI, centred on five non-legislative "cross-cutting" principles that sectoral regulators would be responsible for implementing. The government intends to focus on regulating harmful uses of AI rather than regulating AI systems as a whole, to avoid stifling innovation, and, guided by its pro-innovation stance, has expressed repeatedly that it is in no rush to legislate comprehensively on AI. However, the government has come under increasing pressure to legislate, as evidenced by a Private Members' Bill (the Artificial Intelligence (Regulation) Bill) introduced to the House of Lords in late November 2023, which proposes mandatory AI Officers, transparency and consent requirements, and putting the cross-cutting principles on a statutory footing. Although the Bill is unlikely to become law in its current form, it may indicate the likely direction of travel. The government is due to issue a response to its White Paper in early 2024, which will bring further clarity on its intended approach. A key watchpoint for 2024 will be how the government's thinking on AI regulation develops, in light of the fast pace of innovation and the increasingly sophisticated nature of AI adoption.
In parallel, regulatory scrutiny of AI is expected to increase throughout this year and beyond, and may shift into more active enforcement.

Key dates

Early 2024
Government expected to publish the response to its White Paper on the regulation of AI

2024
Digital Regulation Cooperation Forum (DRCF) to launch the DRCF AI and Digital Hub pilot, expected to include an AI Regulatory Sandbox

Artificial Intelligence

Approach of the UK Financial Services Regulators

The regulators issued a Feedback Statement to their Discussion Paper titled "Artificial Intelligence and Machine Learning" at the end of October 2023. The Feedback Statement summarised responses to the Discussion Paper, but did not include policy proposals or provide further detail on the future regulatory approach. We hope to see greater clarity on the regulators' stance during the course of 2024, and how they intend to apply the government's cross-cutting principles. The Discussion Paper explored the potential risks and benefits of AI in financial services and the ways in which various existing areas of regulation could be leveraged to mitigate against the risks posed by AI. The regulators were keen to understand whether financial services industry participants feel it necessary for the regulators to expand current regulation to specifically encompass AI, or whether existing measures suffice.

As highlighted by the Discussion Paper, numerous areas of regulation are already relevant to firms' use of AI, so ensuring compliance with existing expectations is key, regardless of whether or not the regulators choose to bring in new, AI-specific measures. Further, regulators may expect firms to devote appropriate effort to using AI to help manage risk (for example, to improve market abuse monitoring), not just to generate revenue and support revenue generation.

A particularly important aspect to bear in mind is the intersection between the use of AI and the new Consumer Duty. The Feedback Statement emphasised that consumer protection is a key area of concern, and it is clear that although AI may bring many benefits to consumers, it also has the potential to cause serious and widespread consumer harm. Firms will need to ensure that they understand the specific areas of risk within their business, and that there are enough individuals with appropriate understanding of AI to properly oversee the risks. This understanding will need to permeate all three lines of defence.

> "As highlighted by the Discussion Paper, numerous areas of regulation are already relevant to firms' use of AI.

International Approach

Meanwhile, internationally, the regulation of AI continues to evolve. Firms that are part of global businesses will want to track how AI is being approached in other jurisdictions. Of particular note, political agreement was reached on the EU's AI Act at the end of last year, following significant debate and amendment on its way through the legislative process.

Artificial Intelligence

Unlike the UK, the EU is taking a more prescriptive approach to the regulation of AI and will introduce comprehensive requirements for AI systems and a range of obligations on AI providers along the supply chain. The AI Act follows a risk-based approach and categorises systems according to their risk profile, including bans on certain AI systems and use cases. The AI Act will also introduce specific rules for general purpose AI and foundation models, applying more stringent requirements to models that could pose systemic risks. Although most provisions will not apply until early 2026, we expect that the rules on general purpose AI and foundation models will apply from early 2025 and prohibitions under the Act will apply from the middle of this year.

The US also took a significant step towards regulating AI with the November 2023 Executive Order on Artificial Intelligence (see this Latham Client Alert for further detail). The Order marks an ambitious effort to stand up a whole-of-government approach to encouraging the benefits and managing the risks of AI. It was issued contemporaneously with the Hiroshima AI Process Comprehensive Policy Framework — a set of international guiding principles on AI and a voluntary code of conduct agreed by the leaders of the G7.

2024 will be a busy and important year for regulatory developments surrounding AI, and firms must address internally how they will leverage AI in a safe and responsible manner.

2. ESG

The pace of ESG-focused regulation did not let up in 2023, with significant developments in the UK and EU. Also notable was the escalation of concern among market participants and their clients about greenwashing risk.

Sustainability Disclosures and Labelling

A key development from a UK perspective was that the FCA finalised its long-awaited Sustainability Disclosure Requirements (SDR), investment labelling regime, and anti-greenwashing rule in December 2023 (see this Latham Client Alert). Most of the new rules (excluding certain disclosures) will take effect during 2024, so firms will focus on preparing for the new regime this year. While the anti-greenwashing rule will apply to all UK authorised firms, the disclosure and labelling requirements will only apply to UK asset managers for the time being. However, the FCA plans to consult shortly on extending these requirements to portfolio management products and services, and will look to extend them to other products such as pensions in due course. HM Treasury is also considering extending the regime to overseas funds, which requires legislative change.

To date, the market has struggled to apply consistent standards to products with sustainability-related features, and the FCA has been critical of asset managers' approach to funds with sustainable characteristics (see this Latham blog post).

Key dates

26 January 2024
Consultation on guidance on the FCA's anti-greenwashing rule closes

Early 2024
FCA to consult on extending its sustainability disclosure and investment labelling rules to portfolio management products and services

Q2 2024
European Commission to publish its report on the review of the SFDR

31 May 2024
UK anti-greenwashing rule takes effect

H1 2024
FCA to publish Feedback Statement to its Discussion Paper on ESG governance, remuneration, incentives, and training; legislative proposals on ESG ratings providers in the UK and EU expected to be finalised; FCA to consult on proposals to implement disclosure rules referencing the IFRS standards and on transition plan disclosures for listed companies

31 July 2024
UK investment product labels available for use by UK asset managers

2 December 2024
UK marketing and disclosure rules begin to apply to UK asset managers

ESG

However, it is hoped that the new FCA rules will align market practice, set out clear regulatory expectations, and ultimately help prevent greenwashing. Although the new regime focuses on asset managers at present, it will be rolled out more broadly across the financial services sector and firms should ensure they understand the purpose and key tenets of the regime even if they are not yet within scope. The regime will be underpinned by the UK Green Taxonomy when that is finalised.

In the EU, the European Commission is undertaking a review of the SFDR, which could result in substantive change to the regime (see this Latham blog post). Although the SFDR was originally conceived as a disclosure regime, it has been used as a labelling regime in practice and, as a result, the Commission is exploring whether it would be beneficial to establish EU sustainability product categories. The consultation closed in December 2023, and the Commission is due to report back in Q2 2024. Therefore, market participants hope to see clarity on the future of this regime during the course of this year.

Although the US does not yet have a framework governing sustainability disclosures like SFDR, the US SEC proposed an ESG disclosure rule applicable to certain investment advisers and investment companies that would require enhanced and detailed disclosures relating to their ESG investment practices. In December 2023, the US SEC released its so-called Fall 2023 Regulatory Flex Agenda indicating this proposal could be finalised in the first half of 2024.

In addition, the US SEC recently adopted changes to its Names Rule for registered funds to broaden the scope of the 80% investment policy requirement of the Names Rule to apply to any registered fund name with terms that suggest the registered fund focuses on investments that have, or investments whose issuers have, particular characteristics or a thematic investment focus. This expanded requirement includes registered fund names that indicate the registered fund's investment decisions incorporate one or more ESG factors (see this Latham Client Alert).

“However, it is hoped that the new FCA rules will align market practice, set out clear regulatory expectations, and ultimately help prevent greenwashing.

ESG Ratings Providers

The forthcoming regulation of ESG ratings providers will also seek to improve the reliability of ESG information. In the UK, HM Treasury is expected to move forward with its proposals to bring in a new regulated activity (see this Latham blog post) early this year.

ESG

In its consultation on regulating ESG ratings providers, HM Treasury proposed to capture the provision of ratings to users in the UK by firms anywhere in the world. As this is a departure from the usual regulatory approach, it will be interesting to see whether the final regime maintains this extraterritorial effect. An industry-led voluntary Code of Conduct was finalised at the end of 2023, which may set market standards while the legislative proposals are finalised. Meanwhile, in the EU, a similar proposal (see this Latham blog post) continues to make its way through the legislative process. The European Parliament has indicated that the regime needs to go further than originally proposed, so we will wait to see where the final text lands. Oversight of ESG ratings providers has also progressed in other jurisdictions, including Japan and India.

> “As this is a departure from the usual regulatory approach, it will be interesting to see whether the final regime maintains this extraterritorial effect.

Corporate Disclosures
The International Sustainability Standards Board (ISSB) finalised its inaugural voluntary sustainability reporting standards (IFRS S1 and IFRS S2) in June 2023, which were subsequently endorsed by IOSCO. The UK government is working through its assessment and endorsement of the standards and the FCA plans to consult this year on incorporating these standards into its existing climate-related disclosure rules for listed issuers, in place of the TCFD framework. The FCA will also consult on an appropriate scope and design for the new regime, and expects to move from the current “comply or explain” compliance basis to mandatory disclosures. Further, the FCA plans to consult simultaneously on expectations for listed companies’ transition plan disclosures, leveraging the final disclosure framework prepared by the UK government’s Transition Plan Taskforce (TPT).

The FCA introduced new Listing Rules that require in-scope companies to disclose in their annual financial report whether they meet specific board diversity targets relating to sex or gender and ethnicity on a “comply or explain” basis. The first annual financial reports including disclosures subject to this rule were published from April 2023. The FCA and the PRA are now consulting on broader proposals relating to diversity and inclusion disclosures for larger authorised financial services firms (see section 5, below).

ESG

In the EU, the Corporate Sustainability Reporting Directive introduces more detailed sustainability reporting requirements for listed companies and the European Sustainability Reporting Standards set out the specific disclosure requirements. The first wave of companies will have to apply the new rules for the first time in the 2024 financial year, with reports published in 2025. Further, the Corporate Sustainability Due Diligence Directive (known as CSDDD) was politically agreed between negotiators within the European Parliament and European Council on 13 December 2023 (see this Latham blog post). If ultimately adopted as agreed, among other obligations, CSDDD will impose requirements to identify, prevent, end, or mitigate the negative impact of activities on human rights and the environment, and will apply to large EU and non-EU businesses with significant net turnover in the EU. However, financial institutions will temporarily be exempt from due diligence of clients who take out loans or make investments, but will still be required to diligence for forced labour or environmental harms within their own operations. The exclusion from external due diligence will be reviewed at a later, unspecified date.

Finally, in December 2023, the US SEC announced in its Fall 2023 Regulatory Flex Agenda (which simply reflects the current priorities of its chair) that it may adopt its final rule on company disclosures of climate-related risks in or around April 2024. However, whether and when the final rule will be released, and its contents, are currently unclear.

Greenwashing Risk

As mentioned above, greenwashing risk has become a key concern for financial market participants and their clients. While standards remain fluid and market practices develop, market players inevitably find this area difficult to navigate. At present, it can be challenging to diligence sustainability and ESG-related claims completely and effectively, and so it is hoped that new standards such as the FCA regime, coupled with the regulation of ESG ratings providers, will help to mitigate some of these risks. In the meantime, market participants must ensure they diligence product names, investments, and marketing materials as best they can, both initially and on an ongoing basis, to avoid regulatory and other third-party claims of greenwashing. Although the FCA disclosure and labelling regime will apply only to UK asset managers at first, other firms should draw on these standards to understand regulatory expectations and how they can effectively mitigate greenwashing risk within their products.

3. Regulatory Divergence

With the announcement of the Edinburgh Reforms in December 2022, the UK was evidently no longer going to prioritise retaining equivalent rules and was finally ready to chart its own course.

The UK is undertaking a significant exercise to repeal all retained EU legislation relevant to financial services and restate those measures in UK law and regulation. This move is enabled by the Financial Services and Markets Act 2023, which was passed in June 2023. A number of key files are due to be repealed and replaced throughout the course of 2024, which will result in divergence from the EU in several areas.

That said, the areas of divergence announced so far have been fairly predictable and reasonably confined. Further, the Edinburgh Reforms have proved largely to be more muted than anticipated (see section 4, below), which may also temper the level of divergence.

The repeal and restatement exercise will be a mix between substantive policy change and simply changing appearances, as a key driver behind the move is to ensure that all of the regulation inherited from the EU is written out using UK terminology, and that it follows the UK model of regulation by setting out most provisions in the regulators' rules rather than in legislation.

Consequently, whilst repealing every piece of EU regulation sounds dramatic in theory, this is more of a legal exercise than a bonfire of regulation.

Key dates

Q1 2024
PRA to consult on replacement rules for CRR provisions on capital buffer requirements; EU lawmakers expected to approve final text of AIFMD II

H1 2024
FCA to make final rules on research unbundling; FCA to consult on rules on short selling and on the new UK retail disclosure regime; PRA to consult on replacement rules for CRR provisions on the definition of capital; EU Listing Act and Retail Investments Strategy packages could be finalised prior to EU Parliamentary elections in June

5 February 2024
UK short selling notification threshold to be raised to 0.2% of issued share capital

Q2/Q3 2024
Expected implementation of regulator rules on the securitisation regime

5 April 2024
Repeal and restatement of the IDD Delegated Acts

29 April 2024
Various outstanding FCA changes to MiFID II equity secondary markets rules take effect

30 June 2024
Solvency II matching adjustment reforms take effect

Summer 2024
FCA to consult on rule proposals for the new UK Public Offers and Admissions to Trading Regime

H2 2024
PRA to consult on replacement rules for remaining CRR provisions

End 2024
Remainder of the Solvency II reforms take effect

H1 2025
Final PRA replacement rules for remaining CRR provisions expected to be published

Regulatory Divergence

HM Treasury has already noted that many files will be identified for a "lift and shift" approach, meaning that policy change will not be considered at this juncture (the files subject to this approach have not yet been identified). This is likely to be the preferred option for many files as capacity within the regulators will be stretched. However, the repeal and restatement exercise does, of course, afford HM Treasury and the regulators the opportunity to make policy change when appropriate.

There has been significant progress in certain priority areas of reform during 2023 (referred to in the government's Smarter Regulatory Framework materials as tranches 1 and 2), reflecting areas in which the government is keen to boost the UK's attractiveness as a place to do business, or to replace regimes (or aspects of them) that have not been welcome in the UK previously. These include reforms to the UK listing and prospectus regimes (see section 10, below), MiFID II, the Securitisation Regulation, Solvency II, PRIIPs, and the Money Market Funds Regulation.

The government and the regulators are taking a more ambitious approach in some areas, such as primary market reforms, and a less ambitious approach in other areas. For example, the review of the Short Selling Regulation was expected to result in the UK scrapping some of the aspects it was less fond of, but the government has retained most of the regime while passing responsibility for many areas to the FCA. However, there have been fairly swift moves to achieve quick wins by removing aspects of regulation that the UK has clearly wanted to change for some time, such as the bankers' bonus cap, the share trading obligation, and the PRIIPs regime. The latter is due to be replaced with a new UK retail disclosure regime during 2024 (see section 6, below).

> " The areas of divergence announced so far have been fairly predictable and reasonably confined.

Of course, divergence is occurring not only because the UK is reviewing and changing its rules, but also because changes at EU level are no longer being implemented in the UK. For example, the UK did not implement the SFDR and has now developed its own SDR regime (see section 2, above), and major changes to the AIFMD, MiFID II, and the scope of the Benchmarks Regulation that are currently making their way through the EU legislative process will not be reflected in the UK. Further, each jurisdiction is taking different approaches to new areas of regulation, such as cryptoassets and AI (see section 1, above).

Regulatory Divergence

In due course, the starting point for firms operating across the UK and EU will be "what do the UK rules say?" rather than "how do the UK rules differ from the EU rules?".

There is now a basis for greater dialogue and cooperation between the EU and the UK following the signing of a Memorandum of Understanding (MoU) on regulatory cooperation in financial services between the two sides last year, which also enabled the establishment of the Joint UK-EU Financial Regulatory Forum. While the Forum is unlikely to result in significant change to the UK-EU relationship, it likely will increase information-sharing and dialogue in relation to regulatory initiatives, and firms operating cross-border hope that this will result in a more coordinated approach and help to mitigate the risk of problematic regulatory divergence. However, the MoU notes that "The regulatory cooperation should not restrict the ability of either jurisdiction to implement regulatory, supervisory or other legal measures that it considers appropriate".

Therefore, the Forum will not oblige both sides to cooperate. Further, while equivalence may be on the list of potential discussion topics, it seems unlikely that the current position will change, particularly as UK rules continue to diverge from EU rules.

The UK is also seeking strategically to align itself globally, so as not to be an outlier. While the aim is to maintain high standards of regulation, the government is also conscious of the need to keep the UK competitive. With the freedom to move independently of, and (in most cases) more quickly than, the EU, the government and the regulators can be more agile in positioning the UK alongside other leading markets in the US and Asia.

4. Edinburgh Reforms

The government has made significant progress on the Edinburgh Reforms since they were announced in December 2022, although many more developments are expected in 2024. While the reforms were advertised as a coherent package, in reality they are an assortment of measures spanning financial services regulation. Some of these measures reflect new initiatives but many are areas long-scheduled for reform, such as the review of the Consumer Credit Act 1974.

Within the Edinburgh Reforms is a mix of reviews of purely domestic measures, such as the SMCR and ring-fencing, as well as the review of retained EU legislation (see further on this in section 3, above). Many of the initiatives are underpinned by the UK regulators' new statutory objectives relating to growth and competitiveness and should be viewed through that lens. A common thread running throughout the Reforms is the desire to bolster the competitiveness of the UK as a leading global market.

Though tabled initially as an ambitious suite of reforms, many of the proposals have not been particularly radical in reality. A recent Treasury Committee report found the work so far to be "disappointing", commenting that progress has been slow and that the completed work has had little economic impact. The report also highlights that the government has marked some workstreams as complete that are in fact incomplete, and labelled some items as reforms when in fact they relate only to preparatory work such as publishing a document or welcoming a consultation.

Key dates

2024
FCA expected to consult on the UK asset management regime, the new UK retail disclosure framework, and rules on the UK short selling regime

Q1 2024
Government to effect short-term reforms to the ring-fencing regime; FCA to consult on changes to its rules on research unbundling

Q2 2024
Consultation on potential improvements and reforms to the SMCR expected; HM Treasury to consult on introducing an Intermittent Trading Venue Sandbox; FCA expected to finalise and implement rules on research unbundling; Digitisation Taskforce expected to publish final recommendations; regime for the UK consolidated tape for bonds expected to be implemented

Summer 2024
FCA to consult on rule proposals in relation to the Public Offers and Admissions to Trading Regime

Early H2 2024
FCA to publish final rules for the new UK listing regime

H2 2024
HM Treasury to publish a second-stage consultation on reform of the Consumer Credit Act 1974; government to issue policy proposals on the long-term future of the ring-fencing regime

December 2024
Full report with recommendations due from the Accelerated Settlement Taskforce

End 2024
LSE's Intermittent Trading Venue Sandbox to be activated

Edinburgh Reforms

This year, market participants likely will focus on how many of the remaining reforms the government can deliver before the general election, amidst hints from the opposition that it will establish its own regulatory reform agenda. Below, we highlight some key areas of progress and/or areas in which we expect further developments in 2024.

> “Though tabled initially as an ambitious suite of reforms, many of the proposals have not been particularly radical in reality.

Banking

As noted in section 3, progress is expected this year on the repeal and restatement of the UK CRR. Simultaneously, HM Treasury and the regulators intend to undertake further work on implementing Basel 3.1 in the UK as well as the new “strong and simple” capital framework for smaller banks.

In relation to the review of the ring-fencing regime, the government plans to legislate early this year on making short-term changes, including amending the threshold from £25 billion in retail deposits to £35 billion. This will be followed by policy proposals on the long-term future of the regime in the second half of this year (see this Latham blog post).

SMCR

One area in which progress was expected sooner was the SMCR. The Discussion Paper and Call for Evidence were open until June 2023 (see this Latham blog post), but no feedback has been shared thus far. However, the regulators recently indicated that a consultation paper on potential improvements and reforms to the regime can be expected in Q2 2024. The tone of the papers suggested that HM Treasury and the regulators were not expecting to make significant changes to the regime and, although they likely received feedback that requested otherwise, we still expect the proposed changes to be tweaks and practical improvements rather than substantial reform.

Securities and Markets

Work on primary market reforms has been a priority for the government, and good progress is evident so far with measures expected to be completed this year (see section 10, below).

Numerous changes have been finalised and/or implemented to amend various aspects of MiFID II pursuant to the Wholesale Markets Review. Further, the regime for the UK consolidated tape for bonds is expected to be implemented in the spring. The FCA expects that a consolidated tape for bonds will start operating in the second half of 2025. It plans to update the market on the next steps for a consolidated tape for equities during this year.

Edinburgh Reforms

The FCA has further consultations out on commodity derivatives and the transparency regime for fixed income and derivatives markets. Commencement dates are expected to be set for the outstanding transitional amendments made by the Financial Services and Markets Act 2023. Further, work on reviewing the civil and criminal market abuse regimes is anticipated to commence towards the end of this year.

The Investment Research Review published its final report last year, and changes to the rules on research unbundling are expected to take effect in the first half of this year (see section 7, below).

HM Treasury continues to work with the Department for Business and Trade to deliver the recommendations made to government as part of the Secondary Capital Raising Review. The Digitisation Taskforce, which is considering the digitisation of shareholdings as recommended by the Secondary Capital Raising Review, is expected to provide its final report to the government in the spring of this year.

Financial Market Infrastructure

The Financial Services and Markets Act 2023 made provision for the implementation of a Financial Market Infrastructure Sandbox, to enable firms to test and adopt new technologies, and the government has now legislated to give effect to the first FMI Sandbox — a Digital Securities Sandbox.

Further, these same powers will be used to deliver an Intermittent Trading Venue Sandbox, with a consultation planned for Q2 2024. This has been heralded as a key new initiative that is attempting to blend the growing private capital markets arena with the certainty of the LSE's trusted brand and transparent rules (see section 10, below).

Payments

The Bank of England and HM Treasury are continuing to assess the case for a retail Central Bank Digital Currency (CBDC). After a joint consultation last year, a summary of responses is expected this year that may give further clues as to next steps. The Bank and HM Treasury have acknowledged that a UK CBDC likely will be needed in the future and have moved into a design phase, although they judge it too early to commit to building the necessary infrastructure. Also on the payments front, the Future of Payments Review published a report in November 2023 setting out various recommendations on the steps needed to successfully deliver world-leading retail payments in the UK.

5. Conduct and Culture

Conduct and culture remain high on the FCA's supervisory agenda and connect closely to its other regulatory priorities. The FCA still expects firms to be working hard on their culture and conduct risk frameworks, with new examples of firms with problematic cultural issues continuing to come to light. Although culture and conduct risk are primarily an FCA issue, events in 2023 emphasised how culture can ultimately bring a firm down, so the PRA inevitably will also be interested in culture from a safety and soundness perspective. Recent FCA speeches have emphasised the importance of ensuring a culture framework runs throughout a firm, including through all three lines of defence.

Culture also links in with the FCA's new Consumer Duty (see section 6, below), as the FCA considers that the Duty requires firms to make a cultural shift in the way they engage with consumers.

The government is also attuned to potential cultural issues in the industry and launched its Sexism in the City inquiry, in which it is examining the barriers women face in financial services and current progress to close gender pay gaps. We expect to see some output from the inquiry this year.

Diversity and Inclusion

Last year, the PRA and the FCA published linked consultations on diversity and inclusion (D&I) in financial services (see this Latham Client Alert). The regulators view D&I as a key cornerstone of a healthy firm culture and they have emphasised the importance of D&I in promoting challenge and reducing "groupthink". The regulators also consider that diversity of perspectives results in stronger governance, decision-making, and risk management.

Key dates

H2 2024

PRA and FCA due to publish Policy Statements to their consultations on diversity and inclusion, including new guidance on non-financial misconduct

Conduct and Culture

Specifically, the regulators are proposing new D&I reporting and disclosure requirements for larger firms (those with 251 or more employees). Larger firms will also need to set a D&I strategy and specific targets. The regulators will not impose prescriptive targets, therefore firms will be responsible for developing their own appropriate strategies and targets (although the PRA expects CRR and Solvency II firms to set targets for gender and ethnicity at a minimum). As the new rules will not mandate what firms must achieve in terms of D&I, presumably the regulators intend to prompt firms to act as the greater level of transparency will mean that firms cannot hide a poor D&I record.

Although final rules are not expected until the second half of this year — and will apply 12 months following publication — firms should consider now how to meet regulatory expectations, as the regulators inevitably will monitor progress prior to the application of formal rules and guidance.

Non-Financial Misconduct

As part of its consultation on D&I, the FCA is also consulting on new guidance on non-financial misconduct. The FCA aims to indicate how firms should treat non-financial misconduct when assessing fitness and propriety or applying the Conduct Rules. The FCA has not been particularly successful in bringing cases relating to non-financial misconduct to date (see section 9, below), and states in the consultation, “We consider that articulating our views clearly in FIT would reduce the risk of inconsistency in how our guidance involving non-financial misconduct is interpreted and applied in firms and within judicial settings”.

While the FCA is seeking to add clarity by giving examples of improper conduct, every decision that firms take will be fact-specific and so, arguably, the FCA’s approach of adding more detailed guidance will not provide greater clarity. Firms likely will continue to grapple with instances of non-financial misconduct as every situation will be nuanced and there is no bright line test.

The FCA also highlighted in a speech last year that some firms have turned a blind eye during recruitment to individuals who have been involved in misconduct, emphasising that it wants firms to take regulatory referencing far more seriously. Firms should take note of this point as part of their recruitment processes this year. The FCA’s proposed guidance also seeks to clarify that non-financial misconduct may need to be disclosed in regulatory references. Potentially, this includes conduct related to someone outside of the work context, if relevant to an individual’s fitness and propriety.

6. Retail Markets: Direction of Travel

The FCA has continued to focus closely on retail markets — particularly retail consumer protection — and will continue to do so throughout 2024. As well as various areas of the regulatory reform agenda concentrating on reviewing and updating key retail regimes, many aspects of wholesale markets reform also look at opening up markets to retail. For example, the new Public Offers and Admissions to Trading Regime (see section 10, below) is being designed in line with a "have regard" to ensure that it will be simpler for a wide range of investors to participate in offerings. Further, the Investment Research Review (see section 7, below) recommended steps to allow greater access to research by retail investors. Notably, there is perhaps a difficult tension between the government's aim to help open up markets to retail investors and boost growth and the FCA's ever-growing concerns about consumer protection.

The FCA continues to work on its consumer investments strategy and in December 2023 published a Discussion Paper with the government on proposals to help close the "advice gap" as part of the Advice Guidance Boundary Review (see this Latham blog post). This workstream is designed to help more firms provide support to consumers that stops short of making a personal recommendation. Alongside this, the FCA continues to crack down on investment fraud and scams.

The Consumer Duty

The FCA's Consumer Duty applied to open products from the end of July 2023. The Duty is a flagship piece of regulation that is designed to hold firms to a higher standard in ensuring that retail consumers receive good outcomes. Although the initial implementation work for the Duty has been done, it begins to apply to closed products and services from the end of July 2024 so firms must prepare to meet this deadline.

Key dates

2024
FCA to consult on and implement the new UK retail disclosure framework

Q1 2024
HM Treasury expected to finalise legislation on the new UK retail disclosure framework

28 February 2024
FCA Discussion Paper on the Advice Guidance Boundary Review closes

31 July 2024
Consumer Duty comes into force for closed products and services

H2 2024
HM Treasury to publish a second-stage consultation on reform of the Consumer Credit Act 1974

Retail Markets: Direction of Travel

Moreover, as the FCA recently prompted, the Duty is not a "once and done" exercise, and firms must show that they are delivering good consumer outcomes on an ongoing basis. Firms should consider whether they have implemented the Duty effectively so far, how they can evidence this progress to the FCA, and whether they have employed suitable monitoring to ensure they are receiving and reviewing all appropriate data, ahead of the first board report confirming that good customer outcomes are being achieved, which is due by the end of July 2024.

> "The FCA will continue to test firms' implementation and embedding of the Duty.

The FCA has already pinpointed how it is using the Duty to hold firms to higher standards, and firms should not underestimate the importance of compliance with the Duty. For example, the FCA issued a Dear CEO letter on retained interest by firms holding client money, using the Consumer Duty as a key justification for challenging certain existing practices. The FCA noted firms should "expect it to be a golden thread that runs through all your conversations with us". Further, the FCA will continue to test firms' implementation and embedding of the Duty, and plans to conduct a third firm survey this year.

The FCA published findings from firms' implementation of the Duty in the retail banking sector in December 2023 and is expected to publish more sector-specific and cross-sector findings in 2024. Firms should be on the lookout for any further FCA feedback on areas for improvement.

UK Retail Disclosure Framework

The FCA has historically taken issue with the EU PRIIPs KID regime, so it comes as no surprise that the government and the FCA have chosen to scrap the regime and replace it with a UK-specific framework. The new framework is expected to address the regime's too-broad scope as well as potentially misleading information presented in the KID. The new Consumer Composite Investment (CCI) regime will be brought in under the Designated Activities Regime, given that persons performing the activities that will be subject to regulation will not necessarily be authorised. We suspect that the new name will be disliked — hopefully the new regime will be more popular, as it will impose regulatory requirements on persons who manufacture, advise on, or offer CCIs to UK retail investors.

Although we have seen the draft legislation that will provide the framework for the CCI regime, most of the detail will be left to FCA rules that are due for consultation this year. The FCA likely will provide further clarity around the exact scope of the regime, including which products are captured and what is meant by "made available".

Retail Markets: Direction of Travel

The FCA will also be responsible for setting out the disclosure rules and provisions that establish the detailed methodologies for calculating cost, risk, and performance. Therefore, the FCA's forthcoming consultation should shed further light on the substance of the regime. The FCA also plans to address reform to cost disclosure requirements in its consultation, which will involve a broader review of the MiFID II provisions.

The new regime is expected to take effect at the end of this year. In the meantime, the FCA is exercising forbearance when listed closed-ended funds provide additional factual information to consumers to try to give a better explanation of costs. Further, a Bill was recently introduced into Parliament that would remove listed investment companies from the definition of an Alternative Investment Fund under the UK AIFMD, to help alleviate the issues such companies experience when disclosing costs and charges.

Consumer Credit

The government is planning to modernise and reform the Consumer Credit Act 1974, including moving many provisions of the Act into FCA rules. Although part of the Edinburgh Reforms, this is an area that has been on the reform agenda for some time as the current web of legislation and FCA rules means the regime is difficult to navigate.

The government response to its initial consultation indicated that it plans to move forward with an "ambitious overhaul" of the Consumer Credit Act. The next step is for the government to produce more detailed proposals, and it aims to publish a second-stage consultation in the second half of this year. Given the scale of the task, reform is likely to take several years and the government is considering whether it should apply staggered implementation dates. Therefore, although we may receive clarity on the direction of travel this year, this will not manifest as concrete change just yet.

Meanwhile, in the EU, a significant revamp of the Consumer Credit Directive has been agreed (see this Latham blog post) to modernise the regime, enhance consumer protection, and address new trends in the market, such as the rise of Buy-Now-Pay-Later offerings. Although the FCA has already implemented measures in the UK to address some of the concerns targeted by the revised EU regime, we still await clear timings for when the government will bring Buy-Now-Pay-Later products into the scope of regulation and exactly what regulation will look like for relevant firms.

7. Investment Research

Research Unbundling
One of the most striking developments of 2023 was the UK's decision to scrap compulsory research unbundling following the final recommendations of the Investment Research Review (see this Latham blog post). While this was the expected outcome of the Review, it represents a major volte-face for the FCA, which was a strong driving force behind the inclusion of the rules in MiFID II. The new UK policy approach is anticipated this year, with the FCA planning to consult on changes to its rules early on and implement those changes (subject to the outcome of the consultation) by the middle of the year.

The UK has decided to permit rebundling across the board, with no market capitalisation threshold. The aim is to give market participants maximum flexibility to choose how to pay and charge for research, as part of a wider approach to reinvigorate UK capital markets. This workstream ties in closely with broader reforms to the UK's primary markets (see section 10, below).

Market participants will be eager to know whether the changes to the rules are readily workable from an operational perspective, and how quickly market practice might change. Firms are accustomed to the MiFID II rules and so, whilst added flexibility is welcome, it will also mean another area of regulatory change to address. It will be interesting to see whether firms do, in fact, choose to rebundle, and how quickly this occurs given there is no particular onus to make any quick decisions. Moreover, assessing whether the changes have the desired effect likely will take some time.

Other Recommendations
The Investment Research Review Final Report dealt not only with research unbundling, but took a more holistic look at the market for investment research and made a series of other wide-ranging recommendations. It is unclear exactly when other recommendations, such as the establishment of a research platform, might be taken forward, and arguably it would be better to see the

Key dates

Q1 2024
FCA expected to consult on changes to its rules on unbundling

Q2 2024
FCA expected to make final rules on unbundling and bring them into effect; EU Listing Act legislative proposals could be finalised prior to EU Parliamentary elections in June

2024
Progress expected on other aspects of the UK Investment Research Review Final Report's recommendations

Investment Research

impact of the changes to the rules on unbundling before starting to progress other measures. These further measures will also raise additional questions as they could lead to tensions with the ultimate aim of reinvigorating the market for investment research. For example, allowing greater access to research by retail investors might hinder, not promote, the production of investment research.

> "It will be interesting to see whether firms do, in fact, choose to rebundle, and how quickly this occurs.

Global Outlook

One key area of interest will be how the UK changes tie in with the global position. As the Investment Research Review Final Report highlighted, international alignment in this area would be hugely beneficial for global firms. The EU is amending the EU MiFID II research unbundling rules via the EU Listing Act, which is making its way through the EU legislative process. Dates for finalisation and implementation remain unclear, although market participants hope it will be agreed before the EU Parliamentary elections in June. The EU was proposing to significantly raise the threshold below which rebundling is permitted. However, this approach was criticised as only a very limited amount of research would then be subject to the rules and it would be practically difficult for firms to manage two different systems. The EU will now likely end up following the UK position by removing unbundling requirements entirely.

An important issue with the original MiFID II rules on research was the interaction with US regulation. The MiFID II requirement to unbundle research costs raised concerns among US broker-dealers that the receipt of separate payment for investment research could require registration as an investment adviser. To address the concerns, SEC staff issued temporary relief, announcing a no enforcement action posture with respect to investment adviser registration against broker-dealers providing research. However, the no-action relief expired on 3 July 2023, significantly affecting the US-EU market for investment research. Relaxation of the UK and EU rules will create better alignment with the US position, and it may be that US practices end up driving the eventual outcome in the UK and EU.

8. Enforcement Against Firms

FCA

Two new Joint Executive Directors of Enforcement and Market Oversight were appointed by the FCA in 2023. In a speech delivered shortly after taking up the role, Therese Chambers stated, “You can expect to see a strong alignment between our enforcement work and the FCA strategy”. However, we are yet to see a clear picture and their particular areas of focus likely will become evident as they settle into the role.

Recent enforcement cases suggest that the regulator has been focused on market abuse and anti-money laundering systems and controls failures, evidenced by numerous fines and investigations in these areas. The FCA has emphasised how it has strengthened its data and monitoring capabilities, particularly in relation to MAR, and so this is likely to be a continued area of focus, especially as the other Joint Executive Director, Steve Smart, has a financial crime background having come from the National Crime Agency. The FCA has been emphasising the importance of applying MAR just as rigorously in fixed income markets as in equity markets for some time, so this could be an area in which we see enforcement action.

The FCA also issued findings from its review of firms’ compliance with financial sanctions obligations last autumn, pinpointing areas for improvement. However, with FCA data showing both the number of investigations and investigation times having increased such that there is a higher volume of cases taking a long time to progress through the regulatory pipeline, published enforcement outcomes are not necessarily indicative of the regulator’s latest concerns and the Enforcement division’s current workload will take time to filter through.

> “The FCA has emphasised how it has strengthened its data and monitoring capabilities, particularly in relation to MAR.

The FCA’s annual enforcement data show that the open cases at the end of the 2022/23 financial year mostly related to wholesale conduct and retail conduct. From a retail perspective, firms will be asking whether 2024 is too early for the FCA to take enforcement action under the Consumer Duty. Although the Duty only took effect in July 2023, the FCA has already outlined a number of areas in which it has set its expectations of firms under the Duty (see section 6, above). Given that this is a seminal policy for the FCA, the FCA may act on its warning and take swift action against firms with serious failings under the Duty. Areas of particular focus have included interest rates for cash savings accounts, the treatment of domestic Politically Exposed Persons, and financial exclusion.

Enforcement Against Firms

Another area of concern is non-compliant financial promotions, particularly in relation to cryptoassets. It will also be interesting to see the FCA's appetite for enforcement against firms not complying with the new financial promotions gateway (going live this February) and the updated financial promotion exemptions for high net worth individuals and sophisticated investors as part of its broader work on consumer protection and online scams.

The FCA published a series of portfolio letters to firms in late 2023 indicating the regulator's areas of supervisory focus looking forward. While many contain common themes that correspond to areas mentioned above, firms should revisit the relevant letter(s) for their sector and ensure they are meeting regulatory expectations.

Although the FCA has been keen to take on difficult cases and open a large number of investigations in recent years, resourcing within its enforcement team evidently remains an issue given the time that investigations take to come to fruition. It will be interesting to see whether the FCA begins to focus on quality over quantity.

PRA

The PRA consulted in 2023 on changes to its approach to enforcement. Amongst other measures, it proposed to create a new early account scheme to provide a mechanism for subjects under investigation to provide a full account and all relevant material to the PRA at the outset of the investigation. Linked to this, the PRA also proposed to incentivise early admissions by subjects under investigation through the introduction of an enhanced settlement discount of up to 50%. The PRA is due to finalise the changes in the first half of this year, and PRA-authorised firms will be keen to see what impact this has on the PRA's overall approach to enforcement.

For the time being, the PRA's enforcement record remains slim, and the cases it brings generally seem quite exceptional. Since 2013, the PRA has brought to conclusion only 14 cases against firms, although fines have increased. We have already seen the PRA issue fines for regulatory reporting failures, and we anticipate this will continue to be a focus area in 2024. The PRA has limited patience for firms using cost-cutting initiatives that severely restrict the capacity of essential compliance functions.

9. Enforcement Against Individuals

The FCA's record against individuals in the past year has been interesting to say the least. The regulator previously expressed willingness to take more legal risk in the cases it brings. However, the problem with cases against individuals is that they will often fight all the way, as their career and livelihood are at stake, and this has led to some embarrassment for the FCA.

> "The FCA has not had great success in bringing cases against individuals in relation to conduct that does not directly relate to their work.

Market Abuse

In line with the position for firms, market abuse is a key area of FCA focus as it seeks to ensure the integrity, cleanliness, and therefore attractiveness of UK markets. The FCA's data on open cases at the end of the 2022/23 financial year show a high number of insider dealing cases, and the FCA has put details of some pending cases in the public domain. The FCA's recent warning on market soundings (see this Latham blog post) could be an indication that there is also some enforcement action on this aspect of MAR in the pipeline. The FCA continues its tactic of opening its market abuse cases on a dual footing (both civil and criminal) to create the maximum chance of success.

Non-Financial Misconduct / Lack of Integrity

Non-financial misconduct has been an FCA priority for some time, but, as the boundaries are often unclear in practice, the FCA has not had great success in bringing cases against individuals in relation to conduct that does not directly relate to their work. Further, the cases it has brought have related to more egregious conduct and there have not been clear examples of how to address behaviour that falls at the margins. The Upper Tribunal has not always agreed with the FCA's approach, and it seems that the proposed FCA guidance in this area (see this Latham Client Alert) is a bid for the FCA to cement the view that certain criminal convictions will automatically go to an individual's fitness and propriety. The FCA is due to finalise its guidance in the second half of this year (see also section 6, above).

Alongside cases in which the FCA has argued that individuals have lacked integrity because of their non-financial misconduct, the FCA has also brought several cases in which it has found a lack of integrity when individuals have failed to meet expected regulatory standards. The Upper Tribunal disagreed with the FCA's claim that, in effect, gross negligence amounts to a lack of integrity, with the Tribunal taking a dim view of the FCA's approach.

Enforcement Against Individuals

In these cases the Tribunal considered that, while the FCA might have brought a successful case on the basis of a lack of due skill, care, and diligence, a lack of integrity was not the appropriate avenue (and the FCA could not then pursue an alternative avenue, having not argued the case on this basis from the outset). The Tribunal also levelled severe criticism at the FCA, not only in terms of the cases brought but also the way in which the regulator conducted, and then reacted to losing, these cases. The latest resulted in a severe dressing-down of the FCA by the judge. One area to watch will be whether the FCA becomes less bold in the cases it brings due to its recent experiences in the Tribunal, or at least whether it improves its conduct of enforcement cases. Market participants will also be keeping an eye on whether more individuals choose to try their luck before the Upper Tribunal.

> One area to watch will be whether the FCA becomes less bold in the cases it brings due to its recent experiences in the Tribunal.

Senior Managers

Two enforcement outcomes against senior managers were published in 2023, however, neither provided the industry with the guiding principles or the watershed moment that everyone has been looking for since the introduction of the SMCR. Both cases related to breaches of the Conduct Rules — one to breaches of a Senior Manager Conduct Rule (the first case brought under these rules) and the other to breaches of the Individual Conduct Rules. However, both cases provided few wider learnings for the industry. Market participants will want to see whether this year brings a truly decisive senior managers case for the industry to digest. FCA statistics indicate that there are a number of open cases against senior managers, so perhaps some of these cases will come to fruition this year. What individuals within the industry are really hoping for is a case that illustrates what exactly is meant by “reasonable steps” to give them some boundaries to work with.

10. UK Primary Markets Reform

Reforming the UK Listing Regime
The FCA continued in 2023 with its Primary Markets Effectiveness Review, which seeks to implement recommendations from Lord Hill's UK Listing Review on improving the international competitiveness of UK listings. In the summer of 2023, the FCA consulted on proposals to replace the existing premium and standard listing segments with a lighter-touch single listing segment for equity shares in commercial companies (see this Latham Client Alert).

On 20 December 2023, the FCA published a consultation setting out detailed draft rules for the new UK listing regime (see this Latham blog post). Most of the changes reflect proposals in the FCA's preceding Consultation Paper. Principally, the existing premium and standard listing segments will be merged into a new single segment for equity shares in commercial companies.

A separate transitional segment (replicating the existing standard listing) will give standard listed issuers time to adapt to the single segment. This segment will be closed to new entrants and those issuers are expected to transfer out to the new single segment over time. In addition, non-UK incorporated companies with a "primary" listing on a non-UK market will be able to list on a separate segment catering to international secondary listings, with the listing requirements based on the existing standard segment.

The FCA has further signalled that it is willing to accept risk, in return for boosting international competitiveness, through proposing that the investor protections for the new single segment will be more disclosure-based. Under this proposal, "class 1" and related party transactions will no longer require a compulsory shareholder vote or FCA-approved shareholder circular.

Key dates

Q1 2024
FCA to publish further consultation with detailed draft rules on listing categories outside the proposed single segment (including secondary listings, investment funds, SPACs, and non-equity securities)

16 February 2024
End of consultation period for proposals regarding sponsor competence

22 March 2024
End of consultation period for FCA's Primary Markets Effectiveness Review

Spring 2024
Digitisation Taskforce expected to publish final recommendations

Summer 2024
FCA to consult on rule proposals for the new UK Public Offers and Admissions to Trading Regime

Early H2 2024
FCA to publish final rules for the new UK listing regime

End of 2024
LSE's Intermittent Trading Venue Sandbox to be activated

H1 2025
FCA to make final rules for the new UK Public Offers and Admissions to Trading Regime

UK Primary Markets Reform

The existing premium listing eligibility requirements and continuing obligations in relation to independence and controlling shareholders will be largely unchanged under the single segment. In particular, the requirement to implement a relationship agreement to ensure independence from a controlling shareholder will be retained.

> The FCA has further signalled that it is willing to accept risk, in return for boosting international competitiveness.

The sponsor regime will also be retained, save that there will be fewer instances post-IPO in which an issuer needs to consult a sponsor (in particular, given the reduced compliance burden for class 1 transactions). As a result of the reduction in the number of transactions requiring the appointment of a sponsor, the FCA is consulting on modifications to the sponsor competency requirements. Broadly, the FCA proposes to allow more factors to demonstrate sponsor competency and extend lookback for relevant experience from three to five years.

For IPO candidates, the eligibility criteria for this single segment will be softened through the removal of certain existing conditions, including the current premium segment requirements for a three-year financial and revenue earning track record and a "clean" working capital statement. There will also be limited regulatory restrictions under the single segment for dual class share structures, with the FCA letting the market decide what is acceptable. Crucially, the weighted voting rights can be exercised on a wider range of matters (excluding dilutive transactions and a cancellation of listing). There will be no time-based sunset requirements, and the weighted voting shares can be held by directors, employees, and natural persons who are investors in the IPO candidate.

The FCA is expected to publish a further Consultation Paper later in Q1 2024 with the detailed draft rules for the other listing categories (including the transitional segment, international secondary listings, closed-ended investment funds, OEICs, SPACs, and other non-equity categories) and certain provisions affecting all issuers.

The FCA's consultation on these proposals will run until 22 March 2024 (save for a shorter comment period on the sponsor competency proposals which closes on 16 February 2024, with those changes implemented by mid-Q2 2024). The FCA is expected to publish the final rules for the new listing regime at the start of the second half of 2024, to be followed by a two-week implementation period before the new regime comes into force. Therefore issuers and their advisers planning transactions in the second half of the year will be able to benefit from the new Listing Rule regime.

UK Primary Markets Reform

New "Public Offers and Admissions" Framework for UK Capital Raisings

The process of reforming the UK regime for public offers and admissions is expected to continue in 2024 through to the first half of 2025. On 27 November 2023, the draft of the Public Offers and Admissions to Trading Regulations 2023 (POATRs) was published and laid before Parliament. This statutory instrument, along with new FCA rules, will set out the new regulatory framework for UK capital raisings. These measures will together implement recommendations from Lord Hill's UK Listing Review to reform the UK prospectus regime.

Under the POATRs, fundraisings undertaken by private companies will no longer be subject to a requirement to publish a prospectus. Instead, such companies could make public offers in the UK if they fall within an expanded list of exemptions. The most significant new exemptions include offerings undertaken through regulated public offer platforms (a form of regulated crowdfunding) and offerings made to existing shareholders. In particular for offers to retail, instead of being constrained by the current €8 million consideration threshold (above which the public offer would trigger a requirement to publish a prospectus), private companies would be able to offer securities to retail investors above a new £5 million threshold through these regulated public offer platforms.

Secondary fundraisings by listed companies could still trigger a requirement to publish a prospectus under the new regime.

The POATRs delegate to the FCA rule-making powers with respect to certain areas, including the admission of securities to trading on a regulated market and primary MTFs, public offer platforms, and protected forward-looking statements. From May to September 2023, the FCA conducted an engagement process to solicit views from stakeholders and market participants. It is expected to unveil its proposals on these areas through a consultation process to be launched in the summer of 2024, with the final rules published in the first half of 2025.

Modernising Share Ownership

As recommended by the Secondary Capital Raising Review, the government has established a taskforce to consider how share ownership could transition to a modern digitised system. A successful transition would make capital raising structures more efficient and improve both the exercise of shareholder rights and transparency of share ownership.

On 10 July 2023, this Digitisation Taskforce published its interim report setting out a number of potential recommendations and questions for industry to consider. The report proposed various share digitisation models, including an intermediary system in which all certificated shares would be moved to a central securities depository and administered through nominee arrangements.

UK Primary Markets Reform

The report also proposed an alternative system in which a subsidiary register in digitised form would be maintained alongside the current CREST system for the electronic settlement of dematerialised shares.

The Digitisation Taskforce is expected to publish final recommendations and an implementation plan in the spring of 2024.

Enhancing Liquidity Options

On 10 July 2023, the Chancellor announced in his Mansion House Speech that the UK will establish a pioneering Intermittent Trading Venue that will improve private companies' access to capital markets before they publicly list. Through this Intermittent Trading Venue, private companies could conduct auctions on a periodic basis (e.g., monthly, quarterly, or half-yearly) using public markets' infrastructure and distribution channels to access institutional and sophisticated investors. Private companies would not be able to raise capital through this venue (i.e., it would only facilitate secondary sales from existing shareholders). However, the venue would still provide liquidity for the companies' shares, enable diversification of share ownership, and potentially improve such companies' cost of capital. The LSE commenced a market consultation in 2023, and the venue is expected to launch initially in a regulatory sandbox environment in the second half of 2024.

Contacts

Mark Austin
Partner
London
T +44.20.7710.1044
E mark.austin@lw.com

Paul A. Davies
Partner
London
T +44.20.7710.4664
E paul.davies@lw.com

Laura Ferrell
Partner
Chicago
T +1.312.876.7616
E laura.ferrell@lw.com

Nicola Higgs
Partner
London
T +44.20.7710.1154
E nicola.higgs@lw.com

Chris Horton
Partner
London
T +44.20.7710.4539
E chris.horton@lw.com

Betty M. Huber
Partner
New York
T +1.212.906.1222
E betty.huber@lw.com

Fiona M. Maclean
Partner
London
T +44.20.7710.1822
E fiona.maclean@lw.com

Andrea Monks
Partner
London
T +44.20.7710.4767
E andrea.monks@lw.com

Rob Moulton
Partner
London
T +44.20.7710.4523
E rob.moulton@lw.com

Marlon Q. Paz
Partner
Washington, D.C. / New York
T +1.202.654.7101
E marlon.paz@lw.com

Nell Perks
Partner
London
T +44.20.7710.4749
E helennell.perks@lw.com

Axel Schiemann
Partner
Frankfurt
T +49.69.6062.6509
E axel.schiemann@lw.com

Becky Critchley
Counsel
London
T +44.20.7710.1000
E becky.critchley@lw.com

Anne Mainwaring
Counsel
London
T +44.20.7710.1018
E anne.mainwaring@lw.com

Sidhartha Lal
Associate
London
T +44.20.7710.4778
E sidhartha.lal@lw.com

Jaime Martin
Associate
London
T +44.20.7866.2655
E jaime.martin@lw.com

Ella McGinn
Associate
London
T +44.20.7710.4649
E ella.mcginn@lw.com

Jonathan Ritson-Candler
Associate
London
T +44.20.7710.1815
E jonathan.ritson-candler@lw.com

Sara Sayma
Associate
London
T +44.20.7710.4554
E sara.sayma@lw.com

Effie Stathaki
Associate
London
T +44.20.7710.4758
E effie.stathaki@lw.com

Sean Wells
Associate
London
T+44.20.7710.4662
E sean.wells@lw.com

Gary Whitehead
Associate
London
T +44.20.7710.1036
E gary.whitehead@lw.com

Charlotte Collins
Knowledge Management Counsel
London
T +44.20.7710.1804
E charlotte.collins@lw.com

Amy Smyth
Knowledge Management Counsel
London
T +44.20.7710.4772
E amy.smyth@lw.com

Johannes Poon
Knowledge Management Lawyer
London
T +44.20.7710.3085
E johannes.poon@lw.com

10 Key Focus Areas

for UK-Regulated Financial Services Firms in 2024

To learn more about Latham's financial regulatory capabilities, visit our Global Financial Regulatory Resources Page.

LW.com

LATHAM & WATKINS