



INSURANCE REGULATORY EBULLETIN

ROUND UP OF REGULATORY DEVELOPMENTS IN APRIL 2022

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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 that you have all had a break over Easter. April has been another busy month for those enforcing the changes to the sanction regime in response to the invasion of Ukraine and no doubt will have been the immediate focus of compliance officers. However, during April, both the PRA and FCA have issued their business plans for 2022/23 and there have also been some interesting speeches setting out the current view of the regulatory future for the UK.

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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PRUDENTIAL REGULATION

SOLVENCY II REVIEW: CONSULTATION

HM Treasury is [soliciting feedback](#) on reforming the prudential regulation of the UK insurance sector, as part of its Review of Solvency II. The review seeks evidence on the precise form that the proposed package of reforms to the risk margin and the matching adjustment.

Views are also sought on other proposed reforms including those relating to:

- ▶ greater flexibility on investing in a wider variety of assets;
- ▶ the internal model framework;
- ▶ overseas insurer branch capital requirements;
- ▶ increasing the threshold before Solvency II applies;
- ▶ reporting requirements; and
- ▶ the introduction of a revised regime for new insurer applications.

Comments should be submitted on or before 21 July 2022.

Coinciding with the publication of HM Treasury's consultation on the Solvency II Review on 28 April, the PRA published:

- ▶ a [statement](#) on 'Review of Solvency II' consultation published by HM Treasury; and
- ▶ [DP2/22](#) 'Potential reforms to Risk Margin and Matching Adjustment within Solvency II' setting out the PRA's current assessment of overall reform outcomes arising from key aspects of HMT's review of Solvency II - particularly reforms to the fundamental spread and risk margin.

Responses to DP2/22 are requested by 21 July 2022.

AMENDMENTS TO THE INSOLVENCY ARRANGEMENTS FOR INSURERS: RESPONSE TO CONSULTATION

On 7 April, HM Treasury published its [response](#) to its consultation on amendments to the insolvency arrangements for insurers. The consultation sought views on proposals to amend the insolvency arrangements for insurers, to help UK authorities to better manage insurers in financial distress. There were nine responses received. The document summarises the responses received and sets out the government's response to the concerns raised.

The government will continue to consult with the PRA, FCA, the FSCS, and the Insolvency Service about these proposals and plans to legislate for the proposals when parliamentary time allows.

BALANCING ON THE NET-ZERO TIGHTROPE - SPEECH BY SARAH BREEDEN

The Bank of England has published a [speech](#) delivered by Sarah Breeden, Executive Director of Financial Stability and Risk, at TheCityUK International Conference on 7 April 2022. She spoke about the economy's transition to net-zero and how central banks can support it. Breeden stated that, although governments must lead the transition, central banks can explain the impact of different paths on the economy and financial system. She also stated that there will be different choices available to reach net-zero, so it is important to consider the benefits and drawbacks of each possibility.

PRA BUSINESS PLAN 2022/23

The PRA has published its [Business Plan](#) for the 2022/2023 financial year, outlining its organisational strategy and budget for the coming year.

The PRA has replaced the previous eight strategic goals with four strategic priorities (SPs). These are an evolution of, and broadly

consistent with, the previous goals and explain how the PRA seeks to achieve its objectives of:

- ▶ retain and build on the strength of the banking and insurance sectors delivered by the financial crisis reforms;
- ▶ be at the forefront of identifying new and emerging risks, and developing international policy;
- ▶ support competitive and dynamic markets in the sectors regulated by the PRA; and
- ▶ run an inclusive, efficient, and modern regulator within the central bank.

Planned activity for the insurance sector includes:

- ▶ the review of Solvency II;
- ▶ insurance stress testing;
- ▶ scrutiny of internal models and in particular ‘model drift’;
- ▶ the impact of inflation on reserving decisions;
- ▶ operational risk and resilience; and
- ▶ governance and risk management including increasing diversity.

REGULATED FEES AND LEVIES: RATES PROPOSALS 2022/23 - CP4/22

Alongside the PRA Business Plan, the PRA published a [Consultation Paper](#) (CP 4/22), setting out its proposals for the PRA’s fees for 2022/23.

The PRA’s Total Funding Requirement (TFR) covers the total fees it proposes to raise from firms and comprises the AFR and ‘other fees’. The TFR for 2022/23 is £320.9 million, up £24.3 million from 2021/22 (£296.6 million). The 9% increase is driven primarily by the inclusion of the PRA’s allocation of the Bank’s Strategic Priorities including increasing its head count by 100 staff.

The consultation closes on 20 May 2022.

THE FUTURE OF INTERNATIONAL INSURANCE IN THE UK - SPEECH BY ALAN SHEPPARD

The Bank of England published a [speech](#) delivered by Alan Sheppard, at the Westminster Business Forum on 21 April 2022. He spoke about how the PRA can foster the role of the UK as an international centre for insurance and reinsurance business. The speech focused

- ▶ the relevance of prudential standards;
- ▶ the PRA’s approach to supervising incoming branches; and,
- ▶ some reforms that the PRA is planning to make it easier to put capital to work in the London Market.

INVENTORY OF SENIOR MANAGER RESPONSIBILITIES

The PRA have updated the inventory of senior manager responsibilities to include references made to senior manager responsibilities in PRA publications since its first publication in December 2021.

The PRA has increasingly referenced the SM&CR in its publications, asking firms to assign responsibility for new and emerging risks to Senior Managers. Since these responsibilities often go above and beyond those located in the PRA Rulebook the document provides an inventory of references to senior manager responsibilities made in PRA publications that are not directly related to individual accountability.

The document is up to date as at 31 March 2022. The PRA emphasise it does not replace/amend any PRA publication nor remove the need for firms to review relevant PRA publications.

For more information, visit the PRA’s [Strengthening accountability webpage](#).

CONDUCT REGULATION

REGULATION ROUND-UP

On 28 April, the FCA published its monthly Regulation Round-up. The key topic was the FCA's 2022/23 Business Plan *. Other topics covered:

- ▶ New rules launched to promote transparency on diversity and inclusion.
- ▶ Central Reporting Platform, CERES, launched covering changes credit rating agency data changes.
- ▶ Treasury announcement the UK is open to Crypto business.
- ▶ The FCA' 2022/23 Fees Consultation*.
- ▶ Call for Input: Synthetic data to support financial services innovation*.
- ▶ TR22/1: Observations on wind-down planning*.
- ▶ Transforming Data Collection Programme update.
- ▶ FCA sets out British Steel compensation scheme plans*.
- ▶ Temporary asset retention rules for firms that gave advice on British Steel Pension Scheme transfers*.
- ▶ FCA Innovation - introduction of [Innovation Pathways](#)*.
- ▶ Financial promotions quarterly data 2022 Q1*.
- ▶ Complaints data 2021 H2

* covered below

CALL FOR INPUT: SYNTHETIC DATA TO SUPPORT FINANCIAL SERVICES INNOVATION

On 30 March, the FCA published a [Call for Input](#) regarding the use of 'synthetic' data in financial services. Advances in technology, research, and computational power in recent years have improved the accuracy of synthetic data and

realised stronger privacy preserving guarantees. As a result, an increase in experimentation with synthetic data across industries has been seen and the FCA wants to ensure that its own innovation services remain fit-for-purpose in the digital age.

The FCA has called out that the widely recognised limitation of synthetic data is that the more the synthetic data mimics the underlying real data, the greater the risk it may be reverse engineered under certain circumstances to reveal real-world information. The FCA wants to better understand different market participants' views on the extent to which synthetic data can expand data access and data sharing opportunities in the market; and are seeking to evaluate the maturity of synthetic data usage within financial services, and the extent to which both regulated and unregulated firms are currently using it. It is also interested in what industry sees as the role of the regulator, particularly regarding its competition remit. Responses to this paper can be submitted by 22 June 2022.

CONSUMER REDRESS SCHEME FOR UNSUITABLE ADVICE TO TRANSFER OUT OF THE BRITISH STEEL PENSION SCHEME

On 31 March, the FCA [proposed](#) in CP22/6 to implement a consumer redress scheme after considering the available options for providing redress to members of the British Steel Pension Scheme (BSPS) transferred out of it after being given unsuitable advice and suffering financial loss as a result. Firms who advised BSPS members to transfer would be required to review the advice they gave, identify if it was unsuitable, and calculate and pay redress to consumers where required.

It is estimated that the proposed scheme will mean that 1,400 BSPS members receive £71.2m in total redress. This consultation paper sets out proposals for firms to review their advice and compensate consumers if the unsuitable advice caused them financial loss. The FCA is also

reviewing its guidance for firms on how to calculate redress for unsuitable DB pension transfers.

Comments regarding Question 19 in Chapter 6 should be submitted on or before 12 May 2022. Comments on the other questions in this CP should be submitted on or before 30 June 2022.

In addition, the FCA issued a [Policy Statement PS22/4](#) introducing temporary asset retention rules, applicable to certain firms that gave transfer advice to BSPS members. The rules require firms to retain assets to help make sure they have enough funds to meet redress liabilities if they gave unsuitable advice. This will help ensure that firms responsible for redress liabilities meet the cost of those liabilities, instead of those costs falling to other FSCS levy payers, and ultimately being passed on to consumers.

BUILDING A DIGITAL REGULATOR: HOW THE FCA IS RIDING THE INNOVATION WAVE

Jessica Rusu, Chief Data, Information and Intelligence Officer at the FCA, spoke at the [Innovation Finance Global Summit 2022](#) on 4 April 2022. She spoke about the cycle of technological innovation and the resulting explosion of data, noting that this has become a key driver for financial innovation. She shared the launch of a new unified firm support service, "Innovation Pathways", which will play a central role in informing and ensuring that the regulatory environment is fit for innovation.

FCA Q4 2021/22 NUMBER OF SKILLED PERSONS REPORTS COMMISSIONED

On 6 April, FCA published its [Skilled Persons Report](#) for the period of January - March 2022.

FCA REGULATED FEES AND LEVIES: RATES PROPOSALS FOR 2022/23

On 7 April, the FCA issued a Consultation Paper ([CP22/7](#)) soliciting feedback regarding its proposed FCA periodic fees rates for the next financial year and any proposed changes to application fees or other fees. The FCA proposes increasing the Annual Funding Requirement by 4.3% to £640.1m. This includes specific increases in the minimum fee requirements.

Comments should be submitted on or before 12 May 2022.

FCA STRATEGY 2022 TO 2025

On 7 April, the FCA launched its [Strategy](#) to improve outcomes for consumers and in UK markets across 2022-2025. The Strategy prioritises resources to prevent serious harm, set higher standards and foster competition. For the first time, the FCA will also hold itself accountable against published outcomes and performance metrics. A key focus will be to shut down problem firms that do not meet basic regulatory standards. The FCA will be recruiting 80 employees to work on the initiative in order to protect consumers from potential fraud, poor treatment, and create a better market.

FCA BUSINESS PLAN 2022/23

The FCA also published its [2022/23 Business Plan](#), which sets out priorities for the coming year and how the FCA intends to achieve its objectives.

In previous years, the FCA structured its activities around the sectors it regulates. This year the FCA are setting out its proposed activity to align with its Strategy and the four consistent overarching consumer and wholesale market outcomes the FCA expect that financial services sector to deliver.

The Business Plan details the work to be carried out under each of the 13 commitments from the Strategy grouped into three areas:

- ▶ reducing and preventing serious harm - focussing on protecting consumers from the harm that authorised firms can cause, including tackling fraud and poor treatment.
- ▶ setting and testing higher standards - focusing on the impact that authorised firms' actions have on consumers and markets.
- ▶ promoting competition and positive change - using competition as a force for better consumer and market outcomes.

FCA'S IMPACT 2022

On 7 April, the FCA released a [document](#) setting out how it provides public or societal value by giving quantified estimates of the positive

impact of a subset of its activities such as policy interventions and enforcement work. The FCA intends for this to become a regular publication where it estimates its annual positive impact on a rolling average across a three-year period.

The figures for the two sets of benefit the FCA has identified, taken together, amount to a total annual quantified positive impact of £11 for every pound spent on running the FCA.

INTERVIEW WITH FCA CHIEF EXECUTIVE NIKHIL RATHI

On 8 April, the FCA published the [transcript](#) of an interview with its Chief Executive Nikhil Rathi for Bloomberg Surveillance: Early Edition. The interview covers the FCA's three year strategy; changes in governance to act faster against firms that are not meeting standards; scams circulating via social media; and technological expertise.

FCA OUTCOMES AND METRICS

On 11 April, the FCA set out the [outcomes](#) that matter to it and the metrics it will use to measure them in regard to the FCA's three-year strategy and 2022/2023 Business Plan. This includes the topline outcomes and metrics; strategic transformation-linked outcomes and metrics; and measuring the outcomes of commitments.

THEMATIC REVIEW TR22/1 - OBSERVATIONS ON WIND-DOWN PLANNING

On 11 April, the FCA published a [Thematic Review](#) (TR22/1) on its 'Observations on wind-down planning: liquidity, triggers & intragroup dependencies'.

The FCA highlighted that, where they existed, most wind-down plans, processes and risk management frameworks (RMFs) remained at an early stage of maturity. Many have substantial gaps and do not reflect the minimum expectations highlighted in the FCA's Wind-Down Planning Guidance (WDPG) and 'Our framework: assessing adequate financial resources' (FG20/1).

Amongst its findings, the FCA observed that:

- ▶ significant work is required to ensure that the wind-down planning of firms is credible and operable;
- ▶ firms should consider the impact liquidity needs in wind-down on their assessment of resource adequacy, their risk appetite and point of non-viability; and
- ▶ testing the outcomes of wind-down planning is the best method of showing the firm's Board/governing body and the FCA that the plan and process is credible and operable.

The examples provided in the FCA's review are to help firms with their continued work on wind-down planning, in complying with existing policy needs and should be read together with any other relevant guidance.

While the FCA's exercise was done as a response to the Covid-19 pandemic, the FCA advises that the observations within this review may be relevant to all firms regardless of the broader economic environment.

FCA, TPR AND MAPS JOINT STATEMENT ON P&O DEFINED BENEFIT PENSION SCHEMES

On 12 April, the FCA released a [joint statement](#) with the Pensions Regulator (TPR) and the Money and Pensions Service (MaPS) raising their concerns given the heightened risk of pension transfers following recent redundancies at P&O. P&O current and former employees are urged not to make any quick decisions about their pension following recent media reports. The concerns were raised in the context of the BPS issues discussed above.

CRITICAL ISSUES IN FINANCIAL REGULATION: THE FCA'S PERSPECTIVE

On 26 April, the FCA's Chief Executive Officer, Nikhil Rathi, spoke at [City Week 2022](#). He noted that the cost-of-living crisis has exposed consumers to more risk, and are also more reliant on financial services. The new consumer duty will ensure that firms consider the actual

impact of their services and product suitability on consumers and is expected to result in lower costs for firms.

Rathi spoke about the transition to a more sustainable economy, saying that the FCA is supporting international partners who are starting to mandate climate related disclosures, while continuing to build on the changes the FCA has introduced. He also addressed innovation and cryptocurrency, highlighting the expansion of an early oversight scheme to give 300 newly authorised firms guidance on regulatory issues as they grow, and the FCA's first ever CryptoSprint being held in May, which has had over 500 applications. Finally, he talked about post-Brexit stability and the end of the Temporary Permissions Regime, saying that most plans firms have shown to the FCA have met expectations. He noted that for predominantly UK businesses, their regulated entity should be in the UK to protect investors and market integrity.

FINANCIAL PROMOTIONS QUARTERLY DATA 2022 Q1

On 27 April 2022, the FCA published an [analysis](#) of the data 1 January 2022 to 31 March 2022, on FCA action taken against authorised firms for breaches of financial promotion rules and referrals and investigations into unregulated activity. The FCA's engagement resulted in 84 amendments/withdrawals with relating to financial promotion.

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.

Items of possible interest this month are as follows:

RISK DASHBOARD

[Risk Dashboard](#) based on Solvency II data from the fourth quarter of 2021 shows resilient insurance sector even as macro and cyber risks increase.

REVISION OF EIOPA'S GUIDELINES ON CONTRACT BOUNDARIES AND ON THE VALUATION OF TECHNICAL PROVISIONS

EIOPA has finalised the revision of EIOPA's [Guidelines](#) on Contract Boundaries and Guidelines on the Valuation of Technical Provisions.

The revised Guidelines are to provide additional guidance by issuing new guidelines and amending current guidelines on a number of topics considered crucial from a supervisory convergence perspective. The topics include Modelling Biometric Factors, the Apportionment of Expenses, Changes in Expenses, Assumptions used to calculate Expected Profits in Future Premiums and the Unbundling of contracts.

The new and amended guidelines will be applicable from 1 January 2023.

ENFORCEMENT ACTION

PRA / FCA REGULATORY FINES ROUND-UP

FCA regulatory fines in 2022 total [£10.1m](#). No new fines have been announced by the PRA or FCA in the past month.]

However, on 28 April the FCA issued a [Final Notice](#) prohibiting Mr Hugh Edwards from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. This follows the conviction of Edwards for making false representations and communicating an invitation to engage in investment activity in contravention of section 21 of the FSMA and handling stolen goods.

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