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# INSURANCE REGULATORY EBULLETIN

ROUND UP OF REGULATORY DEVELOPMENTS IN AUGUST  
2020



# 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.

I hope you and your families continue to be safe and well and that you have managed to have a holiday break with them. Whilst there seems to be some continuing light at the end of the tunnel as a result of the easing of the lockdown restrictions I suspect it will be some time still before full normality returns. We continue to operate and serve our clients as a fully-remote, fully-connected workforce.

August has been one of the quietest months on the regulatory front since we started publishing this newsletter. The PRA have issued nothing of interest for the insurance sector and EIOPA have also been very quiet. COVID-19 issues continue to feed much of the FCA's actions and output. We now await the outcome of the FCA test case on business interruption.

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 normal 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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# EIOPA

## RISK DASHBOARD JULY 2020

On 17 August, EIOPA published its latest [Risk Dashboard](#) presenting its quarterly risk assessment of the EU insurance industry. The key findings are:

- ▶ Macro-economic risks remain at a very high level given the global impact of COVID-19 on economic activity. Some question the performance of financial markets since March and wonder if it has decoupled from the underlying macro-economic fundamentals, as GDP growth and inflation forecasts are revised downwards.
- ▶ Market and credit risk remain at a high level, as the risk of credit events remains elevated going forward.
- ▶ Profitability and solvency risks remain high as the expected deterioration, due to COVID-19, is being reflected in some indicators already. Asset liability ratios and SCR ratios for both non-life groups and solo entities weakened.
- ▶ Insurance risks have decreased to medium level for non-life business as year-on-year premium growth and loss ratios registered a slight improvement.

# PRUDENTIAL REGULATION

## NEWS

There have been no publications relevant to (re)insurers published by the PRA during August.

# CONDUCT REGULATION

## REGULATION ROUND-UP

On 20 August the FCA published its monthly Regulation Round-up. The Hot Topics related to the FCA's consultation on treating vulnerable consumers fairly, the annual public meeting, the new Supervisory correspondence webpage, and the ban on motor finance discretionary commissions.

The topics for general insurers and intermediaries included:

- ▶ Travel insurance - reminding firms of FCA expectations;
- ▶ Non-damage BI settlements and deductions for government support \*;
- ▶ Coronavirus and customers in temporary financial difficulty: draft updated guidance \*;
- ▶ Open finance call for input submission deadline; and
- ▶ Disclosure to customers during coronavirus - the FCA are impressed with how firms have approached disclosure, and welcome the accessible disclosures that have been designed.

\* covered below

## CANCELLATIONS AND REFUNDS: HELPING CONSUMERS WITH RIGHTS AND ROUTES TO REFUNDS

On 1 August, the FCA published a [Guidance Consultation](#) on cancellations and refunds relating to the unprecedented number of trips, holidays, and other events cancelled. In the circumstances, consumers are likely to be entitled to claim a refund from the travel or service provider.

The goal of the Guidance is to help customers:

- ▶ identify their options to claim for any cancelled travel or events as quickly and easily as possible;
- ▶ reduce the risk of consumers being passed between firms;

- ▶ reduce potential inconvenience and frustration for consumers who are struggling to claim for cancelled travel arrangements or events; and
- ▶ increase consumer understanding of the benefits of the different options available.

Comments on the draft guidance were requested by 13 August.

## COVID-19: INFORMATION FOR FIRMS

The FCA have continued to update the [FCA webpage](#) setting their information for firms.

## NUMBER OF SKILLED PERSONS REPORTS COMMISSIONED IN Q1 2020/21

On 4 August the FCA provided details of the [number of skilled persons](#) reports commissioned in each sector of the financial services industry during Q1 2020/21 (April-June 2020).

No reports were commissioned for firms in the insurance sector. The main sectors were: Retail Banking, and retail investments and investment management. The main subjects of focus continued to be: client assets and financial crime, conduct of business and risk management frameworks.

## STATEMENT ON NON-DAMAGE BUSINESS INSURANCE (BI) SETTLEMENTS

On 3 August, the FCA published a [statement](#) on non-damage BI settlements and deductions in relation to government support. The FCA underlined the importance of assessing the appropriateness of making deductions, which should consider:

- ▶ the exact type and nature of the Government support;
- ▶ how the policyholder used the support; and
- ▶ the type of policy and its precise terms, including any set methodology for calculating the value of a claim set out in the policy.

The FCA expects firms to take these matters into account when calculating non-damage BI claims and reflect them at the most appropriateness.

**FCA BOARD MINUTES: JUNE/JULY 2020**

On 6 August the FCA published the minutes of the two Board meetings held in June.

The [meeting](#) on 17 June dealt with support for consumer credit customers - payment deferrals and overdraft support

The 25 June [meeting](#) was a regular board meeting and included business planning and changing priorities in the light of COVID-19, a review of the FCA's culture, and the annual report of the Complaints Commissioner.

At the [meeting](#) on 9 July the FCA Board discussed:

- ▶ steps to mitigate the effects for trapped mortgage borrowers as a result of the post 2008 transfer of mortgage books; and
- ▶ the competition Implications of Covid-19 that could result in consumer harm.

**DATA PROVISION UNDER THE CIVIL LIABILITY ACT 2018**

On 4 August, the FCA published a [statement](#) on Section 11 of Part 3 of the Civil Liability Act 2018 (the Act) which imposes a duty on insurers to provide information to the FCA on the effect that changes to the law under the Act will have on motor insurance premiums.

The subsequent Civil Liability (Information Requirements) and Risk Transformation (Amendment) Regulations 2020 set out which insurers will be in scope and what information they need to provide. It also states that the information must be audited in accordance with the Regulations and provided 'in such form as the FCA may direct'.

The data to be provided covers the three annual periods commencing 1 April 2020 and finishing 31 March 2023 and needs to be provided as a single return by 1 October 2023.

**MEMORANDUM OF UNDERSTANDING (MOU) WITH EU REGULATORS**

On 6 August, the FCA [announced](#) it has agreed Memoranda of Understanding (MoUs) with ESMA and EU regulators.

The MoUs cover cooperation and exchange of information in the event the UK leaves the EU without a withdrawal agreement and implementation period. They cover supervisory cooperation, enforcement and information exchange and the supervision of Credit Rating Agencies and Trade Repositories.

**COVID-19 AND CUSTOMERS IN TEMPORARY FINANCIAL DIFFICULTY - FS20/13**

On 11 August, the FCA published [a Feedback Statement \(FS20/13\)](#) summarising the submissions received in response to its draft guidance to extend measures for insurance and premium finance firms on the fair treatment of customers in temporary financial difficulty as a result of COVID-19, and the FCA's response. Most respondents supported the proposals and acknowledged that consumers experiencing temporary financial difficulties still need support. There was broad support for maintaining a "window" where consumers can apply for temporary support until 31 October. There were several areas in which respondents asked for amendments or clarifications.

The updated guidance and rules came into effect on 11 August 2020.

**NEW FCA WEBPAGE - REP008: CONDUCT RULES REPORTING FOR SOLO-REGULATED FIRMS**

On 14 August 2020, the FCA published a [new web page](#) concerning the annual conduct rules reporting requirement that the Senior Managers and Certification Regime introduced for solo regulated firms, who are required to set out whether disciplinary action has been taken against Certification Staff and Directors who are not Senior Managers for breaches of the Conduct Rules.

The report is called REP008 and it has been added to all solo regulated firms' Gabriel schedules.

The web page covers:

- ▶ When to submit REP008;
- ▶ Who to include in REP008;
- ▶ Appeals against disciplinary action;
- ▶ Sole traders; and

- ▶ Personal data provided in REP008.

All solo-regulated firms (other than Limited Permission Consumer Credit firms) need to submit REP008 by 31 October, or the next business day if this falls on a weekend. The first REP008 is due by 2 November 2020.

If a firm does not have any Certification Staff or directors who are not Senior Managers, the firm must submit a nil return on the first REP008.

After 31 March 2021, disciplinary actions for breaches of the Conduct Rules by all individuals who are subject to the Conduct Rules (apart from Senior Managers) should be included in REP008.

### **ACCOUNTABILITY AND REPARATIONS INVESTIGATION REPORT: RECOMMENDATIONS**

On 14 August, the FCA published a [letter](#) responding to the Independent Inquiry into Child Sexual Abuse's Accountability and Reparations report, published in September 2019, which recommended that the FCA 'should make the necessary regulatory changes to compel insurers that provide public liability insurance to retain and publish details of all current policies'.

The FCA stated it is conducting research into the costs and benefits of possible regulatory changes that would compel insurers that provide public liability insurance to retain and publish details of all current policies.

### **EXTENSION OF ANNUAL FINANCIAL CRIME REPORTING OBLIGATION - CP20/17**

On 24 August, the FCA published a [Consultation Paper \(CP20/17\)](#) on possibly extending the scope of the annual financial crime reporting obligation to include firms that carry on regulated activities that potentially pose a higher money laundering risk.

Reviewing the FCA REP-CRIM policy allows it to keep up to date with changes in legislation and Government amendments to the Money Laundering Regulations (MLRs) which transposed the EU's 5th Money laundering directive into UK law, such as the inclusion of crypto-asset businesses in the scope of the MLRs.

Comments on the CP are required by 23 November 2020.

### **FINANCIAL OMBUDSMAN NEWS ISSUE 153**

On 26 August the Financial Ombudsman Service (FOS) published the [latest edition](#) of its newsletter where it summarises the key themes it has seen in complaints handled recently.

Key themes emerging from recent complaints have included:

- ▶ Business interruption insurance;
- ▶ Debt and financial difficulty;
- ▶ Travel and event cancellations,; and
- ▶ Lockdown causing business interruption

# ENFORCEMENT ACTION

## FCA REGULATORY FINES ROUND-UP

FCA regulatory fines in 2020 total [£104.7m](#). No new fines have been announced by the PRA or FCA in the past month.

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