



FIG Bulletin

Recent developments
9 November 2020

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General

UK-Japan Comprehensive Economic Partnership Agreement

The UK government has [announced](#) that the UK and Japan have signed the [UK-Japan Comprehensive Economic Partnership Agreement](#) (CEPA) as the UK's first major trade deal as an independent trading nation. The UK-Japan CEPA will replace the existing economic partnership agreement between the EU and Japan on 1 January 2021.

The CEPA is a comprehensive free trade agreement covering various areas of trade policy, including financial services.

UK-US Financial Regulatory Working Group update

HM Treasury has published a [joint statement](#) by members of the UK-US Financial Regulatory Working Group following their third meeting held on 20 October 2020.

The meeting focused on five key themes: the economic response to, and potential financial stability impacts of, the COVID-19 crisis; international cooperation and 2021 priorities; cross-border rules and overseas recognition, equivalence and substituted compliance regimes; sustainable finance; and financial innovation.

Financial services after Brexit: House of Lords EU Services Sub-Committee call for evidence

The House of Lords EU Services Sub-Committee has published a [call for evidence](#) relating to its ongoing inquiry into financial services after Brexit. The Committee is keen to hear evidence on the priorities for the future UK-EU relationship in the financial services sector and the potential consequences if no free trade agreement is reached.

The deadline for responses is 20 November 2020. Public hearings are expected to take place in November and the Committee intends to write to the government with its findings before the end of 2020.

Brexit: FCA list of EEA regulator resources

The Financial Conduct Authority (FCA) has published a [webpage](#) of links to dedicated Brexit websites hosted by financial regulators in EEA member states that it has been made aware of. The FCA cautions that it cannot guarantee the accuracy of the information on those websites. The FCA intends to update the list when it has further content.

COVID-19: FCA PS20/12 on extending SMCR implementation deadlines for solo-regulated firms

Following its consultation in CP20/10, the FCA has published a policy statement, [PS20/12](#), on extending implementation deadlines for solo-regulated firms under the senior managers and certification regime (SMCR) relating to the certification regime and conduct rules. PS20/12 sets out the FCA's final rules and summarises the feedback it received to CP20/10 and its responses. Most respondents were supportive of the proposals.

PS20/12 confirms that the deadline for the following requirements is extended from 9 December 2020 to 31 March 2021:

- the date the conduct rules come into force for staff who are not senior managers, certification staff or board directors;
- the date by which relevant employees must have received training on the conduct rules;
- the deadline for submission of information about directory persons to the Financial Services Register; and
- references in the FCA's rules to the statutory deadline for assessing certified persons as fit and proper.

The FCA will also extend the implementation deadlines for claims management companies (CMC) by an equivalent period. This means that a CMC receiving full authorisation on or after 9 December 2019 will have just over 15 months after the date of its full authorisation to meet the same set of requirements as above.

The changes affect all FCA solo-regulated firms, aside benchmark administrators, and appointed representatives.

The FCA encourages all firms to meet the original deadline of 9 December 2020 wherever possible. Solo-regulated firms (except benchmark administrators) must have fully implemented the certification regime and conduct rules, and reported information on directory persons by 31 March 2021.

FCA directory of certified and assessed persons

The FCA has updated its [webpage](#) on its directory of certified and assessed persons to confirm the publication dates for directory person data submitted by firms under the SMCR.

Dual-regulated firms must submit their directory persons data via Connect by 13 November 2020. The FCA will begin to publish this data on the financial services register from 23 November 2020.

Solo-regulated firms must submit their directory persons data via Connect by 31 March 2021 using the single-entry submission form. Earlier dates apply if solo-regulated firms wish to use the multiple entry submission form, or if they wish their data to appear from earlier dates starting in December 2020.

The FCA will begin to incrementally display data from solo-regulated firms as it is submitted, starting from 14 December 2020. The last date for single entry submissions to appear from the outset is 9 December 2020.

FCA Handbook Notice 81

The FCA has published [Handbook Notice 81](#), which sets out changes to the FCA Handbook made by the FCA board on 23 July, 30 September and 22 October 2020. The Handbook Notice reflects changes made to the Handbook by the following instruments:

- [Conduct of Business \(Cryptoasset Products\) Instrument 2020 \(FCA 2020/34\)](#), in force on 6 January 2021;
- [Conduct of Business \(Cryptoasset Products\) \(Amendment\) and Associated Exiting the European Union Amendments Instrument 2020 \(FCA 2020/46\)](#), partially in force since 6 October 2020, with the rest of the instrument coming into force on the later of IP completion day or 6 January 2021;

- [Technical Standards \(Securities Financing Transactions Regulation\) \(EU Exit\) \(No 1\) Instrument 2020 \(FCA 2020/51\)](#) and [Technical Standards \(Securities Financing Transactions Regulation\) \(EU Exit\) \(No 2\) Instrument 2020 \(FCA 2020/52\)](#), both coming into force on IP completion day;
- [Technical Standards \(Markets in Financial Instruments Regulation\) \(EU Exit\) \(No 3\) Instrument 2020 \(FCA 2020/56\)](#), coming into force on IP completion day;
- [Handbook Administration \(No 54\) Instrument 2020 \(FCA 2020/61\)](#), in force on various dates;
- [COVID-19 Mortgages Instrument \(No. 2\) 2020 \(FCA 2020/62\)](#), which came into force on 23 October 2020;
- [Mortgages \(Intra-Group Switching\) Instrument 2020 \(FCA 2020/63\)](#), in force since 23 October 2020; and
- [Fees \(Credit Rating Agencies, Trade Repositories and Securitisation Repositories\) Instrument 2020 \(FCA 2020/67\)](#), partially in force from 23 October 2020, with the remainder coming into force on IP completion day.

Claims management companies: FCA Dear CEO letter

The FCA has published a [Dear CEO letter](#) that it has sent to CMCs in which it:

- sets out its view of the key areas that continue to pose a risk of harm to consumers in the markets in which CMCs operate;
- outlines its expectations of CMCs, including how firms should be mitigating these harms; and
- describes its supervisory strategy and programme of work.

GFIN cross-border testing of financial products and services: FCA participation

The FCA has [announced](#) that it will be participating in the cross-border testing initiative organised by the Global Financial Innovation Network (GFIN), which is now open for applications.

To support the application process, the GFIN has developed several tools and solutions to improve the cross-border testing framework for a new cohort of firms, which the FCA has also published. These include:

- a [single-entry application form](#) for firms;
- [cross-border testing FAQs](#) to help firms understand the process; and
- an evolved [Regulatory Compendium](#) that clarifies the remit and interests of participating regulators and the types of innovation services available.

Firms interested in applying to take part in cross-border testing should review the list of participating regulators and their respective Regulatory Compendiums and apply via the GFIN website before the 31 December 2020 deadline.

DB transfer risks: FCA warns financial advisers

The FCA, the Pensions Regulator (TPR) and the Money and Pensions Service (MaPS) have issued a [joint statement](#) indicating that the FCA has issued a data request to several financial advisers who have advised on pension transfers from the Rolls-Royce defined benefit (DB) scheme following recent redundancies.

The FCA, TPR and MaPS believe transferring out of a DB pension scheme is unlikely to be in the best interests of most consumers. Where the FCA sees unsuitable advice or bad practice, they warn that the FCA will take action.

Pensions Dashboards Programme: progress report

The Pensions Dashboards Programme (PDP) has published its second [progress report](#), confirming developments since April 2020 and setting out the steps planned for the next six months. The report includes an indicative phase plan for the entire project, running to 2023 and beyond.

The report summarises the key steps the PDP has taken over the past six months in developing the dashboard project, including undertaking two market engagement exercises on its requirements for the digital architecture and identity verification.

Combatting financial crime: FCA letter on UK approach

The FCA has published a [letter](#) responding to questions from the House of Commons Treasury Committee on the release to the media of papers filed with the US Financial Crimes Enforcement Network (FinCen). Among other things, the FCA explains the action the FCA is taking in the face of information in the FinCen files, including potential enforcement action, and what needs to be done to further secure the financial system from economic crime considering the information in the FinCen files.

Economic crime inquiry launched by Treasury Committee

The Treasury Committee has [launched](#) a new economic crime inquiry, focusing on anti-money laundering and sanctions measures, and protecting consumers from fraud. The inquiry will review what progress has been made in combatting economic crime. It will have two strands:

- anti-money laundering systems and the sanctions regime, including the FinCEN papers and the work of the Office for Professional Body Anti-Money Laundering Supervision; and
- how consumers are affected by economic crime, including emerging trends as a result of COVID-19 and authorised push payment fraud.

The committee will continue to examine economic crime related to Bounce Back Loans as part of its ongoing inquiry into the economic impact of COVID-19.

The deadline for comments is 27 November 2020.

UK sanctions legislation post-Brexit: analysis of new statutory instruments

With only months to go until the end of the Brexit transition period, many of us are turning our attention to what UK sanctions legislation will look like post-Brexit. EU sanctions have previously been implemented in the UK through a patchwork of legislation under the European Communities Act 1972. However, from 11pm on 31 December 2020, sanctions previously introduced in this manner will be brought over into law under the Sanctions and Anti-Money Laundering Act 2018 (SAML). In preparation, the UK Government has published a range of sanctions-related statutory instruments under SAML covering the different country and activity-based sanctions programmes that derive from EU law. Access an analysis of these [here](#).

FOS Ombudsman News issue 154

The Financial Ombudsman Service (FOS) has published the latest edition of its [Ombudsman News](#). This edition includes blogs on (i) the impact of COVID-19 on complaints from small and medium enterprises and (ii) how the FOS has helped small businesses with life-changing financial disputes, and the latest half-yearly complaints data.

Corporate criminal liability: Law Commission review

The government has asked the Law Commission to [review](#) the law on corporate criminal liability and give it options for reform. Concerns have been raised over the effectiveness of current laws in criminalising corporate entities when they commit economic crime. Calls for reform have been revived following the mixed success of recent high-profile prosecutions.

The Law Commission has been asked to draft an Options Paper, in which the Commission will analyse how effective the law is and where it could be improved. The Commission will present various options for reforming the law so that corporate entities can be held appropriately to account. The Commission aims to publish the Options Paper in late 2021 and will work with the government on next steps, including the potential for a full Law Commission project on corporate criminal liability.

Cryptoassets promotions: FMLC response to HM Treasury consultation

The Financial Markets Law Committee (FMLC) has published a [response](#) to HM Treasury's July 2020 consultation on cryptoasset promotions highlighting some of legal uncertainty relating to in HM Treasury's proposals.

Eurosystem Collateral Management System: ECB announces new launch date

The European Central Bank (ECB) has [announced](#) a delay to the launch date for the Eurosystem Collateral Management System (ECMS) from November 2022 to November 2023.

The delay is to address concerns raised by market participants about the current adverse environment and follows a July 2020 decision to extend the timeline for the T2-T2S consolidation project by one year. The ECB acknowledges that the timeline for the Single Collateral Management Rulebook for Europe (SCoRE) may also be adjusted and this is under discussion.

COVID-19: European Commission extends deadline for draft RTS under SFDR

The European Commission has [written](#) to the European Supervisory Authorities (ESAs) about the application of the Sustainable Finance Disclosure Regulation (SFDR) and related regulatory technical standards (RTS). Considering COVID-19, the Commission is extending the deadline for consulting on the RTS.

The Commission notes that the application of the SFDR is not conditional on the formal adoption and entry into force or application of the RTS. Therefore, financial market participants and financial advisers subject to the SFDR will still need to comply with its high level and principle-based requirements from 10 March 2021. However, to provide financial market participants and financial advisers adequate time for implementation, the RTS will apply at a later stage. This will also allow national competent authorities to prepare for the orderly and effective supervision of compliance by financial market participants and financial advisers with the requirements of the framework.

ESG: EBA discussion paper on incorporating ESG risks into management and supervision for credit institutions and investment firms

The European Banking Authority (EBA) has published a [discussion paper](#) on incorporating environmental, social and governance (ESG) risks into the governance, risk management and supervision of credit institutions and investment firms. The aim of the discussion paper is to set out the EBA's understanding on the relevance of ESG risks for a sound functioning of the financial sector.

The EBA identifies and explains ESG factors and ESG risks, giving particular consideration to risks stemming from environmental factors, especially climate change. This reflects ongoing initiatives and progress achieved by institutions and supervisors on this topic over recent years. Social and governance factors are included in the analysis and the EBA explores why and how these factors can also be sources of risk for institutions.

In its discussion paper, the EBA provides an overview of the approaches it has identified, divided into three different types: portfolio alignment method, risk framework method and exposure method.

The consultation period closes on 3 February 2021. The EBA intends to publish its final report on the management and supervision of ESG risks for credit institutions and investment firms in June 2021.

Taxonomy Regulation: ESMA consults on disclosure obligations for KPIs

The European Securities and Markets Authority (ESMA) has published a [consultation paper](#) on draft advice to the European Commission under Article 8 of the EU Taxonomy Regulation.

Article 8 of the Taxonomy Regulation requires non-financial undertakings under the Non-Financial Reporting Directive (NFRD) to disclose the proportion of their turnover, capital expenditures (CapEx) and operating expenditure (OpEx) associated with environmentally sustainable economic activities, consistent with the EU taxonomy. Under Article 8(4), the Commission is required to adopt, by 1 June 2021, a delegated act to specify the content, presentation and methodology of the information to be disclosed under those requirements. The European Commission issued a related call for advice addressed to all three European Supervisory Authorities (ESAs) on 15 September 2020.

ESMA's proposals are intended to ensure a consistent application of the disclosure obligations required under the Taxonomy Regulation by non-financial undertakings and asset managers that fall within scope of the NFRD. In developing the advice, ESMA has cooperated with the EBA and EIOPA to ensure consistent and coherent recommendations from the three authorities.

The consultation deadline is 4 December 2020. ESMA must deliver a final report, containing its final advice and a summary of responses to the consultation, to the Commission by 28 February 2021.

Forward-looking climate metrics for financial firms: TCFD publishes 2020 status report, further guidance and consultation

The Task Force on Climate-related Financial Disclosures (TCFD) has published its 2020 status [report](#) which is an annual report on TCFD-aligned disclosures by firms. The report shows a more than 85% increase in support by companies for TCFD since the 2019 status report. The

report highlights a continuing need to improve TCFD-aligned disclosures given the urgent demand for consistency and comparability in reporting.

The TCFD has also published [guidance](#) on climate-related scenario analysis for non-financial firms and [guidance](#) on integrating climate-related risks into existing risk management processes. Additionally, the TCFD has launched a [consultation](#) on forward-looking climate metrics for financial firms, which closes on 27 January 2021.

AML and CTF standards: FATF update

The Financial Action Task Force (FATF) has published an [updated version](#) of its anti-money laundering (AML) and counter-terrorist financing (CTF) standards. The FATF has adopted amendments to recommendations 1 (Assessing risks and applying a risk-based approach) and 2 (National co-operation and co-ordination) and the related interpretative notes, with a view to strengthening counter-proliferation financing.

The FATF expects all countries and regions to take steps to ensure implementation of these new obligations at the national level.

Banking and Finance

Approach to assessing resolvability: BoE consultation

The Bank of England (BoE) and the Prudential Regulation Authority (PRA) are consulting in parallel on a package of proposals relating to their policies for operational continuity in resolution (OCIR). The BoE [consultation paper](#) mainly proposes updates to its Statement of Policy (SoP), "Approach to assessing resolvability". It also proposes amendments to SoPs on "Restructuring planning", "Management, governance and communication", and "Valuation capabilities". The proposed amendments to the SoPs are set out in an accompanying [Appendix](#).

The proposed amendments to the "Approach to Assessing Resolvability" SoP comprise:

- amendments to the "Scope of operational continuity arrangements in the context of achieving the resolvability outcomes" box in the OCIR section;
- updates to how the BoE would assess whether firms meet the OCIR objective in paragraph 5.9; and
- clarification of the BoE's approach (consistent with paragraphs 2.5–2.6) to assessing whether hosted material subsidiaries meet the OCIR objective in the Resolvability Assessment Framework.

In this consultation, the BoE also proposes to reflect the changes to resolution measures, announced in May 2020, aimed at alleviating operational burdens on PRA-regulated firms in response to COVID-19. To reflect the proposals in the PRA's CP19/20 (see below), the BoE proposes to update the SoPs on:

- "Approach to Assessing Resolvability", to reflect the proposal to extend the deadline for major UK banks and building societies to submit their first reports to the PRA on preparations for resolution to October 2021, and to extend the date for these firms to make public disclosures on their reports to June 2022; and
- "Valuation Capabilities to Support Resolvability", to reflect the proposal to extend the deadline for compliance with the SoP to 1 April 2021.

The consultation ends on 31 January 2021. Firms are encouraged to read PRA consultations, CP19/20 and CP20/20, published at the same time.

COVID-19: PRA CP19/20 on amendments to reporting and disclosure dates for resolution assessments

A related PRA consultation paper, [CP19/20](#), consults on amendments to reporting and disclosure dates for resolution assessments. The amendments are proposed in light of COVID-19.

CP19/20 sets out the PRA's proposal to extend, by one year, the dates by which firms are first required to submit a report of their assessment of their resolution preparation, and to first publish a summary of that report under Rule 3.1(1) and Rule 4.1(1) respectively of the Resolution Assessment Part of the PRA Rulebook. The proposed changes would amend the dates in the rules as follows:

- Resolution Assessment 3.1(1), to reflect that the date by which firms must submit a report of their assessment would change from the first Friday in October 2020, to the first Friday in October 2021; and

- Resolution Assessment 4.1(1), to reflect that the date by which firms must publish a summary of the most recent report would change from the second Friday in June 2021 to the second Friday in June 2022.

In CP19/20, the PRA also proposes consequential amendments to its supervisory statement, SS4/19: Resolution assessment and publication disclosure by firms.

This consultation closes on 31 January 2021. The PRA proposes that the changes would take immediate effect following publication of the final policy in the first half of 2021.

Firms should also refer to the PRA's CP20/20, "Operational continuity in resolution: Updates to the policy" (see below), and the BoE consultation paper, "Updates to the BoE's approach to assessing resolvability" (see above), which were published at the same time.

Operational continuity in resolution policy: PRA CP20/20

The PRA has also published [CP20/20](#) on revising its OCIR. The purpose of the proposals is to improve firms' resolvability and support the BoE approach to resolution as set out in its SoP on its "Approach to assessing resolvability".

The PRA proposals would result in a new [supervisory statement](#) on OCIR, which would supersede the existing supervisory statement, SS9/16: Ensuring operational continuity in resolution. They would also amend the Operational Continuity Part of the PRA Rulebook and PRA OCIR expectations. The PRA proposes to update its policy in four main ways:

- requiring firms to consider the operational arrangements supporting the viability of the firm, and its key drivers of revenue and profit, in addition to those supporting its critical functions;
- changes to its policy regarding the way firms' financial arrangements facilitate operational continuity;
- changes to provide greater clarity compared with the existing policy, as well as amendments to the policy requirements that facilitate continuity throughout post-resolution restructuring; and
- the PRA has considered how it may be possible to reduce the burden on firms of implementing OCIR policy without compromising a firm's safety and soundness, or its ability to be resolved in an orderly manner.

The consultation ends on 31 January 2020. The PRA proposes that the changes come into force on 1 January 2022. It intends to publish its final policy in the first half of 2021.

The PRA states that many firms' existing OCIR arrangements may already be consistent with some of the proposals. Therefore, it would expect that firms would be able to leverage their existing OCIR arrangements when considering the extent to which further work may be necessary ahead of 1 January 2022.

BRRD II: PRA CP18/20 on transposition

The PRA is consulting, in [CP18/20](#), on transposing the Directive amending the Bank Recovery and Resolution Directive (BRRD II). The UK is required to transpose BRRD II by 28 December 2020. HM Treasury's statutory instrument (SI) transposing BRRD II was laid in Parliament on 15 October 2020. The SI amends primary legislation that will affect the PRA's Contractual Recognition of Bail-in (CROB) and Stay in Resolution (Stays) rules.

To ensure a faithful transposition of BRRD II, most of the elements of the SI that are relevant to the CROB and Stays rules come into force on 28 December 2020, but will subsequently cease to have effect from 11 pm on 31 December 2020 (IP completion day) ("sunsetting process").

In CP18/20, the PRA sets out proposals relating to the CROB and Stays rules concerning the new Articles 33a and 71a, and the amended Articles 55 and 69, of the BRRD. To support the sunsetting process, the PRA proposes to:

- temporarily suspend part of the CROB Part of the PRA Rulebook with effect from 28 December 2020 until IP completion day;
- reinstate the existing CROB Part, with minor amendments, to come into force immediately after IP completion day. The new rules post-IP completion day would be otherwise unchanged from the existing rules;
- amend the Stays Part to reflect the temporary SI change to the definition of "crisis management measure" in the Banking Act 2009, to come into force from 28 December 2020 until IP completion day; and
- reintroduce the existing Stays Part, as it was before 28 December 2020, to come into force immediately after IP completion day.

The consultation closes on 30 November 2020.

COVID-19: FCA information for mutual societies

The FCA has updated its [webpage](#) on its responsibilities to mutual societies and its [webpage](#) on mutual societies' annual returns and accounts with information relating to COVID-19.

The FCA notes that some societies are still experiencing delays in producing annual returns and accounts because of COVID-19. Although it asks societies to take steps to submit their returns as soon as is reasonably practicable, the FCA states that it will not take any action before 31 October 2020 on any delayed submission where the delay is three months or less. For annual returns and accounts due for submission by 30 April 2021, the FCA will not take any action on delayed submissions where the delay is three months or less. Societies do not need to tell the FCA about a delay.

Regarding holding member meetings, the FCA is aware that some societies are considering various options, including postponing scheduled member meetings, such as annual general meetings. Societies are concerned that this could lead to them breaching their own rules or legislative requirements. The FCA states that it is for societies to reach their own decision as to whether to go ahead with any planned meeting, considering any relevant government guidance, their own individual circumstances and, where appropriate, legal advice.

The FCA goes on to note that the rules of an individual society govern the relationship between a society and its members. Societies may want to take their own advice to consider any risks arising from action taken by members as a result of a breach of their own rules. The FCA has no role to play in determining disputes over society rules.

The FCA explains that the Corporate Insolvency and Governance Act 2020 has made it easier for societies to hold meetings virtually. Currently, these provisions apply to meetings due to take place up to 30 December 2020.

Where, following government guidance, the postponement of a general meeting results in breaching a legislative requirement, it may fall to the FCA to decide what, if any, action to take. It does not consider it to be in the public interest to act where it can see that a society is taking steps to ensure they meet the legislative obligation as soon as reasonably practicable.

Open banking identification requirements: FCA PS20/13

The FCA has published a policy statement, [PS20/13](#), on amendments to the open banking identification requirements (eIDAS certificate) after the end of the UK-EU transition period.

The EBA has announced that eIDAS certificates of UK third-party providers (TPPs) will be revoked when the transition period ends on 31 December 2020. Without intervention, UK-based TPPs will then be unable to provide open banking services to consumers. The changes outlined in PS20/13 will permit UK-based TPPs to continue accessing customer data and initiating payments by using alternatives to eIDAS certificates.

The changes will mean:

- UK-based TPPs will likely need to obtain a new certificate to be able to continue to provide open banking services in the UK, post-Brexit; and
- account providers (for example, banks) will likely need to make technical changes to their systems to enable TPPs to continue accessing customer account information, by accepting an alternative certificate and informing TPPs as soon as possible which certificate(s) they will accept.

Firms must review the changes immediately and implement any necessary changes as soon as possible. Acknowledging the challenges faced by the industry, the FCA is providing a transition period until the end of June 2021 for complying with the new rules.

LIBOR transition of SME customers: UK Finance and LSB Best Practice Guidance

UK Finance and the Lending Standards Board (LSB) have published [Best Practice Guidance](#) on the transition from LIBOR for small and medium-sized enterprise (SME) customers. The guidance is designed to help firms with the transition of SME customers to non-LIBOR linked products.

LSB guidance on Access to Banking Standard

The LSB has published [Industry Guidance](#) on the Access to Banking Standard (Standard) to help provide greater consistency in the way the Standard is applied by its signatory firms. The guidance provides non-exhaustive examples of the approach to access to banking that firms may wish to take into consideration when seeking to adhere to the Standard. These include good practice examples relating to the application of the Standard.

CRD IV: EBA consults on changes to guidelines on sound remuneration policies

The European Banking Authority (EBA) has published for consultation a [revised version](#) of its guidelines on sound remuneration policies. The consultation is limited to the revisions, reflecting amendments required by CRD V, which are shown in a [track changes version](#) of the guidelines.

The deadline for responses is 29 January 2021.

TLAC-MREL instruments: EBA first monitoring report

The EBA has published its first [monitoring report](#) on total loss absorbing capacity (TLAC) and minimum requirement for own funds and eligible liabilities (MREL) instruments. The purpose of the report is to inform stakeholders about the implementation review performed by the EBA on TLAC and MREL instruments, and to present its views, examples of best practice and current

recommendations on specific features commonly seen in the instruments. It also provides an insight into areas for scrutiny or monitoring, or potential EBA guidance going forward.

Basel III standards: BCBS progress report to G20

The Basel Committee on Banking Supervision (BCBS) has published a [report](#) for the G20 leaders on the implementation of the Basel III regulatory reforms and the Basel framework-related measures taken by BCBS members in response to COVID-19.

In the report, the BCBS reiterates its expectation of full, timely and consistent implementation of all Basel III standards based on the revised timeline endorsed by its oversight body in March 2020, in light of COVID-19.

The BCBS will continue to monitor the implementation and evaluate the impact of its standards, and it will regularly report to the G20 on progress. It will also continue to monitor the regulatory and supervisory measures taken by its members in response to COVID-19, including the use of flexibility and consistency of these measures with the Basel framework.

Consumer Finance

COVID-19: FCA draft further guidance to support mortgage borrowers

On 2 November 2020, the UK Financial Conduct Authority (FCA) published [draft further updated guidance](#) and [draft updated additional guidance](#) for mortgage firms to support mortgage borrowers financially affected by COVID-19. This is in the light of the latest government restrictions in response to COVID-19. The draft was open for comments until 5 November 2020.

Under the proposals, the June 2020 guidance on payment deferrals (the Payment Deferral Guidance) will be extended until 31 January 2021, with very little change to the existing scheme. This means that customers may be able to benefit from payment deferrals up to the end of April 2021, although customers are still limited to two three-month deferrals. Customers who have already had two deferrals will continue to fall under the "Additional Guidance" (first published in September 2020 and updated to reflect the extension of the original payment deferral regime).

Read more in our separate update: [FCA extends the COVID-19 payment deferral scheme for mortgages and updates its additional guidance.](#)

COVID-19 and mortgages: FCA PS20/11 to support closed book and interest – only / part-and-part borrowers

Following its consultation in CP20/13, the FCA has published a policy statement, [PS20/11](#), on mortgages and removing barriers to intra-group switching, and helping borrowers with maturing interest-only and part-and-part mortgages.

The FCA has published final changes to extend the scope of its rules on internal switching to include mortgage borrowers from closed books (that is, books which are closed to new customers) sitting within the same financial group as an active lender. The FCA accepts that use of the extended regime will remain at the lender's commercial discretion, so will be "limited by factors such as eligible borrowers' risk profiles, lenders' risk appetites and wider market conditions".

The FCA has also finalised its temporary guidance that provides that customers with maturing interest-only or part-and-part mortgages should be able to defer their capital repayment until 31 October 2021. They will be required to make interest payments during that time, but lenders will be unable to repossess if they do. There is also a reminder that the FCA's temporary additional guidance on mortgages and coronavirus issued in September 2020 reconfirms that a firm should not try to repossess a borrower's property when they are needing to self-isolate.

We consider these issues more in our briefing: [Mortgage prisoners: FCA finalises further support in light of COVID-19.](#)

COVID-19: FCA further proposals to support consumer credit borrowers

On 2 November 2020, the FCA [announced](#) that it proposes to update guidance on personal loans, credit cards, motor finance, rent to own (RTO), buy-now pay-later (BNPL), pawnbroking and high-cost short-term credit (HCSTC) to support consumer credit customers financially affected by COVID-19. This is in the light of the latest government restrictions in response to COVID-19.

Support under the guidance for credit cards, personal loans, RTO, BNPL, pawnbroking, motor finance and HCSTC products is being extended to 31 January 2021, although some provisions

will remain in force beyond 31 January 2021 for customers granted payment deferrals which come to an end after that time. The September 2020 additional guidance on overdrafts is not included in this latest update as the FCA thinks the current version provides the necessary support to help consumers (for now at least).

We consider this development in greater detail in our separate article: [COVID-19: FCA consults on extended support for consumer credit customers](#).

COVID-19: FCA speech on TCF in credit markets

The FCA has published a [speech](#) given by Jonathan Davidson, FCA Executive Director of Supervision: Retail and Authorisations, on the FCA's expectations around forbearance, operational challenges and the importance of firms recognising and responding to the needs of vulnerable customers in the credit market in light of the COVID-19 pandemic.

Mortgage intermediaries: FCA Dear CEO letter

The FCA has published a [Dear CEO letter](#) it has sent to mortgage intermediaries in which the FCA sets out its view of the key risks mortgage intermediaries pose to their consumers, or the markets in which they operate. The FCA also outlines its expectations, including how firms should mitigate those key risks, and explains the FCA's supervisory strategy and programme of work to ensure that firms are meeting its expectations.

Unsecured credit market regulation review into change and innovation: FCA call for input

The FCA has published a [call for input](#) on its review into change and innovation in the unsecured credit market ("the Woolard Review"). The market includes credit cards, overdrafts and, increasingly, unregulated products such as some "buy-now-pay-later" (BNPL) arrangements or lending through payroll. The FCA wants to know how the market is changing, particularly considering COVID-19, and how regulation can support a healthy unsecured lending market. The call for input asks questions under four themes:

- drivers and use of credit;
- change and innovation in the supply of credit;
- the role of regulation in unsecured credit markets; and
- the impact of COVID-19 and the FCA's response.

The deadline for comments is 1 December 2020. In addition to the call for input, the review team will seek evidence through a series of roundtables in November, individual interviews and research. The work will be supported by an advisory panel, which will bring a range of perspectives from firms and consumer groups to shape the review. Further details appear on the FCA's [webpage](#) on the review.

CCD: European Commission report on implementation

The European Commission has published a [report](#) to the European Parliament and Council of the EU on implementation of the Consumer Credit Directive (CCD). The Commission launched a consultation to evaluate the CCD in January 2019 and this report presents the key results of its evaluation and the lessons learnt from the application of the CCD over the past ten years, including the considerations required under Article 27(2) of the Directive.

The Commission will consider its evaluation findings in its revision of the CCD which it has already announced for the second quarter of 2021.

Payments

PSD2: EBA proposes changes to Guidelines on major incident reporting after latest review

Following the European Banking Authority's (EBA's) latest required review of its July 2017 Guidelines on major incident reporting under PSD2, it is consulting on some specific proposals, including changes to reporting thresholds and criteria to improve accuracy in the results and improvements to the reporting process to facilitate compliance by PSPs. The revised Guidelines are expected to come into force on 1 October 2021.

With the end of the post-Brexit transition period fast approaching, the UK Financial Conduct Authority (FCA) has recently confirmed that its "supervisory expectation in respect of [European Supervisory Authorities (ESA)] Guidelines and Recommendations remains the same" unless it has notified the relevant ESA otherwise. The FCA will consider new or updated guidance issued after the end of the transition period and, where appropriate, set out expectations as to how it should be treated. Firms should therefore expect to be told by the FCA if they need to comply with the updated version of these Guidelines once published.

Read more in our separate insight article [here](#).

Global Payments Newsletter: October 2020

We have published our latest [Global Payments Newsletter](#) for October 2020. Key developments of interest reported in this edition include:

- Europe: The European Commission has published a communication setting out an EU Retail Payments Strategy;
- France: The French Observatory for the Security of Payment Means has published its Annual Report for 2019; and
- United Kingdom: HM Treasury has published a call for evidence on access to cash, seeking views to feed into legislative work in this area.

ISO 20022 migration: BoE revised approach and final schemas

The Bank of England (BoE) has published a [document](#) setting out the revised approach and final enhanced schemas for ISO 20022 migration.

This is the new baseline document for all the BoE's ISO 20022-related documentation. It should be used by stakeholders, including CHAPS direct participants, real-time gross settlement (RTGS) account holders and technology providers, as a handbook and for reference as part of ISO 20022 migration. It supersedes previously published BoE ISO 20022 documents in which the BoE consulted on its plans and updated stakeholders on progress.

The BoE expects that ongoing changes will be required to meet future end-user requirements and to maintain alignment with international best practice. Section 5 of the document sets out its initial change management framework, which will allow ISO 20022 users to submit change requests to the CHAPS ISO 20022 messages, the process for which is outlined in Annex B.

The BoE has also updated its [webpage](#) on ISO 20022. It explains that the final CHAPS ISO 20022 schemas (that is, enhanced messages), technical guidance and change log are available on MyStandards (which requires a login to the swift.com user account). The BoE has incorporated

feedback received from stakeholders following its July 2020 industry review of the draft enhanced schemas, and includes feedback from the industry review in Annex A.

Consumer protections in payments: Pay.UK paper

Pay.UK has published a [paper](#) providing an overview of the UK consumer protection landscape relating to disputed transactions. The paper includes a summary of findings and insights from secondary research on the evolving payments and consumer protection landscape and regulatory perspectives. It also discusses consumer perceptions and a global perspective on consumer protection. The paper concludes with next steps, including Pay.UK's ongoing primary research project focusing on consumer perception of consumer protection. This research will be fed into Pay.UK's policy work on the topic, which is expected to follow by the end of 2020.

Participation of non-EEA countries in SEPA Schemes: EPC criteria

The European Payments Council (EPC) has published a [document](#) setting out criteria for participation in the Single Euro Payments Area (SEPA) Schemes for communities of banks or financial institutions outside the European Economic Area (EEA).

2019 SEPA scheme rulebooks: EPC further update

The EPC has [announced](#) further updates (version 1.2) to its 2019 SEPA scheme rulebooks:

- [SEPA Credit Transfer Scheme \(SCT\) Rulebook](#);
- [SEPA Instant Credit Transfer \(SCT Inst\) Rulebook](#);
- [SEPA Direct Debit \(SDD\) Core Scheme Rulebook](#); and
- [SDD Business-to-Business \(B2B\) Rulebook](#).

The EPC has also published an updated version of the document [Maximum amount for instructions under the SCT Inst Scheme Rulebook](#) (version 1.3). A related [webpage](#) explains that this document sets the maximum amount per instruction that can be processed under the SCT Inst scheme, based on the 2019 SCT Inst Rulebook (version 1.2), to which it forms a binding supplement.

Version 1.2 of each 2019 payment scheme rulebook includes an updated section 5.4 which states, among other things, the relevant authorisation and regulatory requirements for payment service providers from countries outside the EEA. This follows the extension of the geographical scope of the payment schemes to include Andorra and the Vatican City State (the EPC [List of SEPA Scheme Countries](#) (version 3.0) has been updated accordingly). It also covers the end of the transitional period for the UK leaving the EU on 31 December 2020.

Version 1.2 of each 2019 payment scheme rulebook is in force from 1 December 2020 until 21 November 2021.

Electronic payment instruments, schemes and arrangements: ECB consults on draft Eurosystem oversight framework

The European Central Bank (ECB) has published:

- a [consultation paper](#) on the draft Eurosystem oversight framework for electronic payment instruments, schemes and arrangements (PISA framework). It replaces the "Harmonised oversight approach and oversight standards for payment instruments" and all related oversight frameworks for cards, direct debits, credit transfers and the security objectives for e-money. It is the result of a comprehensive review considering regulatory

and technological developments in recent years, as well as the experience gained by the Eurosystem in the oversight of payment schemes and payment instruments;

- a [consultation paper](#) on the draft Eurosystem assessment methodology for electronic payment instruments, schemes and arrangements, which complements the PISA framework. The underlying methodology is based on the ECB's revised assessment methodology for payment systems, which was published in June 2018;
- a [consultation paper](#) on the draft exemption policy for the PISA framework. The policy defines the criteria used to identify the payment schemes and arrangements overseen by the Eurosystem and those which are exempt, taking into account their relevance for the overall payment system. The exemption criteria and their respective thresholds aim to be proportionate to the risks introduced by small and emerging payment schemes and arrangements and, therefore, exempt payment schemes and arrangements that do not meet the defined criteria and thresholds. The Eurosystem will review this policy at least every three years to ensure it is line with market developments and experience gained over the period.

The consultations close on 31 December 2020.

Securities and Markets

ISDA 2020 IBOR Fallbacks Protocol

The International Swaps and Derivatives Association, Inc. (ISDA) has published the ISDA 2020 IBOR Fallbacks Protocol. Our separate client alert, [ISDA 2020 IBOR Fallbacks Protocol: What you need to know](#), sets out key issues counterparties may wish to consider.

Brexit: FCA webpage on market making exemptions

In the context of firms preparing for Brexit, the UK Financial Conduct Authority (FCA) has published a new [webpage](#) on market making exemptions. It reminds firms that intend to use market making exemptions from January 2021 that they need to notify the FCA before the end of the transition period on 31 December 2020 and signposts for firms additional information resources.

The FCA explains that, under the onshored UK Short Selling Regulation (UK SSR), any firm wishing to use the exemption for transactions due to market making activities will be required to join a UK trading venue and notify the FCA of their intention to use the market maker exemption in writing 30 days ahead of their intended use. Notices of intention given to the FCA before the end of the transition period will remain valid.

Accordingly, firms that have already notified the FCA of an intention to use the market maker exemption and remain members of a UK trading venue will be able to continue using the exemption after the transition period comes to an end only for instruments traded on UK trading venues. However, notifications made to the FCA for instruments traded in the EU will no longer be valid.

To be able to use the UK SSR market maker exemption from the end of the transition period, EEA market makers that are not already members of a UK trading venue will need to become members of a UK trading venue and, at least 30 days before the end of the transition period, provide the FCA with a notification or a copy of any notification made to another competent authority.

Brexit: FCA webpage on net short positions reporting

Also in the context of firms preparing for Brexit, the FCA has published a new [webpage](#) on net short positions reporting on which it sets out what firms that report net short positions need to do during and after the transition period.

During the transition period, the FCA expects holders of net short positions to continue to report to it at the existing reporting thresholds. Under the UK SSR, position holders will be required to report their net short positions in shares at the 0.20% threshold. The reporting thresholds for UK sovereign debt and uncovered positions in UK sovereign credit default swaps will remain the same. The amount of the outstanding UK sovereign debt will be updated quarterly by the FCA on the FCA's website. To determine whether a position in shares should be notified to the FCA, position holders will have to consult the [FCA FIRDS](#) (Financial Instruments Reference Data System) for a particular share and also the UK List of exempted shares to see if that share is exempt. The UK List of exempted shares will be published on the FCA website from 1 January 2021. If a share is not exempt, position holders should send their notification to the FCA. If position holders have reasons to believe that the information on the FCA pages is not updated or correct, they should notify the FCA.

The webpage gives further information on the UK list of exempted shares and electronic submissions.

EMIR SI: FCA updates process for existing intragroup exemptions from margin between UK and third country group entities

The FCA has updated its [webpage](#) on the European Market Infrastructure Regulation (EMIR). The FCA explains that, on 15 October 2020, the Treasury published a draft [statutory instrument](#) and [explanatory memorandum](#) detailing amendments to the [Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(EMIR SI\)](#). This included provisions relating to the transitional regime for intragroup exemptions from the clearing obligation and margin requirements for non-centrally cleared derivatives.

The FCA explains that these changes confirm that UK firms that currently benefit from intragroup exemptions from clearing with their EU or third country group entities, and from margin exemptions with their EU group entities, may continue to benefit from those exemptions from 1 January 2021. This is until the defined "relevant day" and in accordance with the conditions of the transitional regime for intragroup exemptions in the EMIR SI. There is no requirement for firms to re-apply to the FCA.

However, under the EU regime, intragroup exemptions from margin granted to UK firms with their third country group entities where no equivalence has been determined, expired in January 2020. Since then, the FCA has permitted these exemptions on a supervisory basis.

The intention was for EU regulatory technical standards on margin to legislate an extension of the derogation to 21 December 2020. However, these changes have not been made. Consequently, all intragroup exemptions granted to UK firms on this basis require a proper foundation, and firms will be required to re-apply for those exemptions to benefit from the transitional regime in the EMIR SI.

To avoid an unnecessary administrative burden on firms, the FCA is adopting a streamlined process for firms required to apply for these new exemptions. The process is set out in an [instrument](#) it has published (which may be further amended) which affected firms should read.

The FCA also clarifies that all the existing intragroup exemptions from clearing and margin for UK to UK group entities, and existing intragroup exemptions from margin for UK to third country equivalent group entities (US-CFTC and Japan), will continue as planned under the transitional and other provisions of the EU Withdrawal Act 2018.

COVID-19: European Commission adopts Delegated Regulation further postponing entry into force date of Delegated Regulation under CSDR containing RTS on settlement discipline

The European Commission has adopted a [Delegated Regulation](#) amending Delegated Regulation (EU) 2018/1229 supplementing the Central Securities Depositories Regulation (CSDR) with regard to regulatory technical standards (RTS) on settlement discipline.

Delegated Regulation (EU) 2018/1229 was due to enter into force on 1 February 2021, but in August 2020, the European Securities and Markets Authority (ESMA) published and submitted to the Commission a final report, containing draft RTS, proposing a postponement of this entry into force date due to the impact of COVID-19.

The next step will be for the Council of the EU and the European Parliament to consider the Delegated Regulation. If neither the Council nor the Parliament object to the Delegated Regulation, it will be published in the Official Journal of the EU and will enter into force three days after its publication.

CSDR: ESMA report on internalised settlement

ESMA has published a [final report](#) to the European Commission on internalised settlement under the Central Securities Depositories Regulation (CSDR).

Article 74 of the CSDR requires ESMA, in cooperation with the European Banking Authority (EBA) and relevant authorities, to submit annual reports to the Commission providing assessments of trends and potential risks, and, where necessary, recommendations of preventative or remedial action in respect of certain areas covered by the CSDR. Article 74(1)(c) requires ESMA to cover internalised settlement by assessing the extent of settlement activity in the EEA that does not take place through a securities settlement system (SSS), based on the data reported by settlement internalisers under Article 9 of the CSDR.

The report analyses the trends and potential risks related to internalised settlement, as well as the process for internalised settlement reporting under CSDR.

Brexit: ESMA updates statement on credit ratings from UK

Following ESMA's previous statements of 9 November 2018 and 15 March 2019, it has published further [statement](#) on the endorsement of credit ratings from the UK. ESMA confirms that EU credit rating agencies (CRAs) will be able to endorse credit ratings elaborated in the UK after the end of the transition period.

An EU CRA must notify ESMA of its intention to endorse credit ratings from a UK-based CRA. As of 27 October 2020, all UK-based CRAs (except The Economist Intelligence Unit Ltd) have taken steps to ensure that an EU CRA is willing and able to endorse its credit ratings after the end of the transition period. Although ESMA can confirm that the necessary conditions for endorsement are currently met, the decision to endorse some, or all, of the credit ratings issued by UK-based CRAs lies exclusively with EU CRAs.

Brexit: ESMA adds UK venues to opinions on transparency and position limits for third-country trading venues under MiFID

ESMA has [updated](#) the list of third-country venues, in the context of the opinions on post-trade transparency and position limits under the Markets in Financial Instruments Directive (MiFID) and the Markets in Financial Instruments Regulation (MiFIR), to add UK venues.

ESMA assessed UK venues against the criteria of the opinions related to the transparency and the position limits provisions following its statement on the impact of Brexit on the application of MiFID II and MiFIR, which was published on 1 October 2020. The UK venues have received a positive assessment and have been added to the [annex](#) to the [opinion](#) related to post-trade transparency and the [annex](#) to the [opinion](#) related to position limits.

Consequently, from 1 January 2021:

- EU investment firms will not be required to make transactions public in the EU via an EU-approved publication arrangement if they are executed on one of the UK trading venues on the transparency list; and

- commodity derivative contracts traded on UK trading venues on the position limits list will not be considered as economically equivalent over-the-counter contracts for the EU position limit regime.

ESMA has also updated its related [guidance](#) on the annex to ESMA's opinion determining third-country trading venues for the purpose of transparency under MiFIR. This is to take into account feedback received from market participants on the identification of bonds and US treasuries, as well as on the treatment of venues without a market identifier code. To provide enough time to market participants to implement the changes to the guidance, the date of application of the transparency list is 10 November 2020.

EMIR: ESMA postpones application of new validation rules

ESMA has [postponed](#) the application date of the updated [EMIR validation rules](#) from 1 February 2021 to 8 March 2021. ESMA explains that the amended rules for reporting derivatives trades under EMIR, which it published in September 2020, will apply five weeks later than originally planned due to technical issues relating to their implementation in the light of the UK's withdrawal from the EU.

Brexit: ESMA statement on trading obligation for shares under MiFIR

ESMA has published a [statement](#) to remind market participants of the impact of the end of the Brexit transition period on 31 December 2020 on the trading obligation for shares (STO) under Article 23 of MiFIR.

ESMA explains that, in the absence of an equivalence decision in respect of the UK by the European Commission, the potential adverse effects of the application of the STO after the end of the transition period are expected to be the same as in the no-deal Brexit scenario considered by ESMA in May 2019. This includes the risk of disruption that conflicting EU and UK STOs may potentially create, in particular for UK branches of EU investment firms and for EU branches of UK investment firms. ESMA's [May 2019 guidance](#) therefore remains relevant.

The statement also confirms:

- once the transition period has ended, ESMA assumes that all EU shares will be within the scope of the EU STO (that is, ISINs starting with a country code corresponding to an EU member state and, in addition, shares with an ISIN from Iceland, Liechtenstein and Norway). GB ISINs will be outside the scope of the EU STO;
- the trading of shares with an EEA ISIN on a UK trading venue in GBP by EU investment firms occurs on a non-systematic, ad-hoc, irregular and infrequent basis. Therefore, it is expected that those trades will not be subject to the EU STO, in accordance with Article 23 of MiFIR. In a related [press release](#), ESMA explains that it is aiming to minimise disruption and to avoid overlapping STO obligations and their potentially adverse effects for market participants. The approach put forward by ESMA will effectively avoid such overlaps if the UK adopts an approach that does not include EEA ISINs under the UK STO. ESMA however notes that the scope of the UK STO after the end of the transition period remains unclear at this stage; and
- the application of the STO to shares with a different ISIN should continue to be determined taking into account the previous [ESMA guidance](#) published in November 2017.

MAR: ESMA final report on amendments for promotion of the use of SME growth markets

Following an earlier consultation, ESMA has published a [final report](#) on amendments to the Market Abuse Regulation (MAR) for the promotion of the use of SME growth markets. These amendments focus on draft regulatory technical standards (RTS) on liquidity contracts and draft implementing technical standards (ITS) on insider lists for SME growth markets and largely reflect the original proposals included in the consultation paper.

ESMA states that it has submitted the proposed regulations to the Commission for endorsement but notes that, although Article 1 (Amendments to Regulation (EU) No 596/2014) of the SME Growth Market Regulation applies as of 1 January 2021, it is unlikely that the instruments will be adopted by then.

As to the other aspects of the consultation paper, ESMA expects to submit its report to the Commission in relation to the functioning of the SME growth markets regime by the end of 2020.

EMIR: ESMA consults on guidelines for consistency of supervisory reviews and evaluation processes of CCPs

ESMA has published a [consultation paper](#) on draft guidelines to clarify common procedures and methodologies for the supervisory review and evaluation process of central counterparties (CCPs) by their national competent authorities.

Article 21(6) of EMIR addresses the consistency of national competent authority supervisory reviews and evaluation processes for CCPs, and requires ESMA to draw up guidelines for national competent authorities to specify, in a manner that is appropriate to the size, structure and internal organisation of CCPs, and the nature, scope and complexity of their activities, the common procedures and methodologies for the supervisory review and evaluation process.

The consultation closes on 16 November 2020. ESMA will consider the feedback it receives to the consultation and aims to finalise the guidelines by Q1 2021.

SFTR: ESMA Q&As on data reporting

ESMA has published a set of [Q&As](#) designed to provide greater clarity to market participants on how to comply with their reporting requirements under the Regulation on reporting and transparency of securities financing transactions (SFTR).

The Q&As cover the following five topics arising from Article 4 of the SFTR:

- frequency of reports;
- reporting of settlement fails;
- reporting of repos initially collateralised on a per-transaction basis and subsequently on a net-exposure basis;
- reporting of trading venue for cleared and non-cleared securities financing transaction; and
- reporting of cash collateral for margin lending.

ESMA will update and expand the Q&As as and when it deems it appropriate.

Insurance

COVID-19: FCA update on business interruption insurance test case

The UK Financial Conduct Authority (FCA) has updated its [webpage](#) on its business interruption insurance test case to confirm that an appeal of the case will be heard by the Supreme Court. The appeal will be heard via video link starting from 16 November and is expected to last four days.

Royal & Sun Alliance Insurance Plc has confirmed it will not be appealing the High Court's judgment in respect of the RSA4 wording, and Hospitality Insurance Group Action has confirmed that it will not be seeking to intervene in the Supreme Court appeal.

COVID-19: FCA reminds insurance firms to assess value of insurance products

On 30 October 2020, the FCA published a [statement](#) reminding insurance firms and intermediaries to review the value of their products in the light of the exceptional circumstances arising from COVID-19, and decide what action to take by 3 December 2020.

The FCA also confirms that it has reviewed its guidance and does not intend to update it. However, the effects of COVID-19 could continue to affect the value of insurance products and cause harm to customers, so the FCA asks firms to monitor this risk as part of their normal product governance processes. This includes the ongoing monitoring and regular review of insurance products and acting where necessary.

COVID-19: FCA confirms additional guidance for insurance and premium finance firms on customers in financial difficulty

The FCA has published [finalised guidance](#) on how firms should continue to support customers who hold insurance and premium finance products and may be facing financial difficulty, due to the COVID-19 pandemic, after 31 October 2020. The new guidance supplements the FCA's previous August 2020 guidance, and outlines the tailored support firms should provide to consumers who have already had a payment deferral and those newly in financial difficulty due to changed circumstances.

The FCA has published a feedback statement, [FS20/16](#), summarising feedback received to its consultation on this new guidance, together with the FCA's response. In the light of feedback, the FCA has made one change to its guidance. This relates to an example where a firm might contravene Principle 6 in relation to dealing with customers in default or in arrears.

The guidance came into force on 1 November 2020. Although the August guidance expired on 31 October 2020, certain provisions relating to customers granted payment deferrals under the guidance that came to an end after 31 October 2020, will remain in force.

Lloyd's & London market intermediaries and managing general agents: FCA Dear CEO letter

The FCA has sent a [Dear CEO letter](#) to Lloyd's & London market intermediaries (LLMI) and managing general agents. The letter sets out the FCA's view of the key risks of harm to customers or the markets firms operate in, which are posed by firms in the FCA's LLMI portfolio, and outlines the FCA's expectations.

The FCA states that firms' business models should remain financially resilient during this difficult economic period and should continue to meet the regulatory prudential requirements and threshold conditions.

The FCA expects firms to consider the Wholesale Insurance Broker Market Study (published in February 2020) and take suitable steps to ensure that concerns raised in the study are addressed. Areas raised in this study include conflicts of interest emanating from remuneration practices and the need to modernise the market. Firms need to innovate to create healthy competition, efficient distribution chains, good claims services and better use of data. Of equal importance is a healthy market culture in which non-financial misconduct is reduced and diversity and inclusion improved.

In its letter, the FCA identifies four common themes it wishes to prioritise. These are explored in more detail in the body of the letter. The themes are:

- financial resilience and orderly wind-down;
- ineffective governance and oversight of businesses;
- culture and non-financial misconduct; and
- business models which provide poor oversight of distribution chains.

Other areas of risk identified by the FCA include the hardening insurance market, exposure to cyber risks and the end of the Brexit transition period.

The supervision strategy in the letter covers the period to November 2021.

Solvency II Review – second time round

Earlier this summer, the UK government announced that it would review the impact of the Solvency II regime on the UK insurance industry. On 19 October 2020, HM Treasury published a Call for Evidence. This is the first stage of the review. Read our separate briefing [here](#).

Solvency II: EEA Joint Committee Decision incorporating into EEA Agreement Implementing Regulation on calculation of technical provisions and basic own funds

[Decision 111/2018](#) of the EEA Joint Committee has been published in the Official Journal of the European Union. The Decision concerns incorporating Commission Implementing Regulation (EU) 2018/165 laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 December 2017 until 30 March 2018 under the Solvency II Directive into Annex IX (Financial Services) to the EEA Agreement.

The Decision was made on 31 May 2018. Its date of entry into force is specified as 1 June 2018, provided that all notifications under Article 103(1) of the EEA Agreement have been made.

Funds and Asset Management

COVID-19: EFAMA updates cyber-prevention standards for investment management companies

The European Fund and Asset Management Association (EFAMA) has published a [document](#) updating the International Investment Funds Association's (IIFA) Cybersecurity Program Basics [document](#), which was first published in October 2019.

The original document set out key cyber-prevention standards for investment management companies and is intended to help to define commonly shared principles that firms should apply to minimise the likelihood of cyber incidents. These principles cover the need to establish an overarching cybersecurity framework, conduct cyber-risk awareness trainings with company staff, have an incident response plan, conduct tabletop exercises to test response plans, establish and monitor normal network activity, and participate in trusted information sharing networks.

The new document updates the core principles in the context of COVID-19. It takes the form of best practices relating to business continuity planning, information technology controls, inventory and control of software and hardware, the principle of least privilege, work from home considerations and secure configuration.

Both documents include useful links to publicly available resources that firms can refer to when setting up these measures.

EFAMA believes that the documents particularly will be of added value to small-sized investment management companies lacking the resources needed to fully meet the more demanding international standards (including those of the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO)).

EFAMA also announces that it is setting up a dedicated working group on cyber resilience to allow it to engage actively in future policy discussions, including the European Commission's recent legislative proposal on digital operational resilience.

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