A&L Goodbody

FINANCIAL REGULATION

Securities markets update:
Central Bank of Ireland publishes Outlook Report 2023

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5 MIN READ

The Central Bank of Ireland (**CBI**) recently published its Securities Markets Risk Outlook Report for 2023 (**Report**), which details key conduct risks to securities markets, and the actions firms should take to identify, mitigate and manage them. The Report also informs key areas of focus for the CBI's markets supervision division over the coming year.

We provide below an overview of the CBI's expectations in respect of eight identified securities market risks, which regulated financial service providers, investors and market participants should factor into their horizon-scanning and regulatory and compliance planning.

CBI expectations

The CBI expects firms to have regard to the following five securities market principles when conducting business:

- a high level of investor and market participant protection
- product and market price transparency
- well governed markets and market participants
- a market trusted by fund raisers and investors
- a market sufficiently resilient to continue to operate its core functions in stressed conditions and to innovate appropriately as markets evolve

In addition, the Report sets out the CBI's expectations of regulated financial service providers in respect of the following eight identified securities markets risks.

External risk environment

Having regard to the deterioration in the external risk environment, including the war in Ukraine, continued COVID-19 disruptions and energy shortages, and its effect on participants across Irish securities markets, the CBI expects financial service providers to:

- conduct robust stress testing, updated regularly, to take due account of market dynamics so that all funds are positioned to ensure that liquidity arrangements are sufficient to meet redemptions and margin calls
- ensure that appropriate liquidity management tools are in place which can be utilised when needed
- verify asset valuations affected by rising interest rates and sanctions
- have appropriate systems and controls in place to identify relevant sanctioned instruments and individuals to ensure they are compliant with their financial sanctions obligations

Sustainable investing

The CBI expects securities markets participants to assist in achieving the goal of net-zero by reducing capital investment in carbon intensive activities, and by increasing investment in products that meet sustainable criteria (in accordance with the EU Sustainable Finance Disclosures Regulation (SFDR) and Taxonomy Regulation). In particular, the CBI expects financial service providers to:

- ensure they adhere to their regulatory obligations regarding the correct disclosure of sustainability related information in product offerings
- have robust procedures and policies in place to ensure 'green' or 'sustainable' marketed products meet the criteria to be described as such

Market integrity

The CBI expects firms to recalibrate and improve market surveillance systems to consider all types of market abuse risks to which they are exposed by:

- ensuring that market abuse surveillance systems are sufficiently robust to identify, manage and mitigate emerging risks in what is a rapidly changing market environment
- monitoring all orders and trades, including cancelled and amended orders
- submitting Suspicious Transaction and Order Reports to the CBI without delay once there is a reasonable suspicion that the relevant conduct could constitute market abuse
- maintaining robust frameworks and associated controls comply with the provisions in the Market Abuse Regulation (**MAR**) concerning inside information

Market conduct risk management

The CBI expects firms to develop and embed robust governance, control and surveillance frameworks to manage current and emerging wholesale market conduct risks. The CBI also expects those frameworks to inform the development of comprehensive Management Information to enable ongoing conduct risk monitoring. In particular, financial service providers will need to:

- develop and embed more robust frameworks for the identification and assessment of their market conduct risks
- manage and mitigate emerging risks in a rapidly changing geopolitical and economic environment
- record business telephone and electronic communications including when alternative working arrangements are in place, and ensure communications are not taking place through unauthorised channels

Delegation and outsourcing

The CBI expects firms to appropriately oversee their delegations. The Report clarifies that the CBI does not differentiate between delegation and outsourcing. This is a similar theme to that set out in the CBI's Cross Industry Guidance on Outsourcing, which is stated to apply to both delegations and outsourcings. In particular, the CBI expects financial service providers to have regard to:

- the CBI's Cross Industry Guidance on Outsourcing
- the requirements of MAR and MiFID, and ensuring that the firm outsourcing activities retains ultimate responsibility for governance and oversight of the delegated activities
- the requirement to oversee and continuously monitor the performance of any digital processes outsourced to third parties

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> *"Repeated and increasingly sophisticated cyber-attacks on financial institutions have the potential to cause widespread disruption to the operations of critical market infrastructure and individual firms.*

Cybersecurity

The CBI focusses on the risk that repeated and increasingly sophisticated cyber-attacks on financial institutions have the potential to cause widespread disruption to the operations of critical market infrastructure and individual firms. The CBI expects financial service providers to:

- note the priorities identified in the following existing guidance published by the CBI in recent years, many of which are closely aligned to the Digital Operational Resilience Act (DORA), which will apply from 2025, and is an important regulatory milestone in the context of cybersecurity risks:
    - Cross Industry Guidance in respect of Information Technology and Cybersecurity Risks
    - Cross Industry Guidance on Operational Resilience
    - Cross Industry Guidance on Outsourcing
- ensure adequate tools and governance frameworks are in place locally to identify, measure, manage, monitor and report Information Communication Technology (ICT)/cybersecurity risks
- ensure ICT governance and ICT risk management frameworks are appropriately designed and implemented
- ensure they have robust ICT/cybersecurity risk management practices in place

Data quality

The Report emphasises that high quality, reliable data is fundamental to firms accurately identifying, mitigating and managing the risks to which they are exposed. The breadth, depth and complexity of data collection has intensified across securities markets. Therefore, the CBI expects market participants to devote sufficient attention and resource to data quality initiatives by:

- submitting accurate data on a timely basis in line with their obligations
- having appropriate oversight of data reporting from Board level down (including where data reporting is outsourced)
- ensuring escalation channels are in place to promptly address data reporting issues
- engaging with the CBI as soon as possible after any data issues are identified – the CBI warns that failure to do so may warrant supervisory intervention up to and including enforcement action

Digital innovation

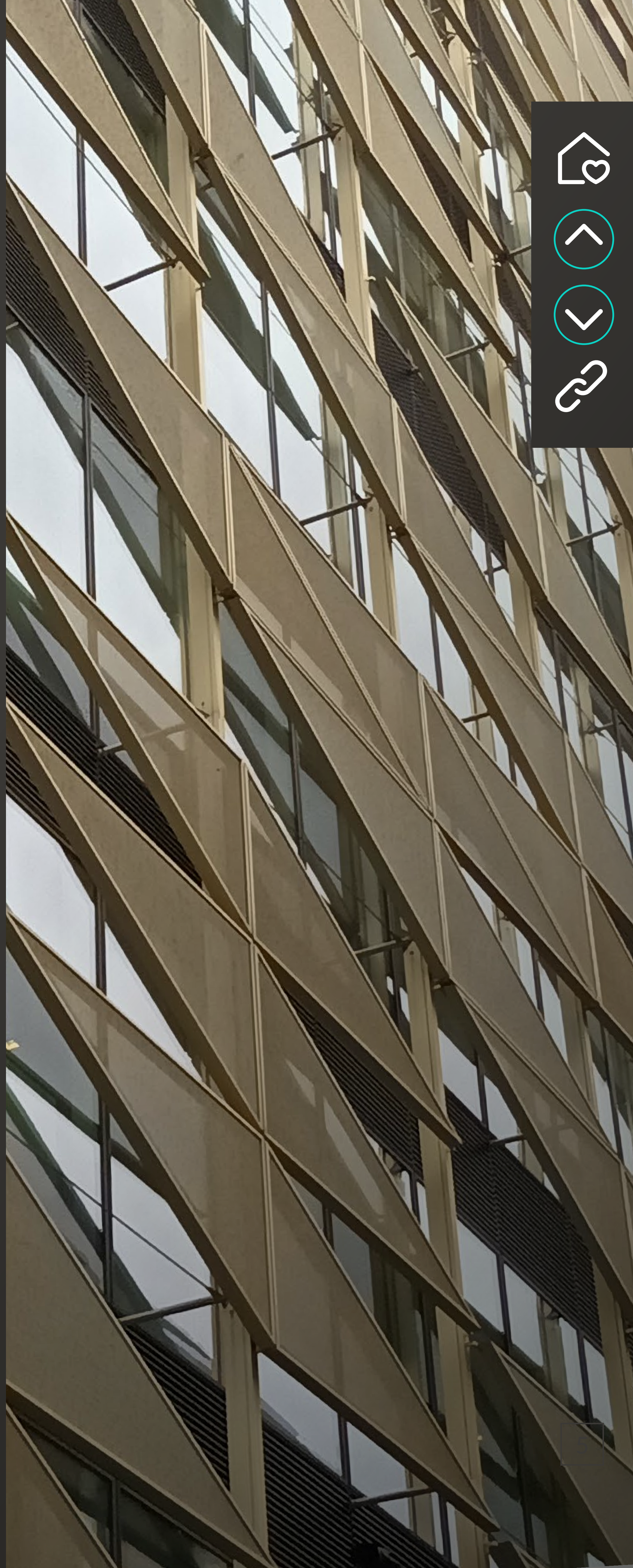
The CBI expects securities markets participants implementing new technologies to recognise the need for appropriate governance, cybersecurity, privacy, product and operational risk frameworks to mitigate the risks associated with the new ways of operating, as a result of technological innovation. In particular, the CBI expects fund service providers and issuers of financial instruments to:

- note the requirements of the upcoming Markets in Crypto Assets Regulation (MiCA)
- be aware that the CBI presently considers exposure to crypto assets to be unsuitable for retail investors in line with the joint position of the European Supervisory Authorities (ESAs)
- ensure that risk frameworks support the identification, mitigation and management of risks arising from the implementation of new technologies

Next steps

Many of the securities markets risks identified in the Report are CBI regulation and supervision priorities for 2023, such as resilience, climate change and market conduct. This alignment places increased emphasis on the need for regulated financial service providers, investors and market participants to factor the CBI's expectations in respect of these risks into their horizon-scanning and regulatory and compliance planning.

To stay up to date on key issues facing regulated financial service providers, register your interest to attend ALG's Regulatory Series, covering the key issues facing regulated firms. Out next seminar on the Senior Executive Accountability Regime (SEAR) takes place at 11am on Thursday 30 March 2023.



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Resources

- Securities Markets Risk Outlook Report for 2023 — READ MORE
- CBI's Cross Industry Guidance on Outsourcing — READ MORE
- Cross Industry Guidance in respect of Information Technology and Cybersecurity Risks — READ MORE
- Cross Industry Guidance on Operational Resilience — READ MORE
- CBI regulation and supervision priorities for 2023 — READ MORE
- Register your interest to attend ALG's Regulatory Series — READ MORE
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