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INSURANCE REGULATORY EBULLETIN

APRIL 2019

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.

Easter has come and gone with Extinction Rebellion highlighting the potential effects of climate change through its activity on the streets of London. Meanwhile the PRA became the first regulator in the world to highlight its concerns for climate change on the economy and financial sector through its publication of a Policy Statement setting out its regulatory expectations on this topic. Both the PRA and FCA published their 2019/20 Business Plans. The Brexit date was pushed out until 31 October but both regulators issued final policies and updates in preparation for the UK’s withdrawal from the EU whenever and by what means.

I hope you enjoy reading this latest update. Please do not hesitate to contact myself or your normal BDO contact if you have any concerns over any matter highlighted in this update.

Read our latest Insurance Regulatory eBulletin here.

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EIOPA

REPORT ON INSURTECH LICENSING REQUIREMENTS BEST PRACTISES AND PROPORTIONALITY

On 29 March, EIOPA published a report which addresses the authorising and licencing requirements and the application of the principle of proportionality in the area of financial innovation, including InsurTech and peer-to-peer insurers. The report aims to support a systematic approach to licensing requirements for InsurTech companies across the EU and sets out best practices for national competent authorities (NCAs) in supporting financial innovation and minimizing the related risks.

The document considers:

- Mapping of the InsurTech market – where EIOPA undertook a mapping exercise to gain a better insight into the number of both licenced and non-licenced InsurTech firms in EU, and the operation of the related value chain;
- Licencing requirements - EIOPA mapped NCAs current licencing approaches toward InsurTech to identify possible innovative business models for licencing requirements;
- Principle of proportionality – EIOPA concluded that the understanding and application of principle of proportionality varies in different Member States. However, the application of the proportionality principle should ensure that the same level of protection is guaranteed for all policyholders across the EU;
- P2P insurance - EIOPA sought specific input from NCAs and stakeholders on P2P insurance, in order to understand current licencing practices, the application of the principle of proportionality, and potential gaps in this area;
- Outsourcing – EIOPA studied the extent to which insurers rely on third-parties within the insurance value chain and whether the current outsourcing rules for insurance undertakings and distributors are sufficient.

The best practices in this report have been developed by EIOPA and should be seen as a complementary guidance to European NCAs. These best practices are not legally binding on nevertheless, EIOPA encourages the voluntary adoption of the best practices set out in the report.

DISCUSSION PAPER ON SYSTEMIC RISK AND MACRO-PRUDENTIAL POLICY IN INSURANCE

On 29 March, EIOPA published a discussion paper on Systemic Risk and Macro-prudential Policy in Insurance. The paper builds on the series of previously published papers defined its policy stance and laid down its initial ideas on several relevant topics. It is aimed at contributing to the debate on systemic risk and macro-prudential policy in insurance and in ensuring appropriate reflection of the specific nature of the insurance business model.

In developing its policy stance, EIOPA has used a systematic approach, addressing the following questions:

- Does insurance create or amplify systemic risk?
- If yes, what are the tools already existing in the Solvency II framework, and how do they contribute to mitigate the sources of systemic risk?
- Are other tools needed, and, if yes, which ones could be promoted?

This work is now to be turned into a specific policy proposal for additional macro-prudential tools or measures where relevant and possible as part of the 'Solvency II Review' process.

EIOPA CONSULTS ON CORRECTIONS AND AMENDMENTS TO THE ITS ON REPORTING AND DISCLOSURE

On 2 April, EIOPA published a Consultation Paper on draft amendments and corrections to the templates for the submission of information to the supervisory authorities and to the implementing technical standards (ITS) relating to the procedures, formats and templates of the solvency and financial condition report (SFCR). In particular, the proposed amendments aim to align the reporting and disclosure with the amendments to the Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings, among other things.

The consultation includes the following documents:

- Draft amendment to Commission Implementing Regulation (EU) 2015/2450 of 2 December 2015 laying down implementing technical standards with regard to the templates for the submission of information to the supervisory authorities;
- Draft amendment to Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the solvency and financial condition report;
- Impact Assessment;
- Template for Comments

Comments to this consultation should be submitted by 14 May 2019.

JOINT COMMITTEE REPORT ON RISKS AND VULNERABILITIES IN THE EU FINANCIAL SYSTEM

On 2 April, the European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA) and European Securities and Markets Authority (ESMA) released a report on risks and vulnerabilities in the EU financial system. The report identified a variety of risks including uncertainties around the terms of the United Kingdom's withdrawal from the European Union and further repricing of risk premia and asset price volatility, which could be exacerbated alongside a less favourable macro-economic environment and the materialisation of a no-deal Brexit situation.

REGULATION Q&As

On 9 and 11 April, EIOPA issued:

- new questions and answers on (EU) No 2015-2450 templates for the submission of information to the supervisory authorities; and
- an update to its answers regarding the guidelines on the classifications of own funds.

JOINT ESA ADVICE ON THE NEED FOR LEGISLATIVE IMPROVEMENTS RELATING TO ICT RISK MANAGEMENT IN THE EU

On 10 April, the European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA) and European Securities and Markets Authority (ESMA) (together, the ESAs) published advice on the need for legislative improvements regarding the risk management requirements for Information and Communication Technology (ICT) in the EU financial sector.

The ESAs objective is to ensure that every relevant entity should be subject to clear general requirements on the governance of ICT, and thus they advise the streamlining of aspects of incident reporting frameworks across the financial sector and a legislative solution for an oversight framework to monitor the activities of critical service providers.

JOINT ESA ADVICE ON THE BENEFITS OF A COHERENT CYBER RESILIENCE TESTING FRAMEWORK FOR EU FINANCIAL SECTOR

On 10 April, the European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA) and European Securities and Markets Authority (ESMA) (together, the ESAs) issued Joint Advice, in response to an EC request set out in its FinTech action plan of March 2018.

The ESAs' Joint Advice discusses the costs and benefits of a coherent cyber resilience testing framework for significant market participants and the infrastructures in place with the EU's financial sector. The ESAs set out the benefits of this framework, but also note that there are currently significant differences across and within financial sectors in the maturity level of cybersecurity. The ESAs' short-term advice is to focus upon achieving a minimum level of cyber-resilience across sectors, which is proportionate to the needs of the relevant entities. Thus, the ESAs have also proposed to voluntarily establish a coherent testing framework, across the EU, alongside other relevant authorities which considers existing initiatives, and focuses on Threat Lead Penetration Testing. The long term goal being to ensure there is a sufficient cyber maturity level of the identified cross-sector entities.

EIOPA'S RISK DASHBOARD FOR APRIL 2019

On 11 April, EIOPA published its updated Risk Dashboard derived from fourth quarter 2018 Solvency II data. EIOPA concludes the risk exposures of the EU insurance sector remain stable overall. The data also indicates:

- macro risks remain at medium level;
- credit and market risks continue at medium level, while profitability and solvency risks remain stable;
- insurance risks increased to medium level because of a further increase in the catastrophe loss ratio; and
- low swap rates and the recent downgrading of forecasts for GDP growth and inflation represent concerns going forward.

SOLVENCY II: APPLICATION OF THE PROPORTIONALITY PRINCIPLE IN THE SUPERVISION OF THE SOLVENCY CAPITAL REQUIREMENT

On 11 April, EIOPA released a Supervisory Statement on the application of the proportionality principle in the supervision of the Solvency Capital Requirement (SCR) calculated in accordance with the standard formula.

EIOPA has identified possible divergences in the supervisory practices with regards to the supervision of the calculation of immaterial SCR sub-modules. To guarantee supervisory convergence and the consistent application of the proportionality principle across the EIOPA is looking at the following key areas:

- the adoption of a proportionate approach towards immaterial SCR sub-modules;
- calculation of SCR sub-modules using prudently estimated inputs that lead to prudent outcomes should be subject to the consent of the supervisory authority;
- the proper monitoring of any evolution of the risk through early warning indicators defined by the undertaking and embedded in the ORSA process;
- supervisory reporting and public disclosure to include information in the Solvency and Financial Condition Report; and
- an ongoing dialogue under the supervisory review process.

EIOPA CYBER INSURANCE WORKSHOP

On 1 April, 2019 EIOPA hosted a Workshop on Cyber Insurance which attracted more than 100 representatives from the insurance industry, brokers, policyholders, regulators, think tanks and other stakeholders.

The workshop continued the structured dialogue with the insurance industry on cyber insurance, which resulted in a first EIOPA report published in 2018. The goal of the workshop was to discuss and identify possible solutions and to address the challenges facing the European cyber insurance market. The workshop focused on two main challenges: covering cyber risks and quantifying cyber risks.

The agenda and summary of the Workshop as well as the opening remarks of EIOPA's Chairman, Gabriel Bernardino and presentations can be found here.

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BREXIT

BREXIT DELAY UPDATE

The Government has confirmed the new legal default date for Brexit is 31 October 2019. Domestic legislation has been amended to confirm this.

If the EU Withdrawal Agreement is ratified before then, the UK will leave with a deal on the 1st of the following month. The UK must participate in European Parliament elections if the deal has not been agreed by 22 May.

Firms should continue to prepare for a range of scenarios, including one in which the UK leaves without a deal.

NON-BINDING PRA MATERIALS: THE PRA'S APPROACH AFTER BREXIT - SS1/19

On 18 April, the PRA published a final version of its Supervisory Statement (SS1/19) elaborating on how firms should interpret existing non-binding PRA regulatory and supervisory materials in light of the UK's exit from the EU.

This document only applies in the event of the UK's withdrawal from the EU.

PRA APPROACH TO INTERPRETING REPORTING AND DISCLOSURE REQUIREMENTS AND REGULATORY TRANSACTIONS FORMS POST BREXIT - SS2/19

On 18 April, the PRA published the final version of its Supervisory Statement (SS2/19) setting out the approach that should be taken by firms when interpreting EU-based references provided in reporting and disclosure requirements and regulatory transactions forms, following the UK's withdrawal from the EU.

Among other things, this document clarifies how the guidance outlined in this SS interacts with the general transitional relief, and specifies certain parts of the PRA Rulebook and European Binding Technical Standards (BTS) which are in scope of this guidance.

The SS is applicable only in the event of the UK's withdrawal from the EU.

BREXIT: THE FCA CONFIRMS FINAL RULES FOR FIRMS

On 29 March, the FCA published its final instruments and guidance that will apply in the event the UK leaves the EU without a deal or an implementation period. The package of documents published contains the majority of the final instruments and guidance, following the February publication of the FCA's Policy Statement with near-final instruments.

Most of the instruments published were made under powers given to the FCA under the EU (Withdrawal) Act. They have been approved by the Treasury, so the FCA can now make them final.
The final instruments are largely unchanged from the near-final versions, which were published in February. The most significant change is that the instruments now commence on 'exit day', rather than 11pm on 29 March. This change reflects the decision made at the European Council on 21 March, as well as the changes made by the European Union (Withdrawal) Act 2018 (Exit Day) (Amendment) Regulations 2019.

The FCA has also published the majority of its final transitional directions and guidance for using the transitional power. The FCA has identified three additional areas where it has made amendments to the near-final directions published in February.
These changes relate to:

- UK managers of EEA UCITS funds
- the application of the Client Assets sourcebook (CASS) to activities carried on from an EEA branch, and
- the distance marketing provisions.

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PRUDENTIAL REGULATION

SOLVENCY II: EQUITY RELEASE MORTGAGES - PART 2 - CP7/19 AND DEAR CEO LETTER

On 3 April, PRA issued a Consultation Paper (CP) on Solvency II and equity release mortgages (ERM). The CP discusses the PRA's proposed amendments to its expectations for firms that invest in ERM portfolios, as detailed in Chapter 3 of its Supervisory Statement SS3/17. The CP is for relevant insurance and reinsurance companies which hold ERMs.

David Rule, Executive Director of Insurance Supervision at the PRA, also wrote a Dear CEO Letter to highlight CP7/19 published to clarify its expectations for firms conducting the Effective Value Test (EVT). The purpose of the EVT is to help the PRA to determine whether insurers seem to be taking inappropriately large matching adjustment (MA) benefit from restructured equity release mortgages held within MA portfolios. Mr Rule also highlighted some research into ERM valuation which it believes deserves serious consideration by firms and their auditors.

CP7/19 sets out the additional proposals identified for consultation when the PRA published its Policy Statement PS31/18 issued alongside the revised SS3/17 in 2018 as follows:

- When and how the PRA would periodically review and publish updated values for the property volatility and deferment rate parameters to be used in the EVT. In particular, the PRA is now consulting on proposals to adjust the deferment rate following a material change in real interest rates, in part with the aim of reducing the sensitivity of the EVT to changes in nominal risk-free rates.
- Where firms include assets other than ERMs in the special purpose vehicle (SPV) used to restructure ERM loans, how those other assets should be allowed for in the EVT.
- The frequency with which the PRA would expect firms to assess the EVT.
- Principles for how the PRA would assess the approaches firms could use to model the risks associated with ERMs in their internal models against the Solvency II tests and standards, including whether and how the PRA would expect firms to apply the EVT in stress, taking account of the PRA’s proposals for how it would vary the deferment rate.

The PRA is also consulting on principles that would clarify how the loan value plus the accrued input to the EVT, would mirror circumstances in which the ultimate amount due at the exit is uncertain.

The consultation closes on Wednesday 3 July 2019.

AVOIDING THE STORM: CLIMATE CHANGE AND THE FINANCIAL SYSTEM - SPEECH

On 15 April, Sarah Breeden, PRA Executive Director, International Banks Supervision spoke at the Official Monetary & Financial Institutions Forum, London on the subject of climate change and its potential effect on the economy and financial system.

She considered the risks posed to the economy and financial system by climate change, and noted that the financial risks from climate change manifest through two channels – physical risks, such as damage to infrastructure from catastrophic weather-related events, and transition risks, including changes in climate policy. She stressed the importance of approaching the financial risks created by climate change in a different way as they occur on a greater scale than other risks, and are eminently foreseeable.
She noted the Bank of England has responded to these financial risks by becoming the first regulator globally to publish supervisory expectations that outline how the banks and insurance companies it regulates should develop an enhanced approach to managing the financial risks from climate change.

She concluded by encouraging early action and a sustained effort, both internationally and domestically, private sector and public sector, to achieve a smooth and orderly transition and combat financial risks from climate change

ENHANCING BANKS' AND INSURERS' APPROACHES TO MANAGING THE FINANCIAL RISKS FROM CLIMATE CHANGE – PS11/19 AND SS3/19

On 15 April, the PRA published a Policy Statement PS11/19 and Supervisory Statement SS3/19 providing feedback to responses received on the Consultation Paper CP23 /18 on the enhancement of banks' and insurers' approaches to managing financial risks from climate change.

The PRA received 54 responses to the CP. The PRA has provided responses to comments related to the consultation and has grouped them in the categories of governance, risk management, scenario analysis, disclosure, and other. Respondents generally welcomed the PRA’s proposals but urged the PRA to move more quickly and decisively on climate change issues. There were also a number of requests for clarification. Feedback to these responses is set out in Chapter 2 of PS11/19.

The expectations in SS3/19 take effect on publication of the PS. The PRA expects firms to have an initial plan in place to address the expectations and submit an updated Senior Management Function (SMF) form by Tuesday 15 October 2019. However, firms should note that expectations on firms and SMF holder(s) will take into consideration the evolving understanding of what best practice looks like.

The PRA has made the following changes to the expectations in the SS:

- updated the wording of disclosure expectations on requests for clarification;
- provided clarification that financial positions in relation to climate vulnerable assets cannot always be hedged; and
- clarified the timescales appropriate for scenario analysis.

The PRA intends to publish more detailed expectations in due course.

PRA Business Plan 2019/20

On 15 April, the PRA published its Business Plan 2019/20 which sets out the strategic goals to support the delivery of the PRA’s strategy, together with an overview of the budget for the period 1 March 2019 to 29 February 2020.

The PRA’s strategy outlines its intentions over the medium-to long-term. It was set by the Prudential Regulation Committee (PRC), in consultation with the Bank’s Court of Directors. In order to progress the strategy, the PRA strategic goals for 2019/20 are to:

- have in place robust prudential standards and supervision;
- adapt to market changes and horizon scanning;
- ensure that firms have financial resilience;
- ensure the PRA has operational resilience its prudential framework and supervisory approach;
- ensure that banks and insurers have credible plans and capabilities in place for recovery and resolution;
- facilitate effective competition by actively considering the proportionality of its approach;
- deliver a smooth transition following the UK’s exit from the EU; and
- operate effectively and efficiently as a regulator.

The Business Plan outlines in greater detail the workplans to achieve the above strategic goals.

REGULATED FEES AND LEVIES: RATES FOR 2019/20 - CP9/19

On 15 April, the PRA published a Consultation Paper (CP9/19) setting out proposals for the PRA's fees for 2019/20. The proposals would make amendments to the Fees Part of the PRA Rulebook (Appendix 1), and Supervisory Statement (SS) 3/16 'Fees: PRA approach and application' (Appendix 2). The PRA's Total Funding Requirement for 2019/20 is £271.3 million, down £0.9 million from 2018/19 (£272.2 million).

The proposals include:

- the fee rates to meet the PRA's 2019/20 Annual Funding Requirement (AFR);
- replacing the Ring-fencing Implementation Fee (RFIF) with the Ring-fencing Fee (RFF);
- the continuation of the PRA's periodic fees discount to EEA firms in the context of the current UK and EU regulatory framework;
- changes to the PRA's fees rules in the event of the United Kingdom's withdrawal from the European Union without a deal;
- how the PRA intends to recoup a shortfall from the 2018/19 AFR and distribute a surplus from the 2018/19 RFIF; and
- how the PRA intends to distribute the retained penalties for 2018/19.

The consultation closes on Tuesday, 14 May 2019

INSURANCE STRESS TEST 2019: REQUEST FOR TECHNICAL INPUT

On 15 April, the PRA issued a letter announcing that it will be conducting an insurance stress test from July to September 2019 for the largest regulated life and general insurers and is seeking industry feedback ahead of its formal announcement to request participation on 1 July 2019.

For general insurers, the PRA will be running a number of scenarios jointly with the Bermuda Monetary Authority, reflecting commitment to transparency, supervisory cooperation and information sharing by regulatory Authorities. Many London Market insurers are exposed to risks similar to those based in Bermuda. Furthermore, UK-based insurers cede a significant proportion of risks to Bermuda-based reinsurers. This joint exercise will allow us to understand the interdependencies between London Market and Bermuda-based reinsurers in more depth.

Participating firms will be required to complete the exercise by 30 September 2019. Attached to the letter are Scenario Specification, Guidelines and Instructions and Templates for both life and general insurers.

The PRA will also be hosting three industry roundtables to discuss any questions or comments regarding this exercise. Comments should be submitted on or before 31 May 2019.

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CONDUCT REGULATION

REGULATION ROUND UP

On 18 April, the FCA published its monthly Regulation round-up. The Hot Topics included the FCA Business Plan, Brexit, the Mortgage Market Study final report and the Investment Platforms Market Study.

This edition includes the following articles that are relevant to insurers or insurance intermediaries:

- Update on Access to Insurance*
- General Insurance Distribution Chain*
- Live & Local 2018/19 events for regulated firms

*covered below

CLAIMS MANAGEMENT COMPANIES ENTER FCA REGULATION

On 1 April, the FCA issued a news release setting out that from 1 April 2019, the FCA started to regulate the claims management industry. This means that all claims management companies (CMCs) in England, Scotland, and Wales have to apply to the FCA for authorisation, of which, more than 900 CMC's have registered for 'temporary permission' so that they can continue to operate, whilst they go through the FCA's authorisation process. After the authorisation process is complete the FCA is able to use a range of tools and powers on firms that do not comply with the rules. The purpose of this regime is to improve consumer protection and the sector's professionalism by increasing standards in the industry. Amongst other things the FCA's new requirements include:

- due diligence on leading generation and rules to prevent firms encouraging customers to make fraudulent or frivolous claims;
- providing clear information to customers about the fees companies charge and the services which they will provide; and
- explaining to customers that there are free alternatives available with the Financial Ombudsman Service (FOS) or the Financial Services Compensation Scheme (FSCS), and including this in advertisements.

ACCESS TO INSURANCE UPDATE

On 4 April, the FCA updated its feedback on their work with stakeholders to explore different options for signposting people with pre-existing medical conditions (PEMCs) to travel insurance providers that are able to provide them with suitable insurance. The potential options include:

- For the signposting to be hosted by a single source, for example through development of the existing British Insurance Brokers Association (BIBA), Find a Broker Service which is a list of some providers who specialise in PEMCs.
- For a signposting service to be hosted by a brand-new single source service and to be hosted by an independent body.
- A multi-lateral approach that provides ‘signposting’ across the industry, but allows providers some flexibility to build their own signposting arrangements.

The FCA plan to consult on its proposals before summer 2019.

INSURANCE FIRMS FAILING TO CONSIDER VALUE OF THE PRODUCTS AND SERVICES PROVIDED TO CONSUMERS

On 10 April, the FCA warned General Insurance (GI) firms about manufacturing, sales and distribution approaches that can lead to customers purchasing inappropriate products, paying excessive prices or receiving poor service. The FCA published the results of its Thematic Review TR19/2: General insurance distribution chain report setting out the key findings from its thematic work on the general insurance distribution chain, its expectations of firms and next steps. The report should be considered alongside the accompanying proposed non-Handbook guidance.

In addition, the FCA also wrote to the CEOs of every authorised GI firm to highlight the findings and expectations, calling on firms to act immediately to identify and mitigate any shortcomings. This message will be reinforced through engagement with the industry, both directly with firms and via trade bodies.

The FCA also gave notice to General Insurance (GI) firms that the recently implemented Senior Manager and Certification Regime is designed to make Senior Managers accountable for the actions of their firms, and that it will not hesitate to intervene on behalf of customers with both firms and their senior managers.

Matters that may require intervention include excessively high prices for the value received for insurance products, and a high risk of unsuitable sales where the distributor is selling insurance along with a non-financial product such as a car or holiday package.

FCA BOARD MINUTES: 28 FEBRUARY 2019

On 11 April, the FCA published the minutes of its Board meeting held on 28 February 2019. Among other matters, the Board discussed the UK's withdrawal from the UK; the rent-to-own price cap; and 2019/20 business planning. The Board also discussed feedback on consultation paper (CP18/31), which proposed increasing the Financial Ombudsman Service award limit from £150,000 to £160,000 or £350,000 depending on the date of the acts or omissions by firms. The Board approved the final rules as consulted in CP18/31.

MEMORANDUM OF UNDERSTANDING BETWEEN THE INSURANCE FRAUD BUREAU AND THE FCA

On 12 April, the FCA signed a Memorandum of Understanding (MoU) with the Insurance Fraud Bureau (IFB), on cooperation in respect of claims management activities, including the areas of exchanging information and investigative assistance.

The MoU will come into effect when both the FCA and the IFB have signed it and will remain effective until terminated by either party.

FCA SETS OUT ITS PRIORITIES FOR 2019/20 IN ITS BUSINESS PLAN

On 17 April, the FCA published its Business Plan for 2019/20, which outlines the key priorities for the coming year. The Business Plan outlines four ongoing cross-sector priorities:

- Work on firms’ culture and governance, including extending the Senior Managers and Certification Regime to all firms.
- Ensuring the fair treatment of firms’ existing customers by monitoring firms’ practices, including the information they give prospective and current customers.
- Developing the work being done on operational resilience, which will play a vital role in protecting the UK’s financial system.
- Combating financial crime and improving anti-money laundering practices, by enhancing the use of technology and data, as well as engaging with multiple agencies and government bodies.

The plan also sets out three additional cross-sector priorities, which have longer time horizons:

- the future of regulation;
- ensuring innovation and the use of data work in consumers' interests; and
- examining the intergenerational challenge in financial services.

The key sector priorities for General insurance are:

- Fairness in pricing and product value;
- General insurance pricing practices;
- Poor governance and oversight in the distribution chain; and
- Access and exclusion in insurance.

FCA REGULATED FEES AND LEVIES: RATES PROPOSALS 2019/20 - CP19/16

On 17 April, the FCA published a Consultation Paper (CP19/16), outlining the changes it wishes to make to its regulatory fees and levies for 2019/2020 due to its ongoing regulatory activities and annual funding requirement.

The proposals include a 2 per cent increase for fee rates for authorised firms in the A fee-blocks and CC1 and CC2 Consumer Credit fee-blocks, and no change in fees for variable fee rates for the consumer credit firms that pay fees above their minimum fees.

Further policy proposals made in the consultation is the clarification of the definition of income as the tariff base measure used to calculate the fees of regulated benchmark administrators, among other proposals.

Comments should be submitted by 29 May 2019.

FCA DATA SHOW 5% DROP IN COMPLAINTS IN THE SECOND HALF OF 2018

On 18 April, the FCA published the complaints figures for regulated firms for the second half of 2018. During the second half of 2018 (2018 H2), complaints decreased by 5%, falling from 4.13m to 3.91m. This is the first time the number of complaints has fallen since firms were required to change the way they report complaints, in 2016. 3,181 firms reported receiving one or more complaints during 2018 H2, with 231 of these firms reporting 500 or more. These firms accounted for almost 98% of all complaints reported.

PPI continued to be the most complained about product, making up 40% of all complaints. This, however, was a decrease of 8% from 1.72m in 2018 H1 to 1.58m in 2018 H2. There was a change in reporting which allowed firms to exclude from their complaints return any PPI complaints where it was established that the complainant had not purchased a PPI policy from the firm.

Excluding PPI, total complaints decreased from 2.41m to 2.33m over 2018. While remaining the second most complained about product, current accounts complaints decreased by 13% over the half-year. By contrast, credit cards, the third most complained about product, saw an increase of 10%.

FCA PUBLISHES FEEDBACK STATEMENT ON DUTY OF CARE - FS19/2

On 23 April, the FCA published a Feedback Statement (FS19/2) summarising the responses received to its Discussion Paper – 'A duty of care and potential alternative approaches' – published in July 2018, and setting out the next steps.

The issue was also discussed by Andrew Bailey, Chief Executive of the FCA, in a speech on the future of financial conduct regulation, delivered at Bloomberg, London on 23 April.

As a result of the feedback the FCA received and its early analysis, it has identified options for change that are most likely to address potential deficiencies in consumer protection including:

- reviewing how it applies the regulatory framework – in particular, its application of the Principles of Business in its authorisations, supervisory and enforcement functions, and how transparently it communicates with firms about this; and
- new/revised Principles of Business to strengthen and clarify firms' duties to consumers, including considering a potential private right of action for Principles breaches.

The further work required forms part of the FCA Business Plan for 2019/20 and the FCA will outline next steps in the autumn, seeking detailed views on specific options for change.

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ENFORCEMENT ACTION

FCA REGULATORY FINES ROUND-UP

FCA regulatory fines for 2019 now total £272.5m. The following fines and related enforcement actions have been announced in the past month:

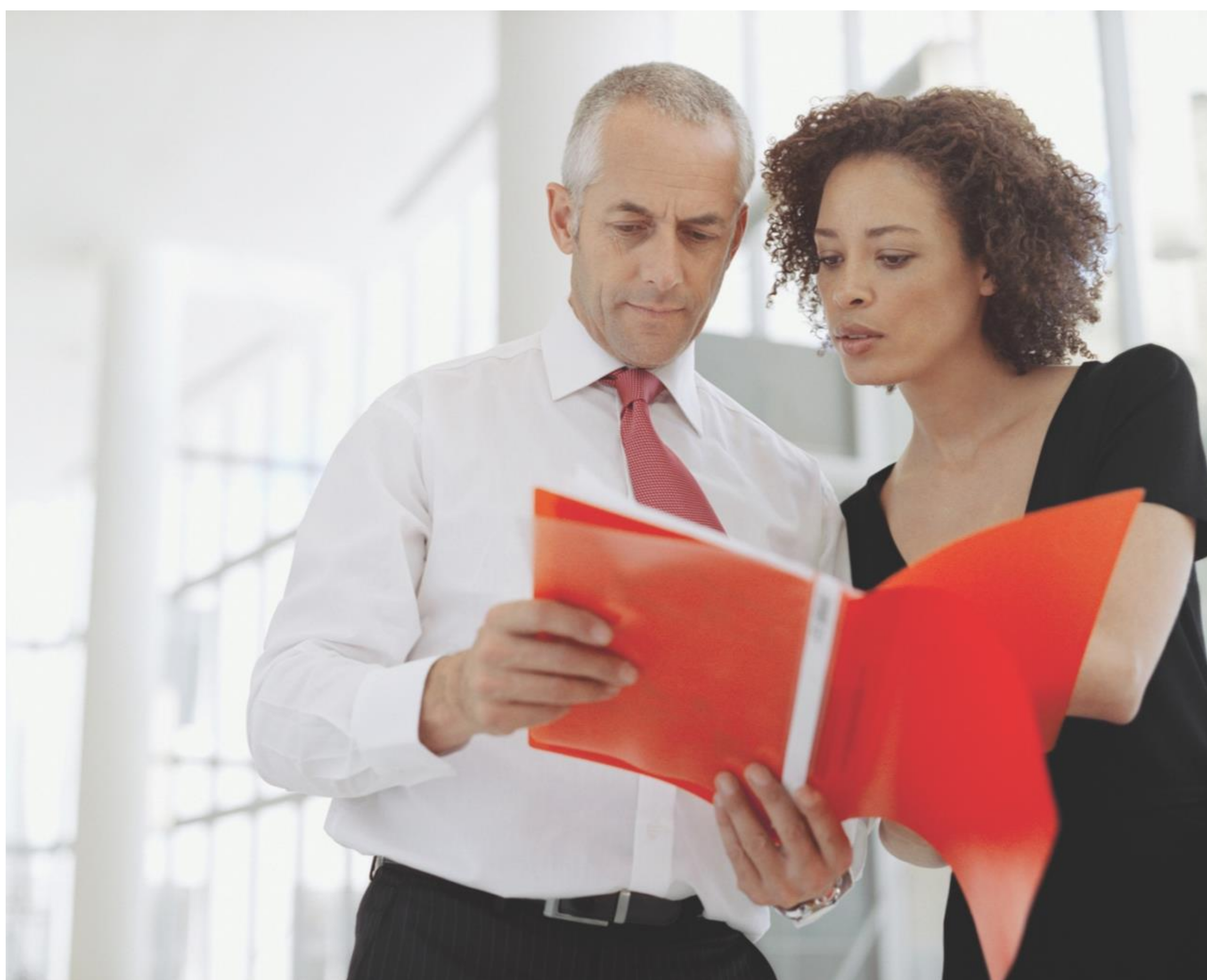
Standard Chartered Bank	The FCA has fined Standard Chartered Bank (Standard Chartered) £102.1m for Anti-Money Laundering (AML) breaches in two higher risk areas of its business. This is the second largest financial penalty for AML controls failings ever imposed by the FCA. The fine follows FCA investigations into two areas of Standard Chartered's business identified by the bank as higher risk: its UK Wholesale Bank Correspondent Banking business and its branches in the United Arab Emirates (UAE). The FCA found serious and sustained shortcomings in Standard Chartered's AML controls relating to customer due diligence and ongoing monitoring. Standard Chartered failed to establish and maintain risk-sensitive policies and procedures, and failed to ensure its UAE branches applied UK equivalent AML and counter-terrorist financing controls. The FCA found significant shortcomings in Standard Chartered's own internal assessments of the adequacy of its AML controls, its approach towards identifying and mitigating material money laundering risks and its escalation of money laundering risks. An example was the opening of an account with 3 million UAE Dirham in cash in a suitcase (circa £500,000) with little evidence that the origin of the funds had been investigated.
Goldman Sachs International (GSI)	GSI has been fined £34.3m by the FCA for failing to provide accurate and timely reporting relating to 220.2 million transaction reports between November 2007 and March 2017. GSI failed to ensure it provided complete, accurate and timely information in relation to approximately 213.6m reportable transactions. It also erroneously reported 6.6m transactions to the FCA, which were not, in fact, reportable. Altogether, over a period of 9 and a half years, GSI made 220.2m errors in its transaction reporting, breaching FCA rules. The FCA also found that GSI failed to take reasonable care to organise and control its affairs responsibly and effectively in respect of its transaction reporting. These failings related to aspects of GSI's change management processes, its maintenance of the counterparty reference data used in its reporting and how it tested whether all the transactions it reported to the FCA were accurate and complete.

ICO fines Kent pensions company for sending nearly 2 million spam emails

On 26 March, the ICO announced that it had fined Grove Pension Solutions Ltd £40,000 for being responsible for sending nearly two million direct marketing emails without consent. The company had instructed a marketing agent to use third party email providers to carry out hosted marketing campaigns that advertised the company's services, and, therefore, failed to comply with the law.

ICO fines funeral plan firm

The ICO launched an investigation after a national newspaper had reported allegations of illegal practices at a call centre in Cheshire, run by a company which at the time was called Plan My Funeral Avalon Ltd. The investigation revealed the company – which shortly afterwards changed its name to Avalon Direct Limited - had made almost 52,000 calls to people who were registered with the Telephone Preference Service (TPS) between 1 March and 20 November 2017. Avalon Direct were fined £80,000.



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