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INSURANCE REGULATORY EBULLETIN

ROUND UP OF REGULATORY DEVELOPMENTS IN JUNE 2021



WELCOME TO OUR INSURANCE REGULATORY EBULLETIN

Welcome to this edition of our Insurance Regulatory eBulletin, which aims to keep you updated with significant regulatory developments and their implications across the insurance sector.

Some of you may have returned to your offices by now. I am hopeful the current trends continue so that we are able to meet normally - with both our clients and our people - in the very near future.

Another relatively quiet month to report on the regulatory front. Both the PRA and FCA have been speaking about the future of UK regulation. The PRA have also been discussing the ongoing Solvency II review. The FCA have released their final Policy Statement on pricing practices in the retail insurance market. They have also started a Consultation on climate change reporting.

This bulletin contains as much up to date regulatory news as we can gather. Inevitably, this may change as the current situation develops and we will aim to keep you informed in the future.

Please do not hesitate to contact myself or your usual BDO contact if you have any concerns over any matter highlighted in this update.

Say safe and stay well and I hope you enjoy reading this latest update.



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PRUDENTIAL REGULATION

RESPONSIBLE OPENNESS IN THE INSURANCE SECTOR

On 25 May, Anna Sweeney, PRA Executive Director Insurance, spoke at the Association of British Insurers Prudential Regulation Webinar. The speech addressed how insurance services will be regulated following Brexit. She emphasised the Government's policy is to maintain and enhance the position of the UK as a leading international financial sector, and the insurance sector. Brexit has increased the role of the PRA and FCA in decisions over which EU insurers are permitted to operate in the UK market and how they are supervised.

Some of the changes to the prudential regime being considered as part of the review of Solvency II should result in changes across the sector. The reform of reporting requirements, and streamlining the approach to approval of internal models, should affect a wide range of firms. Reviewing the design of the risk margin and the matching adjustment, will focus more on the life insurance sector.

She went on to discuss in more detail three particular areas:

- ▶ The UK's role as a host for international insurance business.

She noted that the UK is currently the single largest market for non-life insurance globally, with £75bn of annual premium. Prior to Brexit over 600 EU insurers held passporting permissions to write business in the UK. Although only 190 (from 20 countries) entered the Temporary Permissions Regime this represents a step change in the size and number of overseas insurers the PRA has responsibility for. She stressed the importance of ensuring that the UK is open and competitive as a place to do business and of ensuring "supervisability" of is commensurate to the level of potential risk posed to the PRA's statutory objectives. Thus, the PRA expects that those insurers with very large exposure to the UK retail

market will establish subsidiaries rather than branches to operate in the UK. Thus providing better direct oversight over their operations.

- ▶ Facilitating effective competition in UK insurance sector domestically and internationally.

An area of focus is the removal of unnecessary barriers to new entrants to the UK insurance market. The process of obtaining authorisation for new insurers can be made more efficient whilst still ensuring appropriate prudential standards. Allowing new entrants to build their businesses under a more proportionate set of regulatory requirements, is being considered as part of the review of Solvency II.

Considering measures to maintain and enhance the approach to both traditional capital investment and Insurance Linked Securities (ILS) is also being carried out.

The PRA intend to hold a round table discussion to explore these topics with the industry.

- ▶ The ongoing focus on international standard setting and policymaking, including climate change.

She noted the implementation of common international standards reduces barriers to cross border insurance activity globally, allowing for new international activity and removing friction where this is already taking place. The PRA will continue to ensure that the UK's views are reflected to reduce the risk of UK insurers being faced by regulatory regimes that are not wholly compatible with their business models and lines of business.

Understanding climate change risk in the financial sector has expanded significantly and the commitment to coordinated action between industry, regulators and governments alike is essential given the global nature of climate change impacts.

STRENGTHENING ACCOUNTABILITY: TEMPORARY, LONG-TERM ABSENCES - PS11/21

On 1 June, the PRA published a [Policy Statement \(PS11/21\)](#) setting out its feedback to responses received to Chapter 2 of the FCA's Consultation Paper 20/23 'Quarterly Consultation Paper No. 30'. These set out the PRA and FCA expectations on long-term absences for Senior Management Functions (SMF).

In FCA CP20/23, they proposed to clarify their expectations for firms notifying the regulators when a Senior Manager takes temporary leave for longer than 12 weeks (long-term leave), for example in cases of parental leave and where the length of absence is not known. The proposals were:

- ▶ In cases where SMF holder is temporarily absent from their role, and the firm intends to keep the role open for that individual to return to in the future, the firm would not need to notify the PRA (and where applicable the FCA) that the individual's approval should be removed.
- ▶ Firms would be expected to ensure that where the individual taking long-term leave is carrying out a PRA (or FCA) required function, another individual is appointed to perform that function during the interim period.

The PS contains the PRA's final policy, including consequential amendments to various parts of the PRA Rulebook and an updated [SS35/15 - Strengthening individual accountability in insurance](#).

The changes became effective on 2 June 2021.

SOLVENCY II: DEEP, LIQUID AND TRANSPARENT ASSESSMENTS, & GBP TRANSITION TO SONIA - PS12/21

On 3 June, the PRA published a [Policy Statement \(PS12/21\)](#) and a [Statement of Policy \(SoP\)](#) on the PRA's approach to the publication of Solvency II technical information (TI).

Brexit meant the PRA is required to publish TI for each relevant currency, including the basic risk-free rates (RFRs) and fundamental spreads used in the calculation of the Matching Adjustment

and Volatility Adjustment. The RFRs must be based on financial instruments traded in a deep, liquid, and transparent financial market.

The relevant proposals were consulted on in CP1/21 and minor changes have been made in the PS and SoP.

The new policy takes effect from the date of publication of the PS and updated SoP, except for the transition to the new GBP RFR, which will take effect on the publication of TI with reference dates as of 31 July 2021.

PRA STATEMENT ON FIRM AUTHORISATION UNDER THE TEMPORARY PERMISSIONS REGIME

On 14 June, the PRA issued an [update](#) on the PRA's approach to firm authorisation under the Temporary Permissions Regime (TPR). The PRA has up to the end of 2023 to process authorisation applications from EEA banks and insurers in the TPR.

There are a considerable volume of applicants of varying scale and complexity across a range of different business models. Thus, the PRA expects to take authorisations decisions on a case-by-case basis dependent on PRA resourcing and governance processes and it may also result in multiple decisions taken on the same date.

The PRA emphasise that the timing of authorisations should not be taken as an indication of the PRA's view of risks at individual institutions.

SOLVENCY II REVIEW: PROTECTING POLICYHOLDERS WHILE IMPROVING THE REGIME

On 15 June, Anna Sweeney, PRA Executive Director Insurance, addressed the JP Morgan European Insurance Conference. She set out the government's three objectives to ensure the Solvency II review is appropriately tailored:

- ▶ to spur a vibrant, innovative, and internationally competitive insurance sector;
- ▶ to protect policyholders and ensure the safety and soundness of firms; and
- ▶ to support insurance firms to provide long-term capital to support growth, including investment in infrastructure, venture capital and growth equity, and other long-term

productive assets, as well as investment consistent with the government's climate change objectives.

The PRA are planning a Quantitative Impact Study (QIS) for the Solvency II review. The PRA intend to gather data that will allow them to project the impact of a number of different possible designs and to provide confidence for finalising proposals.

The QIS will focus on areas of potential policy change which are the easiest to quantify and have a more obvious immediate balance sheet impact. These include the risk margin, because of its sensitivity to interest rates, and the matching adjustment

The PRA intend to release the QIS over the summer and it will be relevant for a broad set of firms - both life and non-life insurers. It will cover the MA and risk margin as well as elements of the Transitional Measure on Technical Provisions. The PRA are not currently expecting to test changes to the Standard Formula, but still encourage Standard Formula firms to participate as they may be impacted by the other changes. The PRA will set out plans shortly on overall timelines, and how they engage with firms during the QIS.

She noted the Solvency II review also presents an opportunity to simplify the regime in other areas such as streamlining the process for approving internal models and model changes. The PRA also plan to produce a consultation paper on simplifications to the Solvency II reporting process.

PRA ANNUAL REPORT

On 17 June, the PRA published its [2021 Annual Report](#). The public are invited to comment on the PRA Annual Report, how the PRA has discharged its functions and met its objectives, by 14 September 2021.

THE BANK OF ENGLAND'S CLIMATE-RELATED FINANCIAL DISCLOSURE 2021

On 17 June, the Bank published its climate-related financial disclosure, which sets out the Bank's approach to managing the risks from climate change across its entire operations.

It builds on the Bank's first climate disclosure report published in June 2020. A summary of this year's disclosure report has also been included in the 2021 Annual Report.

PRA PRACTITIONER PANEL AND INSURANCE SUB-COMMITTEE - ANNUAL REPORT 2020/21

On 17 June, the PRA published the [PRA Practitioner Panel's \(Panel\) Annual Report](#) for 2020/21. The Annual Report contains information on the composition of the Panel and the Insurance Sub-committee, their engagement with the PRA during this time period, and their future agenda.

Items considered by the Panel during the year included: the EU withdrawal preparations, Covid-19, the regulatory response to AI and machine learning, and the usability of capital buffers and liquidity coverage ratios.

OCCASIONAL CONSULTATION PAPER - CP13/21

On 25 June, the PRA issued an [Occasional Consultation Paper \(CP13/21\)](#) setting out proposals to make minor amendments to PRA rules, supervisory statements (SS), reporting data items and instructions, the Branch Return, and associated guidance and notes.

The only proposals relevant to insurers are contained in Chapter 6 of the CP and relate to minor amendments to correct and update a reference in Rule 2.4(5) in the Audit Committee Part of the PRA Rulebook, and to correct an error in SS1/16 'Written reports by external auditors to the PRA'.

CONDUCT REGULATION

GENERAL INSURANCE PRICING PRACTICES MARKET STUDY - PS21/5

On 28 May, the FCA published a [Policy Statement \(PS21/5\)](#) following its consultation on a package of measures to improve competition and ensure that firms offer fair value products.

The new rules ensure that renewing home and motor insurance consumers are quoted prices that are no more than they would be quoted as a new customer through the same channel. The rules should also make it simpler for customers to stop automatic renewals. New product governance rules to ensure that firms deliver fair value on all their insurance products are included.

The FCA also introduced new reporting and governance requirements around value measures, intended to improve transparency around product value and provide specific metrics for firms to consider when assessing whether their own products offer fair value to their customers.

Rules on systems and controls (SYSC), retail premium finance rules (ICOBS 6A.5) and product governance come into effect on 1 October 2021, with rules on pricing, auto-renewal and reporting effective from 1 January 2022.

These rules supersede the General insurance distribution chain: FG19/05 - Finalised guidance for insurance product manufacturers and distributors, which will be withdrawn when the new rules come into effect.

Addendum - 25 June 2021

The FCA made a small change to the rules published in Policy Statement PS21/5.

The rules relating to premium finance disclosure (ICOBS 6A.5.2R and 6A.5.3R) will come into effect on 1 January 2022, instead of 1 October 2021, when the remaining rules in PS21/5 come into effect.

GEFION INSURANCE A/S DECLARED BANKRUPT

On 7 June, The Danish Financial Supervisory Authority (DFSA) announced that Gefion Insurance A/S (Gefion) had been declared bankrupt. Gefion is an insurance firm, authorised and regulated by the DFSA, which sold a range of motor insurance products in the UK through a network of Managing General Agents.

It operated in the UK on a freedom of services basis which means that some customers, both individual and small businesses, based in the UK held policies with the firm.

Whilst there are no remaining live policies in the UK, claims may still be made against Gefion policies, and a number of previously-submitted claims remain unsettled.

FCA BOARD MINUTES: 29 APRIL 2021

On 8 June, the FCA published the [minutes](#) of its Board meeting held on 29 April.

The Board considered, inter alia:

- ▶ 2021 FCA Overall Employee Survey Results and Actions;
- ▶ The FCA's approach to legal risk, and concerns over whether the organisation has sufficient appetite for taking such risk;
- ▶ The review of the operations of the Regulatory Decisions Committee; and
- ▶ The FCA's 2021/22 budget.

BUSINESS INTERRUPTION INSURANCE TEST CASE - INSURER CLAIMS DATA

On 14 June, the FCA issued [the latest collected data](#) from all affected insurers. The data details the progress of the insurers non-damage business interruption (BI) insurance claims.

The data includes the number of: BI claims where the insurer has received all the required information to enable them to calculate the total value of the claim; BI claims for losses related to Covid-19, that have been accepted; and BI claims where an offer or final settlement

has been made and accepted by the policy holder and fully paid.

Comments should be submitted on or before 10 September 2021.

BUILDING A REGULATORY ENVIRONMENT FOR THE FUTURE

On 22 June, the FCA published [a speech](#), delivered at City Week 2021, by the FCA CEO, Nikhil Rathi.

The speech covered:

- ▶ Brexit allowing the FCA to tailor its rules to better suit the UK markets, whilst ensuring appropriate safeguards and upholding high standards;
- ▶ the FCA continuing to rigorously review all firms seeking UK authorisation;
- ▶ the importance of working to deepen existing regulatory partnerships and forge new ones; and
- ▶ the proposals to extend climate-related financial disclosure requirements to issuers of standard listed equity shares and new disclosure requirements for asset managers, life insurers and FCA-regulated pension providers.

ENHANCING CLIMATE-RELATED DISCLOSURES BY LIFE INSURERS - CP21/17

On 22 June, the FCA issued a [Consultation Paper \(CP21/17\)](#) on proposals to introduce climate-related financial disclosure rules and guidance for asset managers, life insurers, and FCA-regulated pension providers, consistent with the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD) recommendations and recommended disclosures.

The key elements of the proposals are:

- ▶ Entity-level disclosures. Firms being required to publish, annually, an entity-level TCFD report on how climate-related risks and opportunities are taken into account in managing or administering investments on behalf of clients and consumers.
- ▶ Product or portfolio-level disclosures. Firms being required to produce, annually, a baseline set of consistent, comparable disclosures on their products and portfolios, including a core set of metrics.

EIOPA

We continue to monitor EIOPA's activity and draw your attention to it where we believe it to be necessary or helpful. This will, we hope, assist those firms continuing to operate in the EU under the new arrangements.

There have been no developments to note this month.

ENFORCEMENT ACTION

FCA REGULATORY FINES ROUND-UP

FCA regulatory fines in 2021 total [£409k](#). The following fines have been announced by the PRA or FCA in the past month.

Crosfill and Archer Claims Limited	<p>The FCA fined Crosfill & Archer Claims Limited (“Crosfill & Archer”), a claims management company, a sum of £110,000. Crosfill & Archer were found to have:</p> <ul style="list-style-type: none">▶ committed due diligence breaches regarding provenance of data and ensuring that the relevant consents had been obtained by the third party data providers;▶ made unsolicited telemarketing calls to numbers registered on the TPS register (which means they had registered not to receive this type of sales call), without the requisite consent; and▶ failed to train staff on using the dialler (an automated system that places calls to customers, from an outbound call centre).
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