



FIG Bulletin

Recent developments

6 August 2021

The bulletin will take a seasonal break.

**Hogan
Lovells**

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General

FCA regulatory sandbox: new application guide and now always open

The Financial Conduct Authority (FCA) has published a new [guide](#) to assist firms making a regulatory sandbox application. The FCA has also updated its [webpage](#) on the regulatory sandbox to confirm that, following a recommendation in the Kalifa Review of UK FinTech, the regulatory sandbox is now always open so that firms can submit applications throughout the year. Previously the regulatory sandbox operated on a cohort basis, which meant that firms could only apply during a specific window in the calendar year.

Remuneration Committee: FCA Dear Remuneration Committee Chair letter

The FCA has published a [letter](#) it has sent to the Chairs of Remuneration Committees setting out its approach to remuneration and highlighting areas for Chairs and firms to consider in this context. In its letter covers, the FCA reminds Chairs of Remuneration Committees that they should remain satisfied that their firm's remuneration policies are aligned with their firm's purpose, business strategy and values, and that they incentivise the right behaviours. The FCA also highlights the following:

- **Accountability:** the Senior Managers and Certification Regime is a key tool to ensure high standards of conduct and culture within firms and can provide a clear and evidenced link between behaviours and remuneration outcomes. For instances of poor behaviour or misconduct, ex-post risk adjustments should be made that are appropriate and timely. The reasons for adjustments should be transparent to the individuals concerned.
- **Non-financial measures:** the FCA expects to see more firms using non-financial measures in scorecards to support environmental, social and governance factors.
- **Diversity and inclusion:** the FCA urges firms to review pay data across all protected characteristics and to act swiftly to address any disparities.
- **FCA international work:** the FCA refers to the Financial Stability Board's [peer review](#) of how the UK has implemented its remuneration standards, which was published in April 2021. It states that firms may find it useful to consider whether there are any points in this that they could incorporate into their remuneration policies and practices.

The FCA concludes by setting out its remuneration approach for 2021/22. It reminds firms that, in line with the Prudential Regulation Authority's (PRA's) May 2021 statement, they should submit their remuneration policy statement (RPS) by 30 September 2021. It should be submitted together with a short summary of the key points in the RPS with cross-references to the full RPS, including any key changes made in the last year. It should also include an explanation of how the Chair of the Remuneration Committee has assured themselves that the firm's overall remuneration policies support the firm's purpose, business strategy and values and incentivise the right behaviours, and how the firm's approach to paying variable remuneration will be considered in the continuing context of the COVID-19 pandemic.

FCA supervisors will coordinate their approach with the PRA and engage with firms as required, including providing any feedback as necessary.

UK Investment Firms Prudential Regime: FCA CP21/26 third consultation

The FCA has published its third consultation paper, CP21/26, on its proposed rules to introduce the Investment Firms Prudential Regime (IFPR), the new prudential regime for UK MiFID firms.

CP21/26 should be read in conjunction with the FCA's first and second policy statements, [PS21/6](#) (June 2021) and [PS21/9](#) (July 2021).

The FCA's proposals relate to the following topics:

- disclosure;
- own funds: excess drawings by partners and members;
- technical standards;
- depositaries;
- UK resolution regime;
- Enforcement;
- applications and notifications; and
- consequential changes.

The FCA also published the [proposed forms for MIFIDPRU 8 Disclosure templates](#). It also welcomes feedback on these.

The consultation closes on 17 September 2021. The FCA will consider the feedback and publish a policy statement and final rules for the whole of the IFPR in autumn 2021. The FCA expects the new regime to take effect in January 2022, subject to HM Treasury making the necessary secondary legislation under the Financial Services Act 2021.

FCA decision-making process: FCA CP21/25

The FCA has published a consultation paper, [CP21/25](#), on "Issuing statutory notices – a new approach to decision makers".

In CP21/25, the FCA explains that a key part of its transformation programme is a fresh approach to tackling firms and individuals that are not meeting the required standards. This involves streamlining FCA decision-making and governance to enable a quicker response. To achieve this, the FCA proposes moving some decision-making from its Regulatory Decisions Committee (RDC) to its Authorisations, Supervision and Enforcement Divisions. Which decision-making powers the FCA proposes to move are detailed in CP21/25.

The consultation closes on 17 September 2021. The FCA will consider the feedback received and expects to publish a policy statement in or around November 2021.

Pre-paid funeral plan sector: FCA updates

The FCA updated its [webpage](#) on regulating the pre-paid funeral plans sector. The FCA has added a new section outlining what firms need to do to prepare for FCA regulation, which will apply from 29 July 2022. From 1 September 2021, the FCA's authorisations gateway opens. Firms are encouraged to submit their authorisation application and supporting documents as soon as possible.

More information on authorisation and variation of permission (VoP) is provided on the FCA's [webpage](#) on pre-paid funeral plan firms: applying for authorisation. This webpage has also been updated to provide links to the following application forms and notes:

- [Authorisation application form: funeral plan providers and funeral plan intermediaries](#) and [guidance notes](#);
- [Authorisation application form: supplement for funeral plan providers and funeral plan intermediaries](#) and [guidance notes](#); and

- [VoP application form: funeral plan providers and funeral plan intermediaries](#) and [guidance notes](#).

Inclusion Measurement Guide: UK FSSC launch

On 14 July 2021, the Financial Services Skills Council (FSSC) [launched](#) an [Inclusion Measurement Guide](#) to improve and develop inclusion data metrics and analysis across the UK financial services sector. The FSSC states that the guide is the first of its kind and was devised following in-depth research and discussions with FSSC members. It aims to enable organisations to:

- measure inclusion in three priority areas including inclusive leadership, a safe and speak up culture, and inclusive systems and processes;
- analyse the behaviours and actions of employees, including employee experiences and perceptions alongside the structures supporting behaviours within organisations; and
- measure inclusion for the first time, as well as assist firms who are already using inclusion metrics to further develop their existing data and analysis.

The Guide contains three types of measurement tools, including questions for employee engagement and inclusion surveys, and data tracking metrics which organisations can map over time. This will allow firms to evaluate their working culture and values at a more granular level and pinpoint specific areas for intervention.

The FSSC received input from the FCA to ensure the guide is aligned with ongoing regulatory work to enable firms to ultimately build a more diverse, effective working culture, attracting and retaining highly skilled and talented employees.

On 5 August 2021, UK Finance published a [blogpost](#) by Mark Hoban, FSSC Chair, in which he refers to the guide and notes that the FSSC is working closely with its members to provide practical tools to enable firms to accelerate reskilling, widen talent pools and increase opportunities for digitisation, the need for which has been exacerbated by the COVID-19 pandemic. Mr Hoban believes there is more to be done on diversity and inclusion and adds that, while good progress has been made, the financial services sector needs to go "further and faster".

Sustainable finance: Delegated legislation amending UCITS Directive, AIFMD, MiFID II, Solvency II and IDD

On 2 August 2021, the following were published in the Official Journal of the European Union:

- [Commission Delegated Regulation \(EU\) 2021/1253](#) amending Delegated Regulation (EU) 2017/565 as regards the integration of sustainability factors, risks and preferences into certain organisational requirements and operating conditions for investment firms. Delegated Regulation (EU) 2017/565 supplements the Markets in Financial Instruments Directive (MiFID);
- [Commission Delegated Regulation \(EU\) 2021/1254](#) correcting Delegated Regulation (EU) 2017/565 supplementing MiFID as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID;
- [Commission Delegated Regulation \(EU\) 2021/1255](#) amending Delegated Regulation (EU) 231/2013 as regards the sustainability risks and sustainability factors to be taken into account by alternative investment fund managers. Delegated Regulation (EU) 231/2013 supplements the Alternative Investment Fund Managers Directive (AIFMD);
- [Commission Delegated Regulation \(EU\) 2021/1256](#) amending Delegated Regulation (EU) 2015/35 as regards the integration of sustainability risks in the governance of insurance

and reinsurance undertakings. Delegated Regulation (EU) 2015/35 supplements the Solvency II Directive;

- [Commission Delegated Regulation \(EU\) 2021/1257](#) amending Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359 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. Delegated Regulation (EU) 2017/2358 and Delegated Regulation (EU) 2017/2359 supplement the Insurance Distribution Directive (IDD); and
- [Commission Delegated Directive \(EU\) 2021/1270](#) amending Directive 2010/43/EU as regards the sustainability risks and sustainability factors to be taken into account for UCITS. Directive 2010/43/EU supplements the UCITS Directive.

The Delegated Regulations and Directive enter into force on 22 August 2021. Delegated Regulations (EU) 2021/1253, (EU) 2021/1255, (EU) 2021/1256 and (EU) 2021/1257 applied from 2 August 2022.

EU taxonomy: EU Platform on Sustainable Finance consults on preliminary recommendations for technical screening criteria

On 3 August 2021, the European Commission [published](#) a [draft report](#) produced by the EU Platform on Sustainable Finance on preliminary recommendations for technical screening criteria (TSC) for the EU taxonomy, with an accompanying [call for feedback](#).

The draft report is a working document by the Platform and contains preliminary TSC developed by the Platform's Technical Working Group (TWG). Part A of the report and its Annex describes the EU taxonomy approach, the activities considered, and the methodological framework followed. Part B of the report and its Annex includes the feedback materials, comprising the questions on which stakeholders are invited to provide feedback and the proposed draft technical screening criteria on which feedback is sought.

The TWG's focus in the draft report is primarily on presenting a first set of priority economic activities and draft recommendations for associated substantial contribution and do no significant harm (DNSH) technical screening criteria regarding the four non-climate environmental objects covering water, circular economy, pollution prevention and biodiversity and ecosystems. However, a small number of economic activities and corresponding draft recommendations for TSC related to the climate mitigation and adaptation objectives have also been included. Non-inclusion by the Platform in the first set of priority activities does not imply that the activity will not be considered for inclusion in the EU taxonomy.

The call for feedback (to be submitted via an [online questionnaire](#)) closes to responses on 24 September 2021. This is not an official Commission consultation and the call for feedback neither commits the Commission nor precludes any policy outcomes.

The Platform will analyse the feedback received and submit its final report to the Commission in November 2021. The Commission will then analyse and consider the recommendations as part of its preparations for a delegated act containing activities and associated TSC for the remaining four environmental objectives and some additional activities and according criteria for the climate objectives.

MLD4: EBA consults on new guidelines on role of AML/CFT compliance officers

The European Banking Authority (EBA) is [consulting](#) on draft guidelines on policies and procedures relating to compliance management and the role and responsibilities of anti-money laundering (AML) and countering the financing of terrorism (CFT) compliance officers under Article 8 and Chapter VI of the Fourth Money Laundering Directive (MLD4).

The EBA notes that there have been a number of reports suggesting that the MLD4 requirements are implemented unevenly across sectors and member states, and that they are not always effectively applied. Therefore, through these guidelines, the EBA aims to achieve a common understanding, by competent authorities and financial sector operators, of financial sector operators' AML/CFT governance arrangements. The guidelines set clear expectations of the role, tasks and responsibilities of the AML/CFT compliance officer and the management body, and how they interact.

The provisions set out in the guidelines should be applied in a manner that is effective and proportionate to the financial sector operator's type, size, internal organisation, the nature, scope and complexity of its activities, and the money laundering and terrorism financing risks to which the financial sector operator is exposed. They complement, but do not replace, relevant guidelines issued by the European Supervisory Authorities on wider governance arrangements and suitability checks.

The consultation closes on 2 November 2021.

CPMI work programme for 2021/22

The Committee on Payments and Market Infrastructures (CPMI) has published its [work programme for 2021/22](#). The CPMI is an international standard setter that promotes, monitors and makes recommendations about the safety and efficiency of payment, clearing, settlement and related arrangements, thereby supporting financial stability and the wider economy. The CPMI also serves as a forum for central bank cooperation in related oversight, policy and operational matters, including the provision of central bank services. The overarching themes of the 2021-22 work programme are:

- shape the future of payments; enhance cross-border payments; address policy issues arising from innovations in payments; and monitor changing trends in payments; and
- evaluate and address risks in financial market infrastructures (FMIs), including those that emerged or rose over the course of the COVID-19 pandemic.

Banking and Finance

BCBS rules on NPL securitisations: PRA CP10/21 extended closing date

The Prudential Regulation Authority (PRA) has [announced](#) that it has extended the closing date, from 26 July 2021 to 9 August 2021, for responses to its June 2021 consultation paper setting out proposed rules relating to the implementation of prudential standards agreed by the Basel Committee on Banking Supervision (BCBS) for non-performing loan (NPL) securitisations (CP10/21).

It has come to the PRA's attention that, due to a technical issue, past responses to CP10/21's mailbox have not been received. The PRA requests that responses sent before 29 July 2021 are re-sent to the following mailbox: SecuritisationsPolicy@bankofengland.co.uk.

PRA banking supervisory disclosures on rules and guidance, options and discretions, SREP, and aggregate statistical data

On 30 July 2021, the PRA published a [webpage](#) on banking supervisory disclosures. The PRA explains that, before the UK withdrew from the EU, it was required to publish information on rules and guidance, options and discretions, the supervisory review and evaluation process (SREP), and aggregate statistical data, alongside submitting this information to the European Banking Authority (EBA), in line with Article 143 of the Capital Requirements Directive (CRD) and Commission Implementing Regulation 650/2014. Subsequent to the UK's withdrawal from the EU, the PRA agreed, on a voluntary basis, to provide this data for the period to end-2020.

The purpose of the PRA publishing this information is to enable a comparison of the approaches adopted by the competent authorities of the different EU member states. Consolidated data can be found on the EBA's website.

Credit Information Market Study: FCA resumes work

The Financial Conduct Authority (FCA) has [announced](#) that it has resumed work on its Credit Information Market Study. The FCA paused its work on the market study in April 2020 due to the COVID-19 pandemic. It has now restarted the study with the same scope as in the original terms of reference. The work will, however, reflect market and regulatory developments relevant to credit information over the last 18 months, including:

- the response of credit reference agencies (CRAs) and lenders to the pandemic;
- the impact that the growth in different / new forms of credit could have on credit information; and
- technological and behavioural changes that may alter the way people interact with their credit information (for example, greater uptake of Open Banking).

The market study will also take account of the [Woolard Review](#) recommendations to the FCA.

The FCA intends to engage with industry and consumer groups and complete its analysis during Q3 2021, ahead of publishing an interim report in Q1 2022. The interim report will set out the FCA's vision for the credit information sector, its emerging findings (including on lenders' reporting of forbearance) and the FCA's early thinking on any potential remedies. It will also take into account a [report](#) that the FCA commissioned into potential future developments in the credit information market.

Access to Banking Standard: LSB summary report

The Lending Standards Board (LSB) has published its third [summary report](#) following a review of compliance with the Access to Banking Standard. The Access to Banking Standard aims to help minimise the impact of bank branch closures on customers and local communities. It is designed to ensure that customers affected by branch closures receive sufficient communication and clarity on the reasons for the closure and adequate support in accessing alternative banking services.

The activity reviewed covers ten closure programmes across the nine firms registered to the Standard. One firm review completed in 2019 covered 17 branch closures, and nine firm reviews undertaken during 2020 covered 357 branch closures. The LSB states that the review evidenced areas of good practice from all firms involved in the review and it did not identify any areas of non-compliance with the Standard. However, some areas of improvement were identified and firms have been issued with individual reports and action plans which the LSB will continue to monitor.

EBA and ECB 2021 EU-wide stress test results

The European Banking Authority (EBA) and the European Central Bank (ECB) have published the results of their respective 2021 EU-wide stress tests for banks. The [EBA](#) has published its results in a [report](#), together with a [summary](#) of the results and [FAQs](#).

The [ECB](#) has separately published the [results](#) of its stress test as prudential supervisor of banks in the single supervisory mechanism (SSM), together with [FAQs](#). It is the first time the ECB has published individual information for banks that are not part of the EBA exercise.

BRRD: EBA final report on amending draft ITS on resolution planning reporting

The EBA has published a [final report and annexes](#) containing draft implementing technical standards (ITS) amending Commission Implementing Regulation (EU) 2018/1624 (resolution planning reporting ITS) on the provision of information for the purposes of resolution plans in the context of the Bank Recovery and Resolution Directive (BRRD).

The EBA explains that the amendments are minimal and are aimed at re-aligning the standards with the provisions of the BRRD, following the changes to the minimum requirement for own funds and eligible liabilities (MREL) introduced in BRRD II, as well as to remove some identified obstacles, at the technical level, which hamper compliance with the requirements specified in these ITS.

The amended ITS are intended to apply for the first time for reporting with the reference date of 31 December 2021.

The draft ITS will be submitted to the European Commission for endorsement before being published in the Official Journal of the European Union.

Proportionality in banking regulation and supervision: Joint BCBS and World Bank report

The Basel Committee on Banking Supervision (BCBS) has published a [report](#) jointly with the World Bank (WB) setting out the findings from a global survey on proportionality in banking regulation and supervision. The survey was carried out to facilitate greater understanding by all relevant stakeholders of the proportionality practices in different jurisdictions. The BCBS and the WB found that proportionate implementation is practised widely and its use is growing.

Supervisors view proportionality as promoting banking stability, reducing unnecessary regulatory burdens and compliance costs, and making effective use of scarce supervisory resources. Consistent with this, a significant number of respondents plan to implement or revise their proportionate approaches.

However, the BCBS and WB also found that challenges remain for jurisdictions both in designing a proportional approach and after proportionality is implemented. These challenges include how to define tiering criteria, maintain a level playing field, and ensure financial positions are comparable across banks. They also found that implementation can be motivated by factors other than risk profile or systemic relevance, for example, to meet the expectations of host-jurisdiction supervisors or rating agencies, or because of regional or peer pressure.

Payments

CRM code for APP scams: LSB update

The Lending Standards Board (LSB) has published a [press release](#) setting out the next steps for the contingent reimbursement model code (CRM code) for authorised push payment (APP) scams.

Among other things, the LSB refers to its March 2021 call for input on the CRM code. Although it is in the course of analysing the results, the LSB provides some information on the responses received. Respondents suggest that the risk of APP scams is not evenly distributed among payment providers. Some believe that the CRM code does not take account of more diverse business models and point out that APP scams continue to evolve using different mediums such as cryptocurrencies.

The LSB recognises it is vital that protections are afforded to as many customers as possible. As a result, it will carry out work to further review the wording of the CRM code to ensure that a wider range of firms are able to sign up to, and implement, it, while retaining a consistent level of consumer protection across the board. Also, the LSB has introduced interim registration. This allows firms to demonstrate their commitment to becoming a fully registered firm with an LSB standard or code and sets a timeframe in which they are to become compliant. At the same time, the LSB conducts due diligence on the firm to ensure the customer protections are met at the point they reach full registration.

The LSB advises that it will set out a timeline for making the confirmation of payee (CoP) provisions in the CRM code effective for those firms who have this functionality. It will continue to work closely with the Payment Services Regulator (PSR) and Pay.UK as they strive towards phase 2 of CoP activity.

Other key areas of work for the LSB include refreshing the customer-facing document that accompanies the CRM code and working towards defining success measures of the code.

The LSB plans to publish a full report from the call for input in autumn 2021.

Codified Regulation on cross-border payments: published in OJ

[Regulation \(EU\) 2021/1230](#) on cross-border payments in the EU has been published in the Official Journal of the EU (OJ). This Regulation lays down rules on cross-border payments and on the transparency of currency conversion charges in the EU. It codifies and replaces the existing Regulation on cross-border payments (924/2009) on 19 August 2021 (that is, twenty days after publication in the OJ).

External review of TARGET Services: Euro system response

The European Central Bank (ECB) has published the [response](#) of the Eurosystem to an independent review of incidents affecting TARGET Services (in particular, TARGET2 (T2) and TARGET2-Securities (T2S)) in 2020.

In May, August, September, October and November 2020, TARGET Services encountered a number of major incidents (none of them cyber-related) relating to information technology (IT) and affecting payment transactions and securities processing. Due to the frequency of the incidents and their relevance, the ECB decided in November 2020 to launch an external and independent review of TARGET Services.

Deloitte GmbH (Deloitte) was appointed in December 2020 to conduct this review. The terms of reference envisaged identification of the root causes of the incidents and the drawing of more general lessons, as well as proposing recommendations in certain key areas.

The ECB has released an abridged and redacted [excerpt](#) from Deloitte's report following the review. The report describes the 2020 incidents in detail, outlines their consequences for TARGET Services' participants and analyses their root causes. Deloitte identified weaknesses in several areas, including business continuity management, fail-over and recovery testing and communication protocols in crisis situations. Based on these findings, 18 detailed recommendations have been made.

In its response, the Eurosystem accepts these recommendations as well as the report's general conclusions. It commits to implementing the recommendations in full and notes that measures addressing several of the recommendations have already been agreed on or implemented.

The ECB has published an accompanying [letter](#) to the European Parliament's Economic and Monetary Affairs Committee in which it notes the review's findings and the Eurosystem's response, and commits to keeping the Parliament and the wider public informed about progress in implementing the recommendations.

Securities and Markets

Benchmarks (Provision of Information and Documents) (Amendment) Regulations 2021 published

The Benchmarks (Provision of Information and Documents) (Amendment) Regulations 2021 ([SI 2021/920](#)) (Amending Regulations) have been published, together with an [explanatory memorandum](#). The Amending Regulations come into force on 8 August 2021. They amend the Benchmarks (Provision of Information and Documents) Regulations 2021 (SI 2021/812), which make provision in respect of a notice or permission given by the Finance Conduct Authority (FCA) to a benchmark administrator under Articles 22A, 22B, 23A and 23D of the UK Benchmarks Regulation (UK BMR) where the FCA is considering whether to wind down a critical benchmark.

As currently drafted, SI 2021/812 only applies to an administrator of a benchmark that is specified as critical by regulations made under Article A20 or Article 20 of the UK BMR. The Amending Regulations correct a drafting error to ensure that SI 2021/812 also applies to an administrator of a critical benchmark that is listed in Commission Implementing Regulation (EU) 2016/1368 establishing a list of critical benchmarks used in financial markets pursuant to the Benchmarks Regulation ("the Commission Implementing Regulation").

This amendment will ensure that SI 2021/812 will apply to LIBOR, the only critical benchmark in the UK at present and which is listed under the Commission Implementing Regulation.

Updated FX Global Code and accessible FX market disclosures: BoE speech

The Bank of England (BoE) has published a [speech](#) by Rohan Churm, BoE Head of Foreign Exchange (FX) Division, on accessible FX market disclosures.

Mr Churm chaired the Disclosure and Transparency Working Group established by the Global Foreign Exchange Committee (GFXC) as part of its three-year review of the FX Global Code. In his speech, Mr Churm reflects on the review and, in particular, the key issues in the disclosure landscape and the changes to support transparency in the FX market.

BMR: European Commission consults on draft Delegated Regulation specifying fees, fines and penalties applicable to ESMA's supervision of certain benchmark administrators

The European Commission is [consulting](#) on a draft Delegated Regulation supplementing the Benchmarks Regulation (BMR) by specifying fees and rules of procedure for measures applicable to the supervision by the European Securities and Markets Authority (ESMA) of certain benchmark administrators.

ESMA will supervise European critical benchmark administrators and third country benchmark administrators that want to obtain recognition as from January 2022. This initiative establishes:

- the fees that benchmark administrators need to pay ESMA for supervision; and
- the procedure ESMA needs to follow to impose fines or penalties on benchmark administrators under its supervision.

The consultation closes on 27 August 2021. The Commission expects to adopt the draft Delegated Regulation in Q3 2021.

Data reporting service providers: European Commission consults on supervision

The European Commission is [consulting](#) on a draft Delegated Regulation which supplements the Markets in Financial Instruments Regulation (MiFIR) by specifying fees, rules of procedure for measures and criteria for derogation relating to the supervision by ESMA of data reporting service providers (DRSPs).

The supervision of DRSPs will be transferred from national competent authorities to ESMA from January 2022. The draft Delegated Regulation establishes the:

- derogation criteria for DRSPs that will continue to fall under national supervision instead of ESMA supervision;
- fees that DRSPs need to pay ESMA for supervision; and
- procedure ESMA needs to follow to impose fines or penalties on DRSPs under its supervision.

The consultation closes on 27 August 2021.

Designating replacement rates for CHF LIBOR and EONIA: European Commission consultations

The European Commission is consulting on:

- a [draft Implementing Regulation](#) on the designation of a statutory replacement for certain settings of Swiss Franc (CHF) LIBOR; and
- a [draft Implementing Regulation](#) on the designation of a replacement for the EONIA benchmark, which will be discontinued from 3 January 2022. The replacement rate is calculated using an already updated EONIA methodology that is based on recommendations by the relevant industry working group and the consensus of relevant stakeholders. The designated rate will replace contractual references to EONIA in the EU on 3 January 2022.

Both consultations close on 31 August 2021.

Insurance

Flood insurance: UK government response to independent review

Following the publication in November 2020 of a report on the [independent review](#) of flood insurance in Doncaster, the government has published a [policy paper](#) response to the review. The report, which was commissioned by the government, set out the findings from an independent review of why some Doncaster residents who suffered flooding in November 2019 did not have sufficient insurance cover. The report also identified action that might improve protection against future events, in the form of 12 recommendations. The government explains that it fully accepts nine of the recommendations and accepts three in part. It will work with the industry and flood risk management stakeholders to progress them. Among other things, the government:

- accepts the recommendation to consider regulation by the Financial Conduct Authority (FCA) to reduce insurance policies with flood exclusions. It is taking a proactive stance with the insurance industry to ensure it addresses the exclusion issues. The government will write to the Association of British Insurers (ABI) asking it to work with insurers to provide data, as soon as possible, on the current number of household policies with flood exclusions;
- accepts the recommendation of industry-led actions to address concerns about policies with flood exclusions and take up of Flood Re. It comments that the recommendations challenge the ABI and the British Insurance Brokers' Association (BIBA) to improve communication and awareness between the industry and consumers to ensure Flood Re is being used where applicable and improve best practice. This will help consumers become more aware of their insurance options and may decrease the number of policies sold with flood exclusions; and
- notes that BIBA, the ABI and Flood Re are already developing a code of practice and a new specialist directory of firms who can offer flood insurance for household building and contents cover. The government will write to the industry to ensure there is a clear timetable for delivery within the next twelve months and ask it to regularly provide sufficient data to help assess the impact of these interventions.

In a [press release](#) responding to the policy paper, the ABI generally welcomes the government's work in this area. It explains that insurers will continue to support their customers who have been flooded. The industry is committed both to developing a signposting service for customers who find it challenging to obtain flood insurance, and to doing all it can, in partnership with the government and the devolved administrations, to ensure that increased flood risk is appropriately managed.

2022 insurance stress test: PRA Dear CEO letter

The Prudential Regulation Authority (PRA) has published a [Dear CEO letter](#) setting out timelines and high-level scope for the 2022 insurance stress test (IST) to support firms' planning.

On timing, IST 2022 will be launched in mid-May 2022, firms' submissions will be required by mid-September 2022 and the PRA plans to provide feedback on the exercise in December 2022.

On scope:

- for life insurers, the stress testing exercise will primarily focus on economic stresses. Recognising the difficulty in achieving consistency across life firms in 2019, the PRA intends to share the scenario design without calibration in September 2021 for early industry comment and feedback. This will also provide a basis for engagement between

the PRA and individual firms to support firms' IST 2022 delivery planning, including reporting; and

- for general insurers, the stress testing exercise will focus on natural catastrophe perils and cyber underwriting risk (including standalone or part of a broader package, as well as non-affirmative covers where relevant). Recognising the complexity in designing a cyber underwriting scenario, the PRA will share the design of the cyber scenarios in September 2021 for early industry comment and feedback.

The PRA states that the IST 2022 exercise will help to inform its longer-term approach to insurance stress testing with any identified changes to be included in its work following the review of the UK Solvency II regime led by HM Treasury.

Funds and Asset Management

Regulation on the cross-border distribution of CIS: ESMA guidelines for marketing communications

The European Securities and Markets Authority (ESMA) has published the [official translations](#) (select the "i" for languages other than English) of its [guidelines](#) on marketing communications under the Regulation on the cross-border distribution of funds. ESMA published a [final report](#) on the guidelines in May 2021.

The aim of the guidelines is to specify the requirements for marketing communications set out in Article 4(1) of the Regulation. In particular, they:

- establish common principles on the identification of marketing communications;
- the description of risks and rewards of purchasing units or shares of an alternative investment fund or units of a UCITS in an equally prominent manner; and
- the fair, clear and not misleading character of marketing communications, taking into account online aspects of such marketing communications.

The guidelines do not replace existing national requirements on the information to be included in marketing communications (such as those relating to the fiscal treatment of the investment in the promoted fund) to the extent these are compatible with any existing harmonised EU rules

The guidelines will apply from February 2022 (that is, six months after the date of the publication of the translations).

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