



FIG Bulletin

Recent developments

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General

Financial Services Bill 2019-21: amendments proposed in House of Lords

A [list of amendments](#) made to the [Financial Services Bill 2019-21](#) and [explanatory notes](#) have been published on the UK Parliament website, reflecting amendments made at the report stage of the Bill in the House of Lords. Amendments include new clauses that:

- amend the Financial Services and Markets Act 2000 (FSMA). One provision will require the FCA to have regard to the general principle that firms should not profit from exploiting a consumer's vulnerability, behavioural biases, or constrained choices when considering the appropriate degree of protection that it should secure for consumers. Another provision will require the FCA to make rules introducing a duty of care by 6 April 2022. These rules will mean that authorised persons under FSMA owe a duty of care towards consumers when carrying on regulated activities under FSMA;
- will give HM Treasury the ability to bring interest-free buy-now-pay-later products into the scope of FCA regulation. HM Treasury will be able to exclude provisions of the Consumer Credit Act 1974 from applying to activities that currently fall within the relevant exemptions in the Regulated Activities Order;
- remove a provision in Article 28 of the retained EU law version of the Market Abuse Regulation (UK MAR) that restricts the FCA from holding personal data collected for the purposes of UK MAR for more than five years;
- amend the Payment Services Regulations 2017 to provide that, in certain circumstances, the provision of cash, where there is no corresponding purchase of goods and services, will be included in the list of activities that do not constitute a payment service;
- will require the Financial Conduct Authority (FCA) to make rules imposing a cap on the standard variable rates charged to borrowers with inactive lenders or unregulated entities who cannot switch providers because of their financial circumstances (mortgage prisoners);
- will require the FCA and the Prudential Regulation Authority (PRA) to have regard to the carbon target for net zero emissions as set out in the Climate Change Act 2008.

The Bill completed its report stage and third reading in the House of Lords on 19 April 2021.

UK FinTech and financial services plans

Following announcements by Rishi Sunak, Chancellor of the Exchequer, at FinTech Week, HM Treasury published a [press release](#) setting out some proposals he discussed to enhance the UK's competitive advantage in FinTech. The plans follow the publication of the [Kalifa Review of UK FinTech](#) and the [Listing Review](#) led by Lord Hill and include the following strands of work:

- the FCA will progress with a "scale box" to support FinTech firms to scale up. This is a package of measures that will enhance the FCA's regulatory sandbox and support growth stage firms. In a [speech](#), FCA CEO, Nikhil Rathi refers to the introduction of the scalebox as a "regulatory nursery", offering enhanced oversight as newly authorised firms develop and grow. The FCA will develop the plans for it by autumn 2021;
- the FCA will also launch the second phase of its digital sandbox to enable firms to test concepts that tackle sustainability and climate change-related challenges;
- the Chancellor supports the creation of a Centre for Finance, Innovation and Technology (CFIT), which will work with regional hubs to identify and address sector challenges to support FinTech growth;

- a new taskforce has been established to explore a possible UK central bank digital currency (CBDC). The Bank of England (BoE) has updated its [webpage](#) on CBDC and published a [statement](#) announcing it is creating the [CBDC Taskforce](#) as well as a [CBDC Engagement Forum](#), a [CBDC Technology Forum](#) and a CBDC Unit to lead the BoE's internal exploration around CBDC and its external engagement on the topic. The Government and the BoE have not yet decided on whether to introduce a UK CBDC;
- the BoE has [launched](#) an omnibus account to support delivery of faster wholesale payment and settlement using central bank money; and
- HM Treasury is working with the BoE and the FCA to create a new sandbox, which will allow firms exploring technologies to improve financial market infrastructure.

The government will set out a detailed response to the Kalifa Review "shortly".

The [FCA](#) has also indicated that it will "shortly" begin allowing year-round applications for the Regulatory Sandbox and will better advertise the support it already offers to those firms looking to build out their innovative offering. In his speech, Mr Rathi reiterates his call for the government to take action to provide better financial protection for consumers using online platforms. He also refers to the FCA's review of how the Regulatory Decisions Committee functions.

The BoE has published a [keynote speech](#) given by Dave Ramsden, BoE Deputy Governor, Markets and Banking, at UK FinTech week on how the BoE supports the safe development of FinTech services in the UK.

A separate [press release](#) from the Department for International Trade states that the UK will create a FinTech Export Academy and a FinTech Champions scheme to provide sector-specific advice. The programme will take selected high potential firms and provide them with intensive support to reach international markets.

Hogan Lovells recently ran a webinar series on the FinTech Strategic Review which is available to watch [here](#).

LC&F compensation scheme and complaints to FCA

In a [written ministerial statement](#), John Glen, Economic Secretary to HM Treasury, has set out details of the London Capital & Finance Compensation Scheme to be established by the government, as well as the government's approach and the next steps for bondholders who suffered losses after investing in London Capital & Finance plc (LC&F), which entered administration in January 2019. HM Treasury has also published a related [press release](#).

Separately, the FCA has published a [statement](#) setting out its broad approach to assessing complaints made to the FCA in relation to LC&F.

Lessons from Greensill Capital: Treasury Committee inquiry

The House of Commons Treasury Committee has [launched](#) a new inquiry: Lessons learned from Greensill Capital. A [call for evidence](#) explains that the inquiry will be divided into two strands:

- lessons for the financial system and its regulation from the failure of Greensill Capital; and
- lessons for HM Treasury (and associate public bodies) from its interactions with Greensill Capital during the COVID-19 crisis.

To inform the first strand of the inquiry, the Committee has written to [Nikhil Rathi](#), Chief Executive of the FCA, seeking information, by 4 May 2021, about the regulation of Greensill Capital (UK) Ltd (in administration) and Greensill Capital Securities Ltd (now terminated). The Committee has also written to [Andrew Bailey](#), BoE Governor, seeking information, by 6 May 2021, concerning the Covid Corporate Finance Facility (CCFF) and the involvement of BoE officials in discussions about options relating to Greensill. To further aid the inquiry, the Committee has written, requesting answers to various initial questions, to [Rishi Sunak](#), Chancellor of the Exchequer, [Charles Donald](#), CEO of UK Government Investments and [David Cameron](#). The Committee will seek to take oral evidence in due course, including from Lex Greensill among others.

The Committee will hold a "scene-setting" oral evidence session with relevant experts on 28 April 2021. The deadline for submissions to the call for evidence from anyone with answers to the questions raised is 10 May 2021. The Committee will take evidence from the FCA on 12 May 2021, and from the BoE on 24 May 2021.

Diversity: BoE launches "Meeting Varied People" initiative

The BoE has published a [speech](#) by Andrea Rosen, Head of BoE Markets Intelligence and Analysis Division, as it launched its "meeting varied people" initiative. The aim of the initiative is to enable the BoE to hear from a more diverse range of people who work in financial markets. It will use this insight to inform the decisions it makes on, for example, setting interest rates and designing its market operations. The BoE has also published a [speech](#) by Andrew Bailey, BoE Governor, in which he talks about diversity.

As part of the Meeting Varied People initiative, the BoE has re-launched its [market intelligence charter](#) to reflect its diversity objectives more clearly and published an updated version of the [UK Money Markets Code](#). The updated Code highlights much more prominently the importance and benefits of a diverse team.

PRA authorisations: updates on rule waivers and modifications and CRR and Solvency II permissions

The PRA has updated the following webpages:

- [Capital Requirements Regulation \(CRR\) permissions](#) (see new paragraph dated 19 April 2021 under the heading "Published CRR permissions");
- [Solvency II approvals](#) (see new paragraph dated 19 April 2021 under the heading "Publishing Solvency II approvals"); and
- [Waivers and modifications of rules](#) (see new paragraph dated 19 April 2021 under the heading "Publishing waivers and modifications").

In each case, the new paragraph states that the PRA is no longer providing the consolidated list of waivers, CRR and Solvency II permissions it has granted to PRA-authorised firms. Firms wishing to discuss their requirements can contact the PRA via a dedicated email address. Alternatively, firms can look at the FCA Register, which is the primary source of PRA waivers and EU permissions data. The PRA adds that firms are not required to provide details of a precedent direction or written notice when applying for a waiver or modification of PRA rules, or a CRR or Solvency II permission.

UK Investment Firms Prudential Regime: FCA second consultation CP21/7

The FCA has published its second consultation paper, [CP21/7](#), on the Investment Firms Prudential Regime (IFPR). The IFPR is a new prudential regime for UK firms authorised under the Markets in Financial Instruments Directive.

To accompany the consultation, the FCA also published further [proposed templates](#) for the new reporting to support the IFPR; the [guidance for completing these templates](#); and proposed [forms for applications](#) and [notifications](#). The FCA welcomes feedback on these in addition to feedback on CP21/7.

The deadline for responses to CP21/7 is 28 May 2021. The FCA intends to publish a third consultation paper at the start of Q3 2021 and for its new rules relating to the IFPR to come into force on 1 January 2022.

FCA transformation programme: update to HM Treasury

The FCA has published a [letter](#) from Charles Randell, FCA Chair, to John Glen, Economic Secretary to HM Treasury, providing an update on the progress the FCA has made with its transformation programme. The letter is copied to the House of Commons Treasury Committee. Mr Glen notes that the FCA committed in December 2020 to provide this progress report, including in relation to implementing the recommendations made by Dame Elizabeth Gloster and the lessons learnt identified by Raj Parker following their independent reviews into the regulation of LC&F.

The topics covered in the letter include strengthening the FCA operating structure; operational improvements; actions to implement review recommendations; transformation; and recommendations for government.

Mr Randell advises that Nikhil Rathi, FCA Chief Executive, will write to the Treasury Committee with a further update before the FCA's next accountability hearing on 12 May 2021.

FCA appoints sustainability and technology directors

The FCA has [announced](#) the appointment of:

- Sacha Sadan as Director of Environment Social and Governance. This is a newly created role in which Mr Sadan will develop the FCA's approach to sustainable finance domestically and internationally;
- Ian Phoenix as Director of Intelligence and Digital. He will lead the enhancement of the FCA's intelligence and surveillance capabilities, as well as lead digital work to disrupt harmful online activity; and
- Ian Alderton as Chief Information Officer.

FCA regulated fees and levies for 2021/22: CP21/8

The FCA has published a consultation paper, [CP21/8](#), on its periodic fees rates for 2021/22 and further FCA fees policy proposals, the Financial Ombudsman Service (FOS) general levy and the Money and Pensions Service, Devolved Authorities and HM Treasury illegal money-lending levies for 2021/22.

CP21/8 closes to responses on 25 May 2021. The FCA intends to publish feedback and the final fees and levy rates in a policy statement in July 2021, subject to FCA Board approval in June 2021.

FCA Business Plan 2021/22 due July 2021

The FCA has [announced](#) that it will be publishing its Business Plan for 2021/22 in July 2021, rather than April 2021. The Business Plan will be published alongside the FCA 2020/21 Annual Report and Accounts and will include an update on plans for transforming the FCA.

FOS appoints Interim Chief Executive and Chief Ombudsman

The FOS has [announced](#) that it has appointed Nausicaa Delfas as its Interim Chief Executive and Chief Ombudsman. Ms Delfas will join the FOS from the FCA, where she is currently Executive Director of International and Interim Chief Operating Officer. Ms Delfas will take up her FOS role on 17 May 2021 and will be in post while the FOS board carries out an open recruitment process for a permanent Chief Executive and Chief Ombudsman following the departure of Caroline Wayman.

The FOS advises that, until Ms Delfas joins the FOS, Julia Cavanagh, FOS Chief Financial Officer, will be Acting Chief Executive, and Garry Wilkinson, FOS Principal Ombudsman and Director of Investigation, will be Acting Chief Ombudsman.

JMLSG guidance: consultation on revised trade finance section

The Joint Money Laundering Steering Group (JMLSG) is consulting on [proposed revisions](#) to Sector 15 (trade finance) in Part II of its anti-money laundering and counter-terrorist financing guidance for the financial services sector. Comments can be made on the proposed revisions until 18 June 2021.

Sustainable finance and taxonomy: European Commission communication and legislation

On 21 April 2021, the European Commission published a [communication](#) on EU taxonomy, corporate sustainability reporting, sustainability preferences and fiduciary duties, and directing finance towards the European Green Deal. A [Commission webpage](#) gives links to the documents for a package of measures which include:

- political agreement being reached on the text of a Commission Delegated Regulation supplementing the Taxonomy Regulation relating to climate change mitigation and adaptation (known as the Taxonomy Climate Delegated Act). The legislation contains a set of technical screening criteria that define which activities contribute to environmental objectives contained in the Taxonomy Regulation (climate change adaptation and climate change mitigation). It includes sectors such as energy, forestry, manufacturing, transport and buildings. Decisions on nuclear power and natural gas have been postponed. The Taxonomy Climate Delegated Act will apply from 1 January 2022;
- a proposal for a [Corporate Sustainability Reporting Directive](#) (CSRD), which will amend reporting requirements contained in the Non-Financial Reporting Directive (NFRD). The Directive aims to extend EU sustainability reporting requirements to all large companies and listed companies; and
- the Commission adopting delegated legislation integrating sustainability issues into the [Markets in Financial Instruments Directive](#), the [UCITS Directive](#), the [Alternative Investment Fund Managers Directive](#), the [Solvency II Directive](#) and the [Insurance Distribution Directive](#). These are expected to apply from October 2022.

EU retail investment strategy: European Commission consults on roadmap

The European Commission is consulting on its [roadmap](#) on a retail investment strategy for the EU. The strategy will assess the entire retail investor journey. It aims to provide a coherent approach to empower consumers to take financial decisions and benefit from the internal market, and to address the challenge of low capital market participation rates in the EU. Comments can be made on the roadmap until 18 May 2021.

The Commission has also commissioned a study, which involves consumer testing and mystery shopping, looking at disclosures to consumers, inducements and advice and the suitability and appropriateness assessment tests. It will publish the results in autumn 2021 and will represent an important input for the retail investment study.

Following the roadmap, the Commission intends to launch a three-month consultation on the strategy.

Making financial services work for citizens: European Commission speech

The European Commission has published a [speech](#) by Mairead McGuinness, European Commissioner for Financial Services, Financial Stability, and Capital Markets Union, in which she considers how to make financial services work for citizens. Points of interest in Ms McGuinness' speech include:

- the Commission will be working with the Organisation for Economic Co-operation and Development (OECD) to create a joint EU and OECD financial competence framework to establish a common understanding of what financial literacy means;
- as services increasingly become digital, it is important to ensure cash remains available and accepted. If necessary, the Commission may decide to take action towards the end of 2021 to protect the availability of cash;
- the single euro payments area gives consumers and businesses the right to make payments from their account to another bank account regardless of whether these two accounts are in the same member state. However, consumers regularly complain that only domestic International Bank Account Number (IBAN) numbers are accepted by a company (or sometimes a public body) for a credit transfer or direct debit. This is a big issue for the single market and citizens, but also for some FinTech companies because it undermines their business model. The Commission is concerned about this lack of compliance and is stepping up efforts to ensure full enforcement of this rule since IBAN discrimination should not exist; and
- in early 2022, the Commission will publish its retail investment strategy, which will be an opportunity to place retail investors at the heart of its policies and assess the entirety of the retail investor journey.

Banking and Finance

Regulation of non-transferable debt securities: HM Treasury consultation

HM Treasury has published a [consultation paper](#) on the regulation of non-transferable debt securities (NTDS) (often referred to as mini-bonds).

NTDSs are unlisted bonds typically issued by companies to retail investors to raise finance. Generally, the issuance of NTDS is not a regulated activity under the Financial Services and Markets Act 2000. As an unregulated activity, investors benefit from few regulatory protections, such as the Financial Ombudsman Scheme and the Financial Services and Compensation Scheme, when investing in mini-bonds.

The consultation proposes two options for regulatory reform: (1) making the direct-to-market issuance of certain NTDS, where the proceeds of the issue are used to on-invest or on-lend, a regulated activity; and (2) extending the scope of the Prospectus Regulation to cover NTDS, so that public offers of NTDS would require a Authority-approved prospectus.

The consultation closes on 21 July 2021. Alongside the consultation, HM Treasury has published independent [research](#) into NTDS and their role in the economy.

Mortgage Guarantee Scheme: PRA statement on regulatory treatment of mortgage loans

The UK Prudential Regulation Authority (PRA) has published an updated [statement](#) on the regulatory treatment of retail residential mortgage loans under the Mortgage Guarantee Scheme (MGS). The statement provides information on capital, notification, disclosure and reporting requirements for loans under the MGS as set out in the relevant UK legislation. The PRA's approach to capital is applicable to mortgage insurance schemes with similar contractual features to MGS, but the approach to reporting, notification, and disclosure only applies to MGS and not to other securitisation programmes.

This statement does not provide an exhaustive commentary of the regulatory requirements for MGS loans. The PRA emphasises that firms should review the relevant legislation and, as necessary, seek independent advice to satisfy themselves that they meet all applicable requirements. In particular, the UK Capital Requirements Regulation (UK CRR) requires firms to obtain a legal opinion on the effectiveness and enforceability of credit protection afforded by a guarantee such as MGS.

LIBOR transition in sterling structured products: Working Group paper

The Working Group on Sterling Risk-Free Reference Rates has published a [paper](#) that supports the transition of legacy structured products where GBP LIBOR is in use and considers how a sterling structured products market could be designed using compounded in arrears SONIA.

The Working Group's priorities and roadmap envisage a broad-based transition from GBP LIBOR to SONIA by the end of 2021 across sterling bond, loan and derivatives markets. This includes the sterling structured products market, which has links to a number of areas within these broad product categories. The paper addresses various types of structured products, including on-balance sheet issuances and repackaging transactions (new and legacy). The Working Group encourages market participants to amend their legacy GBP LIBOR referencing structured products now where it is feasible to do so.

EU CRR: Implementing Regulation on ITS on public disclosures

[Commission Implementing Regulation \(EU\) 2021/637](#), which lays down implementing technical standards (ITS) on public disclosure requirements for institutions under the EU CRR, has been published in the Official Journal of the European Union (OJ). The purpose of the ITS is, among other things, to optimise the Pillar 3 policy framework to provide a single comprehensive package, improving clarity for users of information. It will also promote market discipline by increasing the consistency and comparability of the information disclosed by institutions, and its alignment with the regulatory changes introduced by CRR II and with the Basel Committee on Banking Supervision (BCBS) revised Pillar 3 disclosure framework.

In addition, the Implementing Regulation repeals Commission Implementing Regulation (EU) 1423/2013, Commission Delegated Regulation (EU) 2015/1555, Commission Implementing Regulation (EU) 2016/200 and Commission Delegated Regulation (EU) 2017/2295.

The Implementing Regulation enters into force on 11 May 2021. It will apply from 28 June 2021.

Targeted review of internal models: ECB results

The European Central Bank (ECB) has published the [results](#) of its targeted review of internal models (TRIM). The ECB explains that large and more complex banks typically use internal models to determine some of their risk-weighted assets, which serve as a basis for banks to calculate their capital needs. The TRIM review aimed to ensure that internal models comply with the rules and provide different outcomes only when the underlying risks are different.

With 200 on-site investigations conducted in 65 significant banks using internal models, TRIM is the largest project ever carried out by ECB Banking Supervision. Section 4 of the report contains a summary of findings and key observations.

CRR: EBA final draft RTS on methods of prudential consolidation

The European Banking Authority (EBA) has published a [final report](#) on draft regulatory technical standards (RTS) on the methods of prudential consolidation under Article 18 of the EU CRR.

Under Article 18(1) of the CRR, for prudential consolidation purposes, institutions must fully consolidate all institutions and financial institutions that qualify as their subsidiaries or, where relevant, the subsidiaries of their parent financial holding company or parent mixed financial holding company. However, under certain circumstances, Article 18 allows institutions to apply a different method of consolidation (other than full consolidation) for the purpose of prudential consolidation. The draft RTS specify the conditions for the application of the different methods of prudential consolidation.

The EBA proposes that the Delegated Regulation should enter into force on the twentieth day following that of its publication in the OJ.

BRRD: updated Implementing Regulation on ITS on MREL reporting by resolution authorities

[Commission Implementing Regulation \(EU\) 2021/622](#) laying down ITS on uniform reporting templates, instructions and methodology for reporting on the minimum requirement for own funds and eligible liabilities (MREL) under the Bank Recovery and Resolution Directive (BRRD) has been published in the OJ. These ITS replace the existing ITS on MREL reporting by resolution authorities set out in Commission Implementing Regulation (EU) 2018/308. Commission Implementing Regulation (EU) 2021/622 enters into force on 6 May 2021.

BCBS 2021-22 work programme

The BCBS has published its [work programme](#) for 2021-22. The work programme sets out the BCBS' strategic priorities for the coming year. It reflects the outcome of a recent strategic review by the BCBS designed to ensure it continues to effectively promote global financial stability and strengthen the regulation, supervision and risk management practices of banks worldwide.

The work programme focuses on three key themes:

- COVID-19 resilience and recovery;
- horizon scanning, analysis of structural trends and mitigation of risks; and
- strengthening supervisory coordination and practices.

Climate target setting for banks: UNEP FI guidelines

The United Nations Environment Programme Finance Initiative (UNEP FI) has published [guidelines](#) for climate target setting for banks. The guidelines were drafted by a group of banks and will be reviewed every three years. They consist of the following four principles and additional guidance on each principle:

- banks will set and publicly disclose long-term and intermediate targets to support meeting the temperature goals of the Paris Agreement;
- banks will establish an emissions baseline and annually measure and report the emissions profile of their lending portfolios and investment activities;
- banks will use widely accepted science-based decarbonisation scenarios to set both long-term and intermediate targets that are aligned with the temperature goals of the Paris Agreement; and
- banks will regularly review targets to ensure consistency with current climate science.

The implementation, monitoring and reporting against the guidelines aligns with UNEP FI's Principles for Responsible Banking.

Consumer Finance

EU consumer credit websites: European Commission findings from mini-sweep

The European Commission has published an [updated webpage](#) providing information on its findings during a mini-sweep of consumer credit websites in 2021. A "sweep" is a set of checks carried out on websites simultaneously to identify breaches of EU consumer law in a particular sector. The primary objective of the consumer credit mini-sweep was to check on:

- various technical devices (PC, tablets and smartphones) whether traders comply with EU consumer rules on standard information in online advertising of consumer credit;
- if the overall presentation of the consumer credit offers are misleading consumers; and
- whether there are offers aggressively exploiting consumer vulnerabilities.

Once a sweep has been carried out by the Commission and national enforcement authorities simultaneously, the national authorities are expected to ask relevant traders to take corrective actions.

Payments

RTGS service: BoE information about omnibus accounts

The Bank of England (BoE) has published a [press release](#) containing information about its policy for omnibus accounts in its real-time gross settlement (RTGS) service, including a link to its [policy regarding omnibus accounts](#). Operators of new and existing payment systems can now apply to the BoE to open an omnibus account. Applicants will be assessed against eligibility requirements, which are designed to mitigate the risks to UK financial stability.

The omnibus account model has been added as a new model to enable payment systems to settle in central bank money. Under this new model, an operator of a payment system can hold funds in the omnibus account to fund their participants' balances with central bank money. This will allow them to offer innovative payment services, while having the security of central bank money settlement. They can support a wide range of high-value payments, which could range from a commercial bank buying government bonds to a small business paying their suppliers.

CRM Code for APP scams: LSB update

The Lending Standards Board (LSB) has published an [updated version](#) of the contingent reimbursement model code (CRM Code) for authorised push payment (APP) scams (Code). The update follows the LSB's review of Code, published in January.

The LSB states that the updates include the introduction of governance and oversight requirements into the Code. The new provisions will support embedding and ongoing oversight of the Code's requirements as well as ensuring that Code-related policies and processes are formalised and customer facing staff have greater awareness of the Code. These provisions will be effective from 14 June 2021.

Securities and Markets

Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021

The Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021 ([SI 2021/494](#)) have been published, together with an [explanatory memorandum](#).

The Regulations, made under section 8 of the European Union (Withdrawal) Act 2018, amend primary and secondary legislation, and parts of retained EU law, to address deficiencies arising from the withdrawal of the UK from the EU. They amend UK financial services law to reflect the creation of a UK Emissions Trading Scheme (ETS). Specifically, the Regulations are concerned with amendments which govern access to a UK ETS access platform, what is required of an auction platform and the auctioning and trading of emissions allowances as financial instruments.

The Regulations came into force on 22 April 2021. Their operation is dependent on the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021, which were laid before Parliament in draft on 11 February 2021.

UK Money Markets Code updated by BoE

The Bank of England (BoE) has updated its [UK Money Markets Code](#). The Code sets out best practice in the unsecured, repo and securities lending markets in the UK. Although the overarching principles of the Code have not changed, there have been significant changes in the following areas:

- **diversity and inclusion:** the updated Code recognises and promotes the benefit of diverse and inclusive money market participants' teams;
- **working from home:** the updated Code reflects the response to COVID-19, and emphasises it is acceptable to work from home, provided the same level of robust systems and controls are applied;
- **environmental, social and governance (ESG) criteria:** ESG criteria are becoming increasingly relevant to financial markets and the updated Code adds commentary about its increasing importance;
- **electronic trading:** electronic trading via platforms is now more widely used, especially in the repo market. The updated Code sets out how it applies to such trading and details best practice for using electronic venues; and
- **trade settlement discipline:** the updated Code stresses the importance of high standards of settlement discipline, in response to concern in the market that the level of non-settled trades has increased.

The updated Code has been [recognised](#) as an industry standard by the Financial Conduct Authority (FCA).

UK Listing Review: government response

The government has issued a [written statement](#) by Rishi Sunak, Chancellor of the Exchequer, confirming how the government will take forward the recommendations made in Lord Hill's report on the independent review of the UK's listing arrangements. In his statement, the Chancellor:

- agrees to present an annual report on the State of the City to Parliament, beginning in 2022;
- states that the Listing Review's recommendation that HM Treasury consider an additional "growth" or "competitiveness" objective for the FCA will be carefully considered as part of the ongoing Future Regulatory Framework Review;
- strongly welcomes the recommendation for review of the UK's prospectus regime. The Chancellor confirms that the government will bring forward a public consultation on this subject later in the year;
- in the context of improving the efficiency of further capital raising by listed companies, agrees that bringing together expertise in this technical area will assist in considering what more can be done. The Chancellor will convene such a group, with HM Treasury officials considering over the coming weeks what form this will take; and
- confirms that BEIS will take forward the Listing Review's recommendation as to how technology can be used to improve retail investor involvement in corporate actions, and their undertaking of an appropriate stewardship role, as part of its wider consideration of findings from the Law Commission's recent scoping study on intermediated securities. BEIS expects to announce a response to this study later this year.

UK EMIR: trade association letter on use of EEA UCITS as collateral

The International Swap and Derivatives Association (ISDA), the Alternative Investment Management Association (AIMA), the Investment Company Institute (ICI), the Institutional Money Market Funds Association (IMMFA) and the Securities Industry and Financial Markets Association Asset Management Group (SIFMA AMG) have written a [joint letter](#) sent to the BoE, HM Treasury and the FCA. Explaining their reasons, in the letter, the associations urge the Prudential Regulation Authority (PRA) to permit use of EEA UCITS for initial margin (IM) purposes in the UK Uncleared Margin Requirements (UMR) Binding Technical Standards (the UK onshored version of Commission Delegated Regulation (EU) 2016/2251) once the current "standstill" comes to an end on 31 March 2022.

MiFID: European Commission adopts Delegated Regulation correcting MiFID Delegated Regulation (EU) 2017/565

The European Commission has adopted a [Delegated Regulation](#) (Amending Delegated Regulation) and [Annex](#) correcting Delegated Regulation (EU) 2017/565 which supplements the Markets in Financial Instruments Directive (MiFID) (the EU MiFID Org Regulation).

To fully comply with MiFID, the Amending Delegated Regulation will make the following amendments to the EU MiFID Org Regulation:

- correct Article 1, paragraph 1 to clarify that it requires the application of Article 64(4), Article 65 and Chapter VIII of the EU MiFID Org Regulation instead of Article 59(4), Article 60 and Chapter IV; and
- correct errors that appeared in several cross-references in Annex I to the EU MiFID Org Regulation relating to client assessment, order handling, client order and transactions, reporting to clients, communication with clients and organisational requirements.

The next step is for the Council of the EU and the European Parliament to consider the draft Amending Delegated Regulation. If neither the Council or the Parliament object, it will be published in the Official Journal of the European Union and will enter into force on the twentieth day following that of its publication.

EMIR and SFTR: ESMA reports on quality of data published

The European Securities and Markets Authority (ESMA) has published its first annual [data quality report](#) highlighting its supervisory activities relating to the quality of data reported to trade repositories under the European Market Infrastructure Regulation (EMIR) and the Regulation on reporting and transparency of securities financing transactions (SFTR). The report aims to provide an overview of the state of play under the two reporting regimes and provide information on national competent authorities' and ESMA's ongoing work to improve the quality of the data.

LIBOR transition: FMSB case studies for conduct risk in back book transition

The Fixed Income, Currencies and Commodities (FICC) Markets Standards Board (FMSB) has published a Spotlight Review on "[LIBOR transition – Case studies for navigating conduct risks in back book transition](#)".

The FMSB notes that this Spotlight Review builds on, and should be read in conjunction with, its first series of "[LIBOR transition – Case studies for navigating conduct risks](#)", published in June 2020, which focused on moving new business off LIBOR. The latest paper examines certain risks to market fairness and effectiveness that might arise when transitioning existing LIBOR-based contracts with maturities extending beyond end-2021 to alternative risk-free rates. The FMSB states that it will be of interest to market participants across the sell-side, buy-side and corporates, and could be used to help inform the identification and management of certain LIBOR transition-related risks.

Insurance

Solvency II: PRA supervisory disclosures

The UK Prudential Regulation Authority (PRA) has published [Solvency II: Supervisory disclosures, PRA's supervisory approach and insurance regulations applicable in the UK year-end 2019](#) in line with its obligations under Article 31(2) of the Solvency II Directive. The disclosures include:

- aggregate statistical data on key aspects of the application of the prudential framework;
- a table covering the manner of exercise of the options provided for in the Solvency II Directive;
- links to the texts of insurance regulations applicable in the UK; and
- links to the PRA's supervisory approach.

The PRA states that the disclosure is designed to foster a uniform level of transparency and accountability between supervisory authorities and will be of primary interest to PRA-authorised insurance companies.

Solvency II: EIOPA opinion on supervising use of climate change risk scenarios in ORSA

Following its October 2020 consultation, the European Insurance and Occupational Pensions Authority (EIOPA) has published an [opinion](#) addressed to national supervisory authorities on the supervision of the use of climate change risk scenarios in the own risk and solvency assessment (ORSA). In its opinion, EIOPA sets out expectations on the supervision of the integration of climate change risk scenarios by insurers in their ORSA.

EIOPA explains that the insurance and reinsurance industry will be impacted by climate change-related physical and transition risks. However, only a minority of insurers currently assess climate change risks in the ORSA, usually on a short-term basis. Therefore, EIOPA considers it essential to foster a forward-looking management of these risks to ensure the long-term solvency and viability of the industry.

COVID-19: FCA BI insurance calculator

The Financial Conduct Authority (FCA) has published a [calculator](#) to assist business interruption (BI) insurance policyholders in proving the presence of COVID-19 in their policy area. It has also published [instructions](#) for its use. The FCA committed to publishing the calculator in March 2021 when it published its [final guidance](#) on providing the presence of COVID-19 for the purpose of BI insurance claims. The purpose of the calculator is to help policyholders carry out the calculations in chapters 7, 8 and 9 of the final guidance. The results can be used to support a claim under a BI insurance policy.

The FCA has updated its [webpage](#) on the final guidance, as well as its [webpage](#) on BI insurance, to provide a link to the calculator.

Funds and Asset Management

FCA approach to handling of Connaught complaints about FSA/FCA

Following the [report](#) of Raj Parker's "Independent Review into the FSA and FCA's handling of the Connaught Income Fund Series 2 and connected companies", the Financial Conduct Authority (FCA) has published a [statement](#) setting out its approach to assessing complaints relating to the Financial Services Authority's (FSA) and FCA's handling of the Connaught Income Fund Series 1.

The FCA advises that most complaints received from investors concerning the FSA and FCA's actions in its handling of the collapse of the fund were investigated, determined with decision letters and closed in 2017. At that time, complainants were informed of their right, if they were dissatisfied with the FCA's decision, to refer their complaint to the Office of the Complaints Commissioner.

In respect of these complaints, the FCA committed to reconsidering the issue of remedies once the independent review was published. The FCA has now reconsidered these complaints taking account of its statement on its approach to remedies under the complaints scheme, the relevant factors in the complaints scheme and the statutory framework within which it operates.

The FCA considers an apology is the most appropriate remedy in the circumstances. It will contact the complainants directly to provide this apology.

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