FIG Bulletin

Recent developments

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General

UK and Singapore Financial Partnership on financial services

HM Treasury has announced that it has agreed a new "Financial Partnership" between the UK and Singapore which will support increased financial services between the two countries. It states that the Partnership will facilitate closer cooperation, greater information sharing and opportunities to boost trade and investment. The Partnership is backed by a memorandum of understanding (MoU) between HM Treasury and the Monetary Authority of Singapore (MAS) on financial services regulatory cooperation. The MoU is a statement of intent by the parties to share information and to work towards promoting regulatory co-operation. It does not create or alter any legally binding obligations, confer any enforceable rights, or supersede domestic law.

The parties state that, where practicable, they will work together bilaterally and through international bodies to advance certain objectives, including enhancing financial services trade and investment between the UK and Singapore. This regulatory cooperation is intended to cover all areas of financial services.

The MoU sets out a framework for regulatory cooperation, comprised of two elements:

- the parties state that, where practicable and where it is in their mutual interest, they will work towards the compatibility of the regulatory and supervisory frameworks for financial services in their respective jurisdictions; and
- either party may, where practicable and permissible under its domestic legal framework, defer to the regulatory and supervisory frameworks of the jurisdiction of the other party. The MoU envisages that this deference will apply to specific areas of the parties' regulatory and supervisory frameworks. In areas where deference applies, the parties commit, among other things, to sharing information on the implementation and enforcement of regulation in that area and to take into account the impact on the other party of relevant regulatory initiatives.

The MoU also sets out the procedures that should be followed if a party withdraws a deference decision in specific area. In that scenario, the party that has decided to withdraw deference should endeavour, where practicable, to accord the other party a reasonable period of time, before reverting to the application and enforcement of the regulatory and supervisory frameworks of its own jurisdiction.

The parties also reaffirm their commitment to the annual UK-Singapore Financial Dialogue.

The MoU was signed and came into force on 30 June 2020. It will continue in operation until terminated by either party on six months' written notice to the other.

UK and Singapore negotiate on digital trade agreement

The Department for International Trade (DIT) has announced that, on 28 June 2021, the UK begins negotiations on a new digital economy agreement (DEA) with Singapore. The UK is the first European country to start negotiations on a DEA. The DIT's announcement states that a DEA would seek to remove barriers to digital trade, and enable UK exporters to expand into high-tech markets, with negotiations focusing on:

- securing open digital markets for exporters;
- ensuring free and trusted cross-border data flows (with high standards of personal data protection);

- cutting red tape for UK businesses by promoting digital trade systems such as digital customs and border procedures to save time and money when exporting;
- upholding consumer rights and protecting businesses' intellectual property (such as source code and cryptography); and
- deepening cooperation on future growth sectors such as FinTech and strengthening collective cybersecurity capabilities.

Financial Guidance and Claims Act 2018 (Commencement No 8) Regulations 2021

The Financial Guidance and Claims Act 2018 (Commencement No. 8) Regulations 2021 (SI 2021/764) have been published. These Regulations are the eighth commencement regulations made under the Financial Guidance and Claims Act 2018 and commence provisions of the Act relating to requirements to refer individuals to pensions guidance.

Sections 18 and 19 of the Financial Guidance and Claims Act 2018 (FGCA) amend section 137FB of the Financial Services and Markets Act 2000 (FSMA) and insert a new section 113B into the Pension Schemes Act 1993 (PSA 1993) respectively.

The Regulations bring into force, on 5 July 2021, the following provisions in sections 18 and 19 of the FGCA:

- section 18(2), for the purpose only of the making rules by the Financial Conduct Authority (FCA). These rules will require the trustees or managers of personal and stakeholder pension schemes to refer members and survivors to appropriate guidance, provided by the Money and Pensions Service (MaPS) or one of its delivery partners, as part of the application process when a member or survivor applies to access or transfer their pension benefits;
- sections 18(3) to (6), which require the FCA consult specified persons before publishing a draft of its rules and to have regard to any regulations in force under section 113B of the PSA 1993;
- sections 19(2) and (3), on the introduction of section 113B of the PSA 1993 for the purpose only of the making of regulations by the Secretary of State. Section 113B requires the Secretary of State to make regulations that place requirements on occupational pension schemes in England, Wales and Scotland that correspond to the rules introduced by the FCA under section 137FB of FSMA; and
- section 19(4), which amends section 182 of the PSA 1993 to create an exception to the power of HM Treasury to direct that regulation-making powers are exercisable only in conjunction with them.

Draft Financial Services and Markets Act 2000 (PRA-regulated Activities) (Amendment) Order 2021

HM Treasury has published a draft version of the Financial Services and Markets Act 2000 (PRA-regulated Activities) (Amendment) Order 2021, together with an explanatory information.

The Order will amend the Financial Services and Markets Act (PRA-Regulated Activities) Order 2013 (SI 2013/556) as part of implementation of the Investment Firms Prudential Regime, using powers under the Financial Services Act 2021.

HM Treasury plans to lay the instrument before Parliament before the end of 2021.

UK roadmap for financial services: Chancellor's Mansion House speech

Rishi Sunak, Chancellor of the Exchequer, has delivered his Mansion House speech. Alongside the speech, HM Treasury published a new "roadmap", titled "A new chapter for financial services", detailing both the progress being made, and how the government is going further to ensure the financial services sector remains competitive now it has left the EU. The document sets out the government's vision for an open, green and technologically advanced financial services sector that is globally competitive and acts in the interests of communities and citizens, creating jobs, supporting businesses and powering growth across the UK.

Among other things, the roadmap indicates that the government intends to require businesses to disclose their risks and opportunities from, and impact on, the climate and the environment through implementing integrated "Sustainability Disclosures Requirements (SDR)". It will work closely with regulators to ensure a strong coordination across the economy for an "economy-wide regime" which will cover "real-economy corporates, financial services firms and pension schemes". It will publish a roadmap setting out its approach to sustainability disclosures ahead of COP26 (which begins 1 November 2021). The government will also work with the FCA to introduce a sustainable investment label for retain investments using information provided through the SDR.

The roadmap also flags the government's intention to consult on implementing a senior managers and certification regime for CCPs.

Wholesale Markets Review: HM Treasury consultation

HM Treasury has published its wholesale markets review consultation paper. The consultation runs until 24 September 2021.

The consultation is launched with the backdrop of Brexit and a view to tailoring the UK secondary markets regime for its domestic environment. However, the Treasury states that there is no intention to make changes for the sake of change: "The Wholesale Markets Review is not about revolutionising the rulebook but about making it nimble and fit for purpose. This is especially relevant as the government recognises that industry has faced considerable costs in adapting to new requirements following the 2008 financial crisis".

In its introduction, the Treasury states that this package of reforms seeks to create a simpler and less prescriptive regime in the most cost-effective way, for example by:

- clarifying the regulatory perimeter and conditions governing trading venues and systematic internalisers, so that the market can operate in confidence and promote innovation;
- removing requirements that limit firms' ability to execute transactions where they can get the best outcomes for investors, for example by removing the share trading obligation and double volume cap;
- recalibrating the transparency regime for fixed income and derivatives markets, to ensure that the right instruments are subject to transparency requirements;
- fundamentally reviewing the commodities regime, to ensure that market activity is not unnecessarily restricted, while ensuring that markets function efficiently; and
- amending the market data regime to enable participants to identify the best available prices.

HM Treasury also seeks feedback on potential longer-term improvements that could be made to the UK regime.

Consultation responses will be considered in parallel with the Financial Services Future Regulatory Framework Review. To implement regulatory changes that will be informed by this consultation, the government intends to bring forward primary or secondary legislation as soon as parliamentary time allows. To cover the full breadth and scope of the UK's framework, the government is working closely with the regulators. The FCA has committed to take forward any further consultations about parts of the regime that fall within its rules and guidance, and that relate to these proposals, from the second half of this year onwards.

The government has also separately published its consultation on the prospectus regime.

Access to cash: HM Treasury consultation

HM Treasury has published a consultation paper on access to cash. The paper sets out details of the government's proposed policy approach to developing legislation to protect access to cash. It seeks views on:

- establishing geographic requirements for the provision of cash withdrawal and deposit facilities;
- the designation of firms for meeting these requirements; and
- establishing further regulatory oversight of cash service provision.

A consultation-stage Impact Assessment has been published alongside the consultation.

The consultation follows the government's October 2020 call for evidence on access to cash. HM Treasury has published a summary of the responses it received to this alongside its consultation paper and states that it has used the responses to inform its policy development work in this area.

The consultation closes to comments on 23 September 2021, following which the government will provide a summary of responses and set out next steps for its work.

COP26: Treasury Committee inquiry into climate change and green finance

The House of Commons Treasury Committee has published a webpage announcing the launch of a new inquiry into climate change and finance. The first oral evidence session under the inquiry will be held on 5 July 2021. Mark Carney, the Prime Minister's COP26 finance adviser and Special Envoy for Climate Action and Finance at the United Nations, will be giving evidence.

The committee is one of nine cross-party select committees (together, the "Committee on COP26") that will scrutinise preparations for the COP26 UN climate change conference to be held in Glasgow in November 2021.

Artificial Intelligence Public-Private Forum meeting minutes

The Bank of England (BoE) has published the minutes of the Artificial Intelligence Public-Private Forum's third meeting held on 15 June 2021 (published on 30 June 2021). The Forum was launched with the BoE and the FCA to help the regulators better understand the impact of artificial intelligence (AI) and machine learning (ML) on financial services. The minutes record discussion on the following topics:

- risks arising from AI models;
- management of risks arising from AI models; and
- regulatory framework.

Regulated fees and levies for 2021/22: FCA PS21/7

The FCA has published a policy statement, PS21/7, on regulated fees and levies rates for 2021/22. PS21/7 sets out the periodic fees rates for 2021/22, as well as the Financial Ombudsman Service (FOS) general levy and Money and Pensions Service (MaPS), Devolved Authorities and HM Treasury illegal money-lending levies for 2021/22. The FCA also sets out feedback on the responses received to its April 2021 fees and levies consultation paper (CP21/8).

The FCA is proceeding with the proposals as consulted on in CP21/08, except in the case of the principal firms appointed representatives' fee. Stakeholders raised concerns that introducer appointed representatives should not be included as their activities are limited and therefore pose a lower risk of harm. The FCA has decided to reduce the level of this fee to £75, with the £250 fee now only applying to full appointed representatives.

Changes to the Fees manual (FEES) take effect on 1 July 2021. Firms can use the FCA's online fees calculator on its webpage to calculate their individual fees based on the final rates in PS21/7. The FCA will invoice fee-payers from July 2021 onwards for their 2021/22 periodic fees and levies.

Also, in PS21/7, the FCA states that it will be conducting a wider review of its fees structure, including all minimum fees, as part of its transformation programme and will consult on the resulting proposals.

In chapter 8 of CP21/08, the FCA consulted on its proposals for fees to recover its regulatory costs for firms that undertake the provision and distribution of pre-paid funeral plans. It is considering the comments received and, subject to FCA Board approval in July 2021, it plans to publish its response to the feedback received and final rules in the July 2021 Handbook Notice.

FCA Handbook Notice 89

The FCA has published Handbook Notice 89, which sets out changes to the FCA Handbook made by the FCA board on 24 June 2021. The Handbook Notice reflects changes made to the Handbook by the following instruments:

- Training and Competence Sourcebook (Amendment No 9) Instrument 2021 (FCA 2021/20). Part 1 of the instrument came into force on 25 June 2021, and Part 2 comes into force on 25 June 2022 (as there is a one-year implementation period for new notification requirements);
- Financial Services Compensation Scheme (Miscellaneous Amendments) Instrument 2021 (FCA 2021/24), in force on 25 June 2021; and
- Handbook Administration (No 56) Instrument 2021 (FCA 2021/25) which came into force on 25 June 2021. publish its response to the feedback received and final rules in the July 2021 Handbook Notice.

Investment Firms Prudential Regime: FCA PS21/6

Following its first consultation on the Investment Firms Prudential Regime (IFPR) in CP20/24, the FCA has published its first policy statement, PS21/6, on the implementation of the IFPR. PS21/6 sets out details of feedback that it received and its approach to the issues raised in feedback. PS21/6 covers aspects of the IFPR relating to, among other things:

- the categorisation of investment firms;
- prudential consolidation;

- own funds and own funds requirements; and
- reporting requirements.

The FCA published its second consultation paper, CP21/7, in April 2021 and intends to respond to this with a policy statement published in Q3 2021. It also intends to publish a third and final consultation paper on the IFPR in early Q3 2021, with the third policy statement due to be published in Q4 2021. The FCA envisages that the third consultation will cover:

- disclosure;
- consequential amendments to the Handbook and technical standards relating to the UK CRR;
- issues relating to the UK implementation of the Bank Recovery and Resolution Directive and the Financial Conglomerates Directive; and
- final application provisions.

The IFPR is scheduled to come into effect in January 2022.

FOS Ombudsman News 162

The Financial Ombudsman Service (FOS) has published issue 162 of its Ombudsman News. Items of interest include:

- an overview (set out on an updated webpage) of the FOS' general approach to complaints about wedding insurance, including information on how firms should handle such complaints and case studies outlining how the FOS has resolved complaints in this area fairly. The FOS notes that the COVID-19 pandemic has driven a steep increase in wedding and special events insurance complaints and that it has upheld a high proportion in favour of the consumer;
- an overview (set out on a new webpage) of the FOS' general approach to complaints about business interruption (BI) insurance. The webpage sets out information on the types of complaints the FOS has seen (in almost all cases, complaints have come to the FOS because the complainant is unhappy the insurer has turned down their claim, but in a few cases, complaints have concerned how the BI insurance was sold, a delay in considering the claim or the amount offered by the insurer in settlement) as well as case studies that illustrate and outline its approach to BI insurance complaints. The FOS confirms that, in deciding a complaint fairly, it takes account of all applicable regulations, rules and law. This includes the Supreme Court's judgment in the FCA's test case; and
- an overview (set out on a new webpage) of the FOS' general approach to complaints about government-backed loan schemes in the context of COVID-19 (that is, the Coronavirus Business Interruption Loan Scheme (CBILS) and Bounce Back Loan Scheme (BBLS)). The webpage sets out information on the types of complaints the FOS has seen and case studies that illustrate and outline its approach to complaints about CBILS and BBLS.

Climate-related risk and financial stability: ECB and ESRB joint report

On 1 July 2021, the European Central Bank (ECB) and the European Systemic Risk Board (ESRB) published a joint report on climate-related risk and financial stability, with a technical supplement focusing on data and measurement issues in physical and transition risk analysis and providing a specific methodological application for each type of risk.

The report analyses a broadened set of climate change drivers over long-dated financial risk horizons, with the aim of providing a more encompassing and robust quantification of financial stability risks in the EU to underpin targeted and effective policy action.

Three climate scenarios drawn from the Network for Greening the Financial System (NGFS) are explored in the report, examining both physical and transition risk drivers as well as assumptions on climate technologies. The report's granular mapping of financial exposures to climate change drivers identifies the following forms of risk concentration:

- exposures to physical climate hazards are concentrated at the regional level. Around 30% of the euro area banking sector's credit exposures to non-financial companies are to firms subject to a combination of physical hazards such as flooding, wildfires, heat and water stress;
- exposures to emission-intensive firms are concentrated across and within economic sectors. For example, exposures to highly emitting firms represent 14% of collective euro area banking sector balance sheets; and
- exposures to climate risk drivers are concentrated in specific European financial intermediaries. Approximately 70% of banking system credit exposures to firms subject to high or increasing physical risk over the coming decades are concentrated in the portfolios of only 25 banks. In addition, scope for financial market repricing associated with transition risk will be particularly large for investment funds.

The ECB and ESRB highlight the consistent finding that credit and market risk losses for EU banks, insurers and investment funds could arise from an insufficiently timely or effective climate transition. They add that, while there has been notable progress in measuring and modelling climate related risk, much remains to be done. In particular, the adequacy of reported data remains a key issue. The variability of climate-related disclosures among firms and financial institutions suggests there will be refinements as progress is made in addressing data gaps and obtaining more complete data. Ultimately, the transmission of risks to the financial system and its prospective timing must be better understood.

CRD: EBA opinion on authorisation of investment firms as credit institutions in absence of RTS on reclassification thresholds

The European Banking Authority (EBA) has published an opinion on appropriate supervisory and enforcement practices for the process of authorising investment firms as credit institutions under Article 8a of the Capital Requirements Directive (CRD). The opinion follows on from the absence of the final regulatory technical standards (RTS) on the relevant thresholds for reclassification. Member states were expected to apply measures implementing Article 8a on 26 June 2021.

The EBA considers that the absence of the final Delegated Regulation containing the RTS raises legitimate doubts over the application of Article 8(a) in the exceptional cases in which, for the purpose of determining whether the relevant thresholds have been reached, the methodology to be laid down in the RTS is relevant. However, this is not expected to affect the application of Article 8a in cases where firms are clearly reaching either of the thresholds.

The EBA recommends that, in the cases where whether the Article 8a(1) thresholds have been reached cannot be determined in the absence of the final methodology in the RTS, competent authorities should not prioritise any supervisory or enforcement action in relation to the Article 8a requirements until six months after the methodology is finalised. Competent authorities should, however, apply Article 8a in all other cases where the question of whether the threshold has been reached can be reliably determined without the final methodology.

The EBA is not expecting to finalise the draft RTS for submission to the European Commission before the end of October 2021. It requests the Commission adopt the technical standards as quickly as possible after submission by the EBA.

IFD: EBA final report containing draft ITS on supervisory disclosure

The EBA has published its final report setting out final draft implementing technical standards (ITS) with regard to the format, structure, contents list and annual publication date of the information to be disclosed by competent authorities in accordance with Article 57(4) of the Investment Firms Directive (IFD).

The draft ITS, set out in section 3 of the report, contain information on supervisory approaches and aggregate statistical data concerning the new prudential requirements that competent authorities will have to disclose publicly for all types of investment firms authorised under the Markets in Financial Instruments Directive (MiFID). Among other things, the final draft ITS include detailed templates to harmonise publication of the information, together with instructions for completing the templates.

The draft ITS state that they will enter into force twenty days after publication in the Official Journal of the European Union. They also state that competent authorities will be required to disclose this information for the first time by 30 June 2022. The EBA will submit the draft ITS to the European Commission for endorsement.

RegTech in the EU financial sector: EBA report

The EBA has published a report outlining its market analysis of the RegTech in the EU financial sector. It has also published an "at a glance" factsheet on RegTech. The report is based on several sources of information and provides insights into the following:

- the current RegTech landscape in the EU, providing a mapping and understanding of the existing RegTech solutions, identifying the status of adoption, financial institutions' spending, the impact of COVID-19 as well as trends and drivers;
- the overall benefits of the use of RegTech, either developed by financial institutions or provided by RegTech providers, as well as its perceived advantages of RegTech solutions over "traditional" methods;
- the overall challenges faced by financial institutions when using RegTech solutions and RegTech providers, when offering their service, identifying the main barriers and risks related to the adoption and use of RegTech solutions. Also considered are the risks that financial institutions could face if RegTech solutions are not properly implemented, and the main supervisory risks that may arise for competent authorities when supervising financial institutions that use RegTech solutions;
- deep dives into five RegTech segments: anti-money laundering/countering the financing of terrorism (AML/CFT); fraud prevention; prudential reporting; ICT security; and creditworthiness assessment (CWA); and
- a summary of findings and proposals suggesting the way forward to facilitate the scale-up of innovation for RegTech in the EU to support the digital transformation of the EU financial sector.

The analysis of the RegTech market in the EU financial sector and proposals included in this report will form part of future policy discussions within the wider objectives of facilitation of innovation and aim to assist the European Commission's objectives included in the EU Digital Finance Strategy. The proposals are all technology neutral, meaning that the use of a specific technology is neither preferred nor prejudiced and the use of new technologies is not inadvertently prevented because of the regulatory or supervisory approaches.

Proliferation financing risk assessment and mitigation: FATF guidance

The Financial Action Task Force (FATF) has published guidance on proliferation financing risk assessment and mitigation. The guidance has been developed following its March 2021 consultation and the prior introduction, in October 2020, of new obligations on proliferation financing risk assessment and mitigation by way of amendments to FATF recommendation 1.

Transparency and beneficial ownership of legal persons: FATF consults on potential amendments to recommendation 24

The FATF is consulting on potential amendments to the FATF recommendation 24 on transparency and beneficial ownership (BO) of legal persons. The FATF aims to strengthen the international standard on BO of legal persons to ensure greater transparency about their ultimate ownership and control and to take more effective action to mitigate the risks of misuse.

The consultation closes to responses on 20 August 2021. The FATF will consider the feedback received and propose revisions to recommendation 24 for discussion at its October 2021 plenary meeting.

Money laundering from environmental crime: FATF report

The FATF has published a report on money laundering (ML) from environmental crime. It states that environmental crime covers a wide range of activities, including illegal extraction and trade of forestry and minerals, as well as illegal land clearance and waste trafficking. Perpetrators of environmental crime vary from large organised crime groups to multinational companies and individuals. They rely on both the financial and non-financial sector to launder their proceeds.

In the report, the FATF notes that the "low risk, high reward" nature of environmental crime makes for a lucrative and safe source of revenue for criminals. This is partly due to a regulatory and legal environment that is not always consistent globally and does not fully address the financial aspects and ML risks of these crimes. The FATF conducted this study to strengthen awareness of the scale and nature of criminal gains and laundering techniques for environmental crimes.

The report builds on the FATF's 2020 report on financial flows from the illegal wildlife trade on ML from environmental crime. It identifies good practices that governments and the private sector can take to disrupt the profitability of environmental crimes.

AML and CTF programmes: Wolfsberg Group statement on demonstrating effectiveness

The Wolfsberg Group has published a statement for financial institutions (FIs) suggesting ways in which they can assess risk in defined priority areas and demonstrate the effectiveness of their AML and CTF programmes.

Banking and Finance

UK Securitisation Regulation: HM Treasury review

HM Treasury has published a call for evidence to inform its review of the retained EU law version of the EU Securitisation Regulation (UK Securitisation Regulation or "Sec Reg"). Article 46 of the Sec Reg requires HM Treasury to review the functioning of the Sec Reg and lay a report in Parliament by 1 January 2022 assessing:

- effects of the Sec Reg – including the introduction of the s simple, transparent and standardised securitisations (STS) framework – on the functioning of the securitisation market, the contribution of securitisation to the real economy (in particular on access to credit for small and medium-sized enterprises and investments), and the interconnectedness between financial institutions and the stability of the financial sector;
- risk retention modalities;
- disclosures related to private securitisations;
- an STS equivalence regime;
- environmental, social, and governance disclosures;
- the third-party verification regime; and
- limited licensed banks.

In addition, HM Treasury will consider how the Sec Reg can best deliver for the UK financial market and economy post-Brexit.

Reponses to the call for evidence should be submitted by 2 September 2021.

UK CRR: FPC and PRA CP14/21 on changes to UK leverage ratio framework

The Bank of England (BoE) has published consultations (in the same document, CP14/21) by the Financial Policy Committee (FPC) and the Prudential Regulation Committee (PRA) on changes to the UK leverage ratio framework. This consultation is relevant to all Capital Requirements Regulation (CRR) firms and CRR consolidation entities on an individual, consolidated, and where relevant, sub-consolidated basis.

The FPC conducted a comprehensive review of the UK leverage ratio framework in light of revised international standards, and its ongoing commitment to review its policy approach. CP14/21 outlines the changes that the FPC proposes to make to the framework, and the PRA's proposed approach to implementing these changes, in two consultation papers: one from the FPC (in Part 1) and one from the PRA (in Part 2). The PRA has reviewed the leverage ratio framework concurrently, including to reflect international developments, and has coordinated closely with the FPC in relation to its review. The PRA considers that the FPC's proposals would advance the PRA's objectives.

The consultation closes to comments on 24 August 2021. If the FPC makes its proposed changes to the UK leverage ratio framework, the PRA proposes that the implementation date for changes to the definition of leverage exposure measure and reporting and disclosure will be 1 January 2022. Changes to scope and the level of application of the minimum requirement, buffers, and related additional reporting and disclosure requirements for firms that will be newly brought into scope of the leverage ratio minimum requirement will become effective on 1 January 2023.

Retail banking: FCA Dear CEO letter on common AML failings

The Financial Conduct Authority (FCA) has published a Dear CEO letter addressed to firms in its retail banking portfolio setting out action they need to take in response to common control failings in their anti-money laundering (AML) frameworks.

The FCA is disappointed to continue to identify common weaknesses among some firms in key areas of retail banks' financial crime systems and control frameworks. These include in the areas of:

- governance and oversight;
- risk assessments;
- due diligence;
- transaction monitoring; and
- suspicious activity reports (SARs).

Details of the specific issues, where some firms have fallen short of their obligations under the FCA Handbook in SYSC 6.3, the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 (the MLRs) and the JMLSG guidance on money laundering and terrorist financing, are set out in the Annex to the letter.

The FCA reminds firms that the senior managers and certification regime (SMCR) places a responsibility on all senior managers to counter the risk that their firm might be used to further financial crime. Particular responsibility lies with those SMCR roles holding responsibility for financial crime, including Senior Manager Function (SMF) 17 (Money Laundering Reporting Officer) and Prescribed Responsibility D (Financial Crime). In its supervisory work, the FCA will "continue to consider carefully whether the relevant SMF holders have carried out their responsibilities appropriately".

The FCA expects all CEOs and their firm's senior management to carefully consider the contents of the letter and take the necessary steps to assure themselves that their firm's financial crime systems and controls are commensurate with the risk profile of the firm and meet the requirements of the MLRs. Firms are not required to respond to the letter but must complete a gap analysis against each of the common weaknesses identified by the FCA by 17 September 2021. Prompt and reasonable steps should be taken by firms to close any gaps identified. The senior manager holding the financial crime function should have sufficient seniority to be able to carry out the role effectively and to ensure that the gap analysis is completed promptly, and its findings shared internally and acted on, as appropriate. Firms should be able to demonstrate if required to do so that they have complied with the requirements of the letter.

Standards of Lending Practice: LSB guidance for smaller firms and new market entrants on good governance practices

The Lending Standards Board (LSB) has published guidance on good governance practices under its Standards of Lending Practice (Standards). The guidance is targeted at smaller firms and new market entrants, such as start-ups or FinTechs, who the LSB considers may find it a challenge to adhere to self-regulatory best practices like the Standards on top of the other statutory rules and regulations to which they are subject. It aims to help these firms understand how they can achieve better customer outcomes, and thereby adhere to the Standards, through systems, controls and governance arrangements that give them effective oversight, regardless of their size or resource.

The guidance is the first in the LSB's three-part insight series, Standards for All.

CRR: Implementing Regulation extending transitional period relating to treatment of exposures to third-country CCPs

Implementing Regulation (EU) 2021/1043 on the extension of the transitional provisions related to own funds requirements for exposures to central counterparties (CCPs) set out in the Capital Requirements Regulation (CRR) has been published in the Official Journal of the European Union (OJ).

Article 497(1) of the CRR established a transitional period during which institutions may treat exposures to certain third-country CCPs as exposures to qualifying CCPs. This transitional period expires on 28 June 2021 in respect of certain third-country CCPs. The Implementing Regulation extends the transitional regime until 28 June 2022.

CRR: ECB Decision extending COVID-19 exclusion of certain central bank exposures from leverage ratio

Decision 2021/1074 of the European Central Bank (ECB) to extend the temporary exclusion of certain exposures to central banks from the total exposure measure in view of the COVID-19 pandemic has been published in the OJ. The Decision relates to Article 500b of the CRR, which was introduced by Regulation (EU) 2020/873 (COVID-19 CRR Amending Regulation) and ceased to apply on 27 June 2021. It allowed institutions to exclude exposures to their central bank from the total exposure measure where the institution's competent authority had determined there are exceptional macro-economic circumstances. The Article 500b provisions on the exclusion of central bank exposures are replicated in a new Article 429a, which was inserted by CRR II and have applied since 29 June 2021.

The ECB has decided to extend the effect of the exclusion until 31 March 2022, as it considers that exceptional macro-economic circumstances continue to apply in respect of the eurozone.

CRR: EBA Decision confirming quality of unsolicited credit assessments of certain ECAIs

The European Banking Authority (EBA) has published Decision (EBA/DC/2021/397) amending the EBA Decision (EBA/DC/2016/151) confirming that the unsolicited credit assessments of certain external credit assessment institutions (ECAIs) do not differ in quality from their solicited credit assessments. The EBA developed the Decision on the basis of Article 138 of the Capital Requirements Regulation (575/2013) (CRR).

The EBA explains that the amended Decision confirms the quality of unsolicited credit assessments assigned by certain ECAIs for calculating institutions' capital requirements. Institutions can only use unsolicited credit assessments of an ECAI for determining their own funds requirements if the EBA has confirmed that those unsolicited ratings do not differ in quality from solicited ratings of that same ECAI.

Since the last EBA Decision in July 2017, two additional ECAIs have been recognised and three ECAIs have been de-registered or de-certified. In addition, one registered ECAI has been renamed. The new Decision amends the 2016 Decision to reflect these developments. It is based on a quantitative and qualitative analysis, which have not yet been published.

The Decision will enter into force twenty days after it has been published in the OJ.

ECB options and discretions policies: ECB consultation

The European Central Bank (ECB) has launched a consultation on proposed updates to its harmonised policies for exercising the options and discretions that it is allowed to exercise under EU law when supervising banks. The ECB has published:

- a Q&A on its consultation proposals;
- a consultation paper on draft revisions to the ECG guide on options and discretions available in Union law;
- an explanatory memorandum on the review of its policies concerning the exercise of options and discretions;
- draft ECB Regulation amending Regulation (EU) 2016/445 on the exercise of options and discretions available in EU law;
- draft ECB Recommendation amending the ECB Recommendation ECB/2017/10 on common specifications for the exercise of some options and discretions available in Union law by national competent authorities in relation to less significant institutions; and
- draft ECB Guideline amending Guideline (EU) 2017/697 of the ECB on the exercise of options and discretions available in Union law by national competent authorities relating to less significant institutions.

The revisions primarily take account of legislative changes that have been adopted since the option and discretion policies were first published in 2016. The ECB states that most of the proposed changes relate to the application of liquidity requirements and that the consultation relates to many aspects of supervision, including permissions for banks seeking to reduce their capital, the treatment of certain exposures in the calculation of the leverage ratio as well as some exemptions from the large exposures limit.

The deadline for comments to the consultation is 23 August 2021. Once responses have been assessed, revised versions of the guide, Regulation, Guidelines and Recommendation will be published on the ECB's website, together with the ECB's evaluation of comments and its response.

Money laundering in the banking sector: European Court of Auditors report

The European Court of Auditors (ECA) has published a report about money laundering in the banking sector, titled "EU efforts to fight money laundering in the banking sector are fragmented and implementation is insufficient".

The ECA states that it found institutional fragmentation and poor coordination at EU level when it came to actions to prevent money laundering and acting where risk was identified. It says EU bodies have limited tools to ensure sufficient application of AML/CFT frameworks at national level. In addition, there is no single EU supervisor, the EU's powers are split between several bodies and coordination with member states is carried out separately. The ECA makes recommendations to remedy these issues.

EU Securitisation Regulation: EBA consults on draft RTS for risk retention requirements

The EBA is consulting on draft RTS specifying the requirements for originators, sponsors, original lenders and servicers relating to risk retention under Article 6(7) of the Securitisation Regulation. The draft RTS cover the following:

- requirements on the modalities of retaining risk;
- the measurement of the level of retention;
- the prohibition of hedging or selling the retained interest;
- the conditions for retention on a consolidated basis;
- the conditions for exempting transactions based on a clear, transparent and accessible index;
- the modalities of retaining risk in case of traditional securitisations of non-performing exposures; and
- the impact of fees paid to the retainer on the effective material net economic interest.

The consultation ends on 30 September 2021. Once concluded, the EBA will submit final draft RTS to the Commission for adoption.

CRD: EBA consults on revisions to guidelines on common supervisory procedures and methodologies for SREP and supervisory stress testing

The EBA has published a consultation paper on draft guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing under Article 107(3) of the Capital Requirements Directive (CRD).

The consultation sets out proposals for revisions to the EBA's current guidelines. The main amendments implement requirements contained in CRR II and CRD V.

The consultation closes on 28 September 2021.

SFTs: BCBS finalises technical amendments on minimum haircut floors

The Basel Committee on Banking Supervision (BCBS) has published a technical amendment on minimum haircut floors for security financing transactions (SFTs). The technical amendment relates to CRE56, which sets out the calculation of minimum haircut floors on SFTs. The amendments are intended to clarify the application of the exemption for collateral upgrade transactions in CRE56.5 and to correct a formula in CRE56.10 used to calculate haircut floors for netting sets of SFTs.

The BCBS consulted on the technical amendment in January 2021. It has not changed the drafting of the technical amendment in response to feedback.

The BCBS expects its members to implement its standards on minimum haircut floors for SFTs in CRE56, which form part of the final Basel III reforms, by 1 January 2023.

Corporate debt workouts: FSB launches thematic peer review

The Financial Stability Board (FSB) has announced the launch of a thematic peer review on corporate debt workouts. The peer review will examine existing and planned out-of-court debt workouts frameworks in FSB jurisdictions. The implications for financial stability will form part of the review. Terms of reference provide more details on the objectives, scope and process for this review.

The deadline for providing feedback to the FSB is 9 August 2021. The peer review report is expected to be published in early 2022.

Consumer Finance

CCD: European Commission adopts proposed Directive on consumer credits

The European Commission has adopted a proposed Directive on consumer credits to revise and replace the Consumer Credit Directive (CCD). The Commission has also published on its webpage on the review of the rules relating to consumer credit agreements, the Annexes to the proposed Directive, an impact assessment report, an executive summary of the impact assessment report, a Regulatory Scrutiny Board Opinion on the impact assessment and a factsheet.

The Commission explains that, in the light of market, technological and behavioural developments since the adoption of the CCD, consumers taking out loans face detriment that could be avoided. Moreover, businesses face burdens and costs from unclear obligations, lowering the competitiveness in the EU market for consumer credit.

The proposed revisions to the CCD include:

- extending its scope to cover loans of less than EUR200, interest-free credit, all overdraft facilities and all leasing arrangements, as well as credit agreements concluded through P2P lending platforms;
- making information related to credit offers clearer, and reducing the amount of information to be provided to consumers in advertising using certain channels;
- banning practices that exploit consumer behaviour, such as pre-ticked boxes, tying practices and unsolicited sales, and setting caps on interest rates, the annual percentage rate of charge or the total cost of credit; and
- improving rules on assessing consumer creditworthiness to make sure appropriate and proportionate data is used and to prevent over-indebtedness.

The European Parliament and the Council of the EU will now consider the proposed Directive.

Payments

ISO 20022 payment messages: Pay.UK and BoE collaboration

The Bank of England (BoE) and Pay.UK have published a joint press release announcing collaboration on ISO 20022 payment messages. The BoE and Pay.UK are implementing ISO 20022 in CHAPS and the New Payments Architecture (NPA) as part of their objectives to improve resilience, security, user experience and innovation in the UK's payments industry.

The press release outlines work in this area that the BoE and Pay.UK have carried out to date. It also states that, through 2021 and beyond, the key areas of collaboration will include:

- working with UK Finance and the Payments Standards Strategy Group (PSSG) on the strategic direction for the governance of payment standards in the UK;
- working closely with the industry to develop meaningful use cases and end-to-end journeys for using enhanced data to address existing challenges, such as authorised push payment (APP) fraud and tax administration;
- providing to industry a CHAPS and NPA schema comparison view against the original pacs.008 common credit message, outlining where the schemas align and diverge; and
- further developing the requirements with industry for how the key enhanced data would be consistently implemented and used to unlock benefits and ensure an aligned approach.

The BoE and Pay.UK will continue to collaborate closely and are also looking to engage further with the industry as changes are introduced.

Protected ATMs: PSR second annual review of specific direction 8

The Payment Systems Regulator (PSR) has published its second annual review report of specific direction 8 (SD8), together with a paper setting out stakeholder responses to its call for views. SD8 requires LINK to do all it can to fulfil its commitment to maintain the broad geographic spread of free-to-use (FTU) ATMs.

Based on the evidence the PSR has collected and its analysis of stakeholder responses, it considers that SD8 should remain in place until it expires in January 2022. SD8 has been successful in maintaining access to cash and has also enhanced the transparency of the measures LINK has implemented. The PSR has also identified areas for further action by LINK.

Securities and Markets

Markets in Financial Instruments (Capital Markets) (Amendment) Regulations 2021

The Markets in Financial Instruments (Capital Markets) (Amendment) Regulations 2021 (SI 2021/774) have been published, together with an explanatory memorandum. The Regulations amend the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001 (SI 2001/995) and Commission Delegated Regulation (EU) 2017/565, which supplements the Markets in Financial Instruments Regulation (UK MiFIR).

The purpose of SI2021/774 is to alleviate regulatory burdens on certain financial services firms, notably by removing unnecessary reporting requirements. It is intended to work in conjunction with proposed Financial Conduct Authority (FCA) rule changes (CP21/9) to give effect to amendments including to:

- remove an obligation on trading and execution venues to publish reports relating to the quality of execution of orders obtained on them;
- remove a requirement for investment firms providing portfolio management services to inform their professional clients whenever the overall value of the portfolio depreciates by 10% and thereafter at multiples of 10%;
- remove an obligation for firms to provide detailed contract notes for trades executed on behalf of wholesale clients, and quarterly reports on portfolio management services;
- exempt investment firms providing portfolio management services to professional clients from the requirement to provide cost benefit analyses to those professional clients when they switch the instruments in which they invest; and
- revoke the obligation for an investment firm to provide specified information relating to its services to clients before a service is carried out, where the services are provided to eligible counterparties.

The Regulations were made on 28 June 2021 and will mostly come into force on 26 July 2021.

Financial Markets and Insolvency (Transitional Provision) (EU Exit) (Amendment) Regulations 2021

The Financial Markets and Insolvency (Transitional Provision) (EU Exit) (Amendment) Regulations 2021 (SI 2021/782) have been published, together with an explanatory memorandum. They came into force on 1 July 2021.

SI 2021/782 extends the effect of the temporary designation regime established by the Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2019 (SI 2019/782) for EEA systems that failed to apply for designation by the end of June 2021.

The Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations (SI 2019/341) (2019 Regulations) established a temporary designation regime (TDR) to enable non-UK financial market infrastructures (FMIs) to continue to benefit from UK protections provided for under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (SI 1999/2979). EEA systems that did not apply to the Bank of England (BoE) for designation under the SFRs within six months following the end of the Brexit transition period (that is, 30 June 2021) would automatically lose their settlement finality protections at that time.

SI 2021/782 amends the 2019 Regulations to change the consequences for systems that fail to apply within six months of the end of the Brexit transition period. These systems will now retain settlement finality protections under the TDR for a period of 30 months following the end of the transition period (that is, until 30 June 2023), rather than immediately losing those protections. This ensures that UK firms which are using EEA systems that fail to apply for designation under the UK SFR, will have sufficient time to find alternative providers should those systems choose to stop providing services to UK firms.

UK prospectus regime: HM Treasury consultation

Along with its wholesale markets review consultation paper (reported in General regulatory news section), HM Treasury has published a consultation on the UK prospectus regime. HM Treasury states that the consultation on the prospectus regime first considers what the fundamental purpose of a prospectus is, suggesting that a prospectus should be a device to provide potential investors with the information that they need to make reliable investment decisions in a security. It proposes that the two regulatory issues which the Prospectus Regulation deals with, admissions of securities to stock markets and "public offer rules", are dealt with separately in the future. The consultation then proposes that the FCA is granted new powers to make rules, in place of the current Prospectus Regulation.

The consultation also considers companies on overseas markets and the extent to which they can extend offers into the UK, the interaction of future rules with issuers listed on multilateral trading facilities, and private companies and their existing right to offer securities to the public.

The consultation closes on 17 September 2021.

UK EMIR: PRA and FCA PS14/21 on amending BTS on margin requirements for non-centrally cleared derivatives

The Prudential Regulation Authority (PRA) and FCA have published a joint policy statement, PRA PS14/21, on margin requirements for non-centrally cleared derivatives. In PS14/21, the regulators give feedback to responses to their preceding consultation paper (PRA CP6/21, FCA CP21/7) and set out their final policy in the form of amendments to the binding technical standards (BTS) in the UK onshored version of Commission Delegated Regulation (EU) 2016/2251 (BTS 2016/2251). The legal instruments come into force on 30 June 2021.

PS14/21 is relevant to PRA-authorised firms that are financial counterparties for the purposes of Article 2 of the European Market Infrastructure Regulation (EMIR) and to all FCA solo-regulated entities and non-financial counterparties in scope of the margin requirements under EMIR.

The regulators have proceeded with the text largely as consulted on, apart from a minor change to specify that the temporary exemption for single-stock equity and index options will expire on 4 January 2024. They have also temporarily extended the continued use of EEA UCITS as collateral from March 2022 to the end of December 2022 in response to feedback that smaller market participants might be disproportionately affected by costs imposed by the removal of the use of EEA UCITS.

The FCA states that it will consider whether any further clarification is needed on the application of the clearing obligation and margin requirements for new contracts, where the new contract relates solely to benchmark reforms and the replacement of reference rates. It notes that it set out its approach on this issue in November 2019 at a meeting of the Working Group on Sterling Risk-Free Reference Rates.

FMI supervision: BoE consults on fees regime for 2021/22

The Bank of England (BoE) has published a consultation paper on the fees regime for the supervision of financial market infrastructure (FMI) that will apply for the 2021/22 fee year. The FMIs that are currently within scope of the annual FMI supervisory fee are recognised payment systems, specified service providers to recognised payment systems, UK central counterparties (CCPs) and UK central securities depositories (CSDs). The BoE is seeking views on:

- the fee rates to meet the 2021/22 funding requirement for its FMI supervisory activity and the policy activity that supports this. The proposed fees for 2021/22 are expected to total £10.6 million. This represents an increase in the fees levied of £1.5 million on the 2020/21 actual fees. The 2020/21 CCP fee-block charge is expected to increase by 17%, the payment system and service provider fee-block charge by 15% and the CSD fee-block charge by 13%;
- the recovery of approximately £0.39 million through a special project fee (SPF). The BoE states that the SPF is for supervisory work associated with "a significant activity" that is time limited and requires additional supervisory resource; and
- the allocation of the surplus from the 2020/21 FMI fee year. The BoE does not intend to provide a rebate to FMIs on the fees paid in relation to the 2020/21 fee year. It states that this is because in the 2020/21 fee year the BoE smoothed the increase from prior budget years, which effectively capped fees at 50% of the budget increase.

The deadline for responses is 30 August 2021. The proposed implementation date for the proposals is Q3 2021.

EMIR: Official translations of ESMA revised guidelines on written agreements between members of CCP colleges

The European Securities and Markets Authority (ESMA) has published the official translations, including the English language version, of its updated guidelines on written agreements between members of CCP colleges under the European Markets Infrastructure Regulation (EMIR).

The guidelines apply to national competent authorities (NCAs). They aim to establish consistent, efficient and effective supervisory practices within the European System of Financial Supervision (ESFS) and to ensure the common, uniform and consistent application of Articles 18 and 19 of EMIR and of the Delegated Regulation on colleges. In particular, the guidelines aim to propose a standard written agreement to ensure the timely establishment and smooth functioning of a CCP college. The standard written agreement takes account of the amendments to EMIR (in particular, Articles 18 and 19) and the Delegated Regulation on colleges, including under EMIR 2.2.

The guidelines apply from 1 July 2021. NCAs must make every effort to comply with the guidelines by incorporating them into the written agreements for establishment and functioning of a CCP college. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, NCAs must notify ESMA whether they comply or intend to comply with them. Reasons must be given for non-compliance.

CSDR review: European Commission adopts report

The European Commission has published a report to the European Parliament and the Council of the EU following the Commission's review of the EU rules on central securities depositories (CSDs) under the Central Securities Depositories Regulation (CSDR). The review and report are required under Article 75 of the CSDR and Article 81(2c) of the ESMA Regulation also requires the Commission to assess the potential supervision of third-country CSDs by ESMA.

The Commission concludes, in broad terms, that the CSDR is achieving its original objectives to enhance the efficiency of settlement in the EU and the soundness of CSDs. In most areas, significant changes to the CSDR would be premature given the relatively recent application of the requirements. Nevertheless, concerns regarding the implementation of specific CSDR rules have been raised. These concerns include on the cross-border provision of services, access to commercial bank money, settlement discipline or the framework for third-country CSDs.

The report identifies areas where further action may be required to achieve the CSDR's objectives in a more proportionate, effective and efficient manner. In view of the important issues raised, and as announced in the 2021 Commission work programme and the second Capital Markets Union action plan, the Commission is considering presenting a legislative proposal to amend the CSDR, subject to an impact assessment that will examine the most appropriate solutions in more depth. This proposal would aim to ensure an effective post-trading infrastructure, enhance competition among CSDs and strengthen cross-border investment, contributing to the development of a genuine single market for capital in the EU.

Sustainability-related issuer disclosures: IOSCO report

The International Organization of Securities Commissions (IOSCO) has published a report on sustainability-related issuer disclosures. The report, developed by IOSCO's Sustainable Finance Taskforce (STF), reiterates the urgent need to improve the consistency, comparability and reliability of sustainability reporting for investors.

IOSCO states that this report is a crucial part of IOSCO's engagement with the IFRS Foundation. It demonstrates: (i) investor demand for sustainability-related information and evidence that this demand is not being properly met; and (ii) the need for improvements in the current landscape of sustainability standard-setting.

Based on the STF's work, this report identifies core elements of standard-setting that could help meet investor needs and provides guidance to a Technical Readiness Working Group (TWG) established by the International Financial Reporting Standards (IFRS) Foundation to develop recommendations for the International Sustainability Standards Board (ISSB) as it develops an initial climate reporting standard, building on the Task Force on Climate-related Financial Disclosures' (TCFD) recommendations and other existing voluntary principles, frameworks and guidance. The report also provides input to the IFRS Foundation on governance features and mechanisms for stakeholder engagement, considered to be essential to making the ISSB initiative successful.

Following an indicative timeline, IOSCO states that, given the urgent need to improve the consistency, comparability and reliability of sustainability reporting, IOSCO will closely monitor any developments and will encourage timely delivery and implementation of the key elements to support its vision. IOSCO recognises that some jurisdictions' domestic efforts to adopt disclosure requirements may proceed on a more accelerated timeframe.

Insurance

UK Solvency II regime review: HM Treasury response to call for evidence

HM Treasury has published a response to its October 2020 call for evidence on the review of the UK Solvency II prudential regime for insurers.

HM Treasury explains that respondents to its call for evidence were strongly supportive of the UK Solvency II regime. They consider that Solvency II has improved standards of risk management and reporting in the insurance sector, as well as the overall standard of prudential regulation. No respondents argued that Solvency II should be replaced by a different regime. Respondents stressed that the existing regime should be retained, not least because of the cost and disruption to replace it in full. Many believe the way the regime operates could be improved while retaining the current framework. However, some are against making reforms that may amount to divergence with the EU Solvency II regime.

HM Treasury concludes that the responses have confirmed the priorities for reform as set out in the call for evidence.

It has asked the Prudential Regulation Authority (PRA) to model different options in order to better understand which combination of reforms would best meet the government's objectives, and what the aggregate impact would be. To achieve this, the PRA will launch a quantitative impact study in summer 2021 and work with the government to analyse its results. HM Treasury states that this study will inform a comprehensive package of reforms for consultation in early 2022

HM Treasury notes that, should responsibility for making firm-facing requirements under Solvency II be delegated to the PRA under the Future Regulatory Framework Review, the government would set out the scope and core elements that the PRA must establish when amending the firm-facing elements of Solvency II in its Rulebook. The Government may also set out what the PRA must have regard to when establishing and maintaining this regime.

ICOBS premium finance disclosure rules: FCA delays commencement date

The Financial Conduct Authority (FCA) has updated the webpage on its policy statement on the general insurance (GI) pricing practices market study (PS21/5) to announce that it has made a small change to the new premium finance disclosure rules. The change is set out in Annex B to the FCA's Handbook Administration (No 56) Instrument 2021 (FCA 2021/25). The Instrument changes the commencement date for new rules in ICOBS 6A.5.2R and 6A.5.3R relating to premium finance disclosure (introduced by the FCA's Non-Investment Insurance: Product Governance, Premium Finance, General Insurance Auto-Renewal and Home and Motor Insurance Pricing Instrument 2021 (FCA 2021/19)) from 1 October 2021 to 1 January 2022.

EIOPA updates decision on collaboration of EEA insurance supervisory authorities

The European Insurance and Occupational Pensions Authority (EIOPA) has amended the Decision on the collaboration of the insurance supervisory authorities of the Member States in the European Economic Area. It states that the new Decision will further strengthen and enhance the cooperation between the national competent authorities (NCAs) in relation to cross-border activities through:

- the introduction of three new notifications requirements for NCAs: (i) intention to authorise an undertaking with cross-border activities; (ii) where an undertaking carrying out cross-border activity shows deteriorating financial conditions or other emerging risks which may have cross-border effects; and (iii) where there are serious and reasoned concerns with regard to consumer protection;
- a more active role of EIOPA in the information exchange to allow the identification of potential risks at the earliest possible stage as well as to foster proactive supervision and timely supervisory actions; and
- the clarification of the role of NCAs and EIOPA in the process of setting up and running cooperation platforms.

EIOPA explains that the new Decision is key for achieving consistent supervisory practices to enhance preventive consumer protection across the EU. Increased cross-border activities in the internal market and the growing internationalisation of business activities require a sound exchange of information and a strong, close and timely collaboration between insurance supervisory authorities is needed.

The new Decision applied from 1 July 2021 onwards. EIOPA will continue to monitor the implementation of the Decision and will use its supervisory convergence tools to ensure a consistent application across the EU.

Benchmark transition: IAIS statement

The International Association of Insurance Supervisors (IAIS) has published a statement on benchmark transition. The IAIS endorses the Financial Stability Board's (FSB) statements and related reports regarding a smooth and timely transition away from LIBOR by the end of 2021. The IAIS encourages insurance supervisors to strengthen their efforts to facilitate insurers' transition.

Given the limited time available until end-2021, the IAIS urges insurers to act now to complete the steps set out the FSB's global transition roadmap.

Funds and Asset Management

Host AFM firms: FCA multi-firm review findings

The UK Financial Conduct Authority (FCA) has published a webpage setting out the findings and next steps following its multi-firm review into authorised fund managers (AFMs) that delegate investment management to third parties outside their corporate group. They are often referred to as host AFMs or host authorised corporate directors (ACDs)).

From Q4 2019 to Q4 2020, the FCA visited a sample of host AFMs to review the effectiveness of their governance, controls and monitoring and ask questions about the risks in their business models. These firms operate a significant number of authorised funds. The FCA examined:

- how well host AFMs understand their responsibilities for the funds they operate;
- whether these firms had adequate governance, controls and resources to carry out their role;
- how effectively the host AFM firms considered their regulatory responsibilities, primarily under the Collective Investment Scheme Sourcebook (COLL);
- how their oversight of delegated third-party investment managers considered the interests of fund investors; and
- whether they had appropriate resources for the nature and scale of the business they carried out.

The FCA's key observations are detailed on its webpage under four main area groupings:

- due diligence over delegated third-party investment managers and funds;
- oversight of delegated third-party investment managers and funds;
- governance and oversight; and
- financial resources.

Although the review mainly focused on AFMs managing UK UCITS funds through a host model, the FCA expects all AFMs, regardless of their business model, to consider the review's findings and assess whether there are weaknesses in their own systems that need addressing. In addition, while the FCA's observations are focused on conflicts and issues arising in a host model, it believes there are also useful lessons for firms operating within a group structure.

As well as liaising directly with firms in the review regarding specific findings, the FCA intends to conduct further work to identify whether it is appropriate to make changes to its regulatory framework. This could potentially involve rule changes, on which the FCA would consult.

MMF Regulation: ESMA guidelines on stress test scenarios

The European Securities and Markets Authority (ESMA) has published a webpage with official translations, including the English version, of its guidelines on stress test scenarios produced under Article 28 of the Regulation on money market funds (MMF Regulation). The guidelines state that they apply from two months after the date of their publication on ESMA's website in all EU official languages (that is, 30 August 2021). They apply to national competent authorities, MMFs and managers of MMFs. They establish common reference parameters for the stress test scenarios that are included in the stress tests conducted by MMFs or managers of MMFs.

The guidelines are updated at least every year to take into account the latest market developments.

MMFs: ESRB issues note on systemic vulnerabilities

The European Systemic Risk Board (ESRB) has published an issues note on systemic vulnerabilities of, and preliminary policy considerations, to reform money market funds (MMFs).

The ESRB has identified systemic vulnerabilities in MMFs and a broad set of preliminary policy options to reform them. It explains that there is an underlying tension between the two primary economic functions of MMFs: they offer on-demand liquidity to investors and provide short term funding to borrowers (mainly EU banks) but cannot dispose of their assets easily in all market conditions. This tension may become a systemic concern especially during market stress, as observed at the onset of the COVID-19 pandemic. In these circumstances, MMFs can face both higher redemption requests from investors and a lack of sufficient portfolio liquidity to meet this increased demand.

The ESRB explains that the macroprudential perspective taken in the report can inform the broader debate on MMF reforms and the European Commission's review of the MMF Regulation in 2022. To further inform the review, the ESRB plans to refine the policy options set out in the report (being mindful of the ongoing international work in this area), with a view to adopting a recommendation by the end of 2021.

Its ongoing analytical work will further consider the markets in which MMFs operate, the investors holding MMF shares or units, and MMFs themselves. The ESRB will focus on policy options that would address vulnerabilities within MMFs themselves.

Enhancing MMF resilience: FSB consults on policy proposals

The Financial Stability Board (FSB) has published a consultation report on policy proposals to enhance MMF resilience. The report forms part of the FSB's work programme on non-bank financial intermediation. It considers the likely effects of a broad range of policy options to address MMF vulnerabilities by examining how these options would affect the behaviour of MMF investors, fund managers and sponsors. The FSB also examines the broader effects on short-term funding markets, including through impacts on the use of potential substitutes for MMFs.

The report closes to responses on 16 August 2021. The FSB will publish the final report in October 2021.

Regulation on cross-border distribution of funds: ESMA report on marketing requirements and marketing communications

ESMA has published a report providing an overview of marketing requirements and marketing communications under the Regulation on the cross-border distribution of collective investment undertakings. The report is produced under Article 8(2) of the Regulation which requires ESMA, by 30 June 2021, and every second year subsequently, to submit a report to the European Parliament, the Council of the EU and the European Commission. The report must present an overview of member states' marketing requirements set out in Article 5(1) of the Regulation and analyse the effects of national laws, regulations and administrative provisions governing marketing communications, based on the information received from national competent authorities in accordance with Article 8(1) of the Regulation.

Recommendations on sustainability-related practices, policies, procedures and disclosures in asset management: IOSCO consultation

The International Organization of Securities Commissions (IOSCO) has published a consultation report on sustainability-related practices, policies, procedures and disclosures in asset management. IOSCO aims to improve sustainability-related practices, policies, procedures and disclosures in the asset management industry. This includes encouraging asset managers to take sustainability-related risks and opportunities into account in their investment decision-making and risk management processes and addressing the risk of greenwashing through improving transparency, comparability and consistency in sustainability-related disclosure.

In the consultation report, IOSCO:

- discusses the types, and provides examples, of greenwashing at the asset manager and product levels.
- describes the different regulatory approaches currently taken by members of IOSCO's task force on sustainable finance to address sustainability-related practices by asset managers, as well as disclosures at both the firm and product level. These are broadly categorised into the following areas (consistent with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD)): governance, strategy, risk management and metrics and targets;
- provides an overview of the current landscape of sustainability-related financial and investor education;
- considers, and highlights the need to address, the challenges associated with the lack of reliability and comparability of data at the corporate level and the environmental, social and governance (ESG) data and ratings provided by third-party providers. IOSCO will publish a further report in July 2021 covering the proliferation of data and ESG ratings providers; and
- sets out five recommendations for securities regulators and policymakers. These recommendations are designed to provide a list of potential areas for regulatory consideration in line with domestic regulatory frameworks.

The consultation report closes to responses on 15 August 2021.

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