



INSURANCE REGULATORY EBULLETIN

ROUND UP OF REGULATORY DEVELOPMENTS IN APRIL 2020

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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 you and your families are all safe and well. No doubt like me you are now used to home-working and trying to school your children at the same time and the novelty is wearing thin!

Last month I noted that following the Government advice on how to keep our people safe and to demonstrate our collective, ongoing responsibility to delay the spread of COVID-19, BDO was temporarily closing its offices. Unfortunately, this unusual situation continues with no confirmed end in sight and we continue to operate and serve our clients as a fully-remote, fully-connected workforce for the time being.

April has again been a busy month on the regulatory front as a result of the implications of the COVID-19 on both prudential and conduct regulation and for financial reporting in general. Whilst the regulators in Europe and the UK have relaxed making and proposing new policy they have continued to emphasise their focus on ensuring the insurance sector is financially resilient and treats its customers fairly. Both the PRA and FCA have issued their 2020/21 Business Plans which inevitably are affected by the current situation. Indeed, COVID-19 may well become a historic event for the insurance industry in terms of both the claims quantum and the industry's reputation.

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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CONTENTS

EIOPA	5
▶ EIOPA publish extraordinary information for Solvency II Relevant Risk Free Interest Rates	5
▶ Update on other measures impacted by COVID-19	5
▶ EIOPA statement on dividends distribution and variable remuneration policies	5
▶ EIOPA urges action to mitigate the impact of COVID-19 on consumers	5
▶ EIOPA opinion on the supervision of remuneration principles	6
PRUDENTIAL REGULATION	7
▶ Joint statement by the FCA, FRC and PRA	7
▶ Occasional Consultation Paper - CP3/20	7
▶ Letter from Sam Woods to insurers on distribution of profits	7
▶ Solvency II: Income producing real estate loans and internal credit assessments for illiquid, unrated assets - PS9/20	7
▶ Regulated fees and levies: Rates proposals 2020/21 - CP4/20	8
▶ PRA Business Plan 2020/21	8
▶ Waivers or Modifications applications.....	9
▶ Consultation on expanding the dormant assets scheme	9
FINANCIAL REPORTING	10
▶ Measures in respect of Company filings, AGMs and other general meetings during COVID-19.....	10
CONDUCT REGULATION.....	11
▶ FCA Regulation round-up - 7 April	11
▶ FCA Regulation round-up - 21 April.....	11
▶ FCA CORONAVIRUS (COVID-19) INFORMATION	11
▶ FCA and PSR respond to the CMA's guidance on business cooperation under competition law.....	11
▶ Work-Related Travel - Responsibilities of Senior Managers	12
▶ Joint FCA and PRA statement on SMCR and COVID-19: expectations of dual-regulated firms	12
▶ FCA statement on SMCR and COVID-19: expectations of solo-regulated firms	12
▶ FCA regulated fees and levies proposals 2020/21 - CP20/6.....	12
▶ FCA Business Plan 2020/21	13
▶ Signposting to travel insurance for consumers with medical conditions - PS20/3 addendum ...	13
▶ FCA Board Minutes: 27 February 2020	13

- ▶ Dear CEO letter on insuring SME’s for: business interruption.....14
- ▶ FCA extends time limit for obtaining appropriate qualifications14
- ▶ changes to regulatory reporting up to 30 June 202014
- ▶ Mutual societies - including AGMs update15
- ENFORCEMENT ACTION.....16**
- ▶ FCA regulatory fines round-up16



EIOPA

EIOPA PUBLISH EXTRAORDINARY INFORMATION FOR SOLVENCY II RELEVANT RISK FREE INTEREST RATES

On 24 March, due to the COVID-19 outbreak EIOPA started producing weekly ‘extraordinary’ [calculations](#) to monitor the evolution of the relevant risk-free interest rate term structures (RFR) and the symmetric adjustment to equity risk (EDA). This information is normally published on a monthly basis by EIOPA.

The information will normally be published every Friday.

UPDATE ON OTHER MEASURES IMPACTED BY COVID-19

On 2 April, EIOPA provided an [update](#) on measures it was taking as a result of the impact of the COVID-19 outbreak. EIOPA is re-prioritising and alleviating the burden on (re)insurers by extending the deadlines or delaying projects where input from National Competent Authorities or organisations is foreseen.

The measures include changing deadlines for open consultations and calls for evidence; delays to publication of public comments for public consultations in the process of approval to the market; and changes affecting data requests to financial institutions scheduled to start in Q1-Q2.

EIOPA STATEMENT ON DIVIDENDS DISTRIBUTION AND VARIABLE REMUNERATION POLICIES

On 2 April, EIOPA reiterated its 17 March [statement](#) noting that (re)insurers should take all necessary steps to continue to ensure a robust level of own funds to be able to protect policyholders and absorb potential losses arising from the COVID-19 outbreak.

EIOPA urged that (re)insurers temporarily suspend all discretionary dividend distributions and share buy backs aimed at remunerating

shareholders. The suspension should be reviewed as the financial and economic impact of COVID-19 starts to become clearer.

A prudent approach should also be applied to variable remuneration policies. EIOPA expects (re)insurers to review their current remuneration policies, practices and rewards and ensure that they reflect prudent capital planning and are consistent with, and reflect, the current economic situation. Given the situation, the variable part of remuneration policies should be set at a conservative level and postponement should be considered.

EIOPA URGES ACTION TO MITIGATE THE IMPACT OF COVID-19 ON CONSUMERS

On 1 April, EIOPA issued a [statement](#) urging insurers and intermediaries, to mitigate the impact of COVID-19 on consumers, by focusing on ensuring business continuity and fair treatment of consumers including:

- ▶ providing clear and timely information to consumers on contractual rights;
- ▶ treating consumers fairly and being explicit in all communications;
- ▶ informing consumers about contingency measures;
- ▶ continuing to apply product oversight and governance (POG) requirements; and
- ▶ considering the interests of consumers and exercising flexibility in how they are treated, if reasonable and practicable.

EIOPA OPINION ON THE SUPERVISION OF REMUNERATION PRINCIPLES

On 7 April, EIOPA published [an opinion](#) on supervision of the remuneration principles included in Solvency II. The opinion notes the remuneration principles set out in the Delegated Regulation are high-level and leave considerable discretion to undertakings and supervisory authorities, and thus divergent practices have emerged across the European Union.

The opinion aimed at facilitating the convergence of national supervisory practices by providing guidance to supervisory authorities on how to challenge the application of certain principles, and outlines a proportionate approach to the staff within the scope of a firm's remuneration policy.



PRUDENTIAL REGULATION

JOINT STATEMENT BY THE FCA, FRC AND PRA

On 26 March, the FCA, PRA and the FRC [announced a series of actions](#) to ensure the continuing flow of information to investors and to support the functioning of the UK's capital markets. The measures include:

- ▶ [the FCA allowing](#) an additional two months to listed companies to publish their audited financial reports;
- ▶ [guidance from the FRC](#) for companies preparing financial statements in the uncertain environment, alongside guidance from the PRA on the approach that banks, building societies and PRA-designated investment firms should take when assessing expected loss provisions under IFRS9; and
- ▶ [guidance from the FRC](#) for audit firms seeking to overcome difficulties obtaining evidence for audits.

OCCASIONAL CONSULTATION PAPER - CP3/20

On 26 March, PRA has published an occasional [Consultation Paper \(CP3/20\)](#) setting out its proposals to make minor amendments to the PRA rules, supervisory statements (SS), National Specific Templates (NSTs) and associated LOG files, and the market risk sensitivities data item and associated instructions. In summary the amendments relate to updating instructions for completing PRA110, making corrections and clarifications on Solvency II Reporting, and modifying documents and forms concerning Regulatory Reporting. The chapters in the CP relate to different types of firms, as follows:

- ▶ Chapters 2, 7 and 8 - PRA-authorized CRR firms;
- ▶ Chapter 3 - non-Solvency II insurance firms;
- ▶ Chapter 4 - all Solvency II firms, including the Society of Lloyd's;
- ▶ Chapter 5 - all PRA-authorized firms; and

- ▶ Chapter 6 - PRA-supervised firms that operate in the UK but are not UK-headquartered firms.

Comments must be submitted by 26 June 2020.

LETTER FROM SAM WOODS TO INSURERS ON DISTRIBUTION OF PROFITS

On 31 March, the PRA published [a letter](#) from the Deputy Governor of the PRA, Sam Woods, addressed to UK insurers which reminded them given the current uncertainty of the need to manage financial resources with prudence.

In particular, when deciding on distributions boards should satisfy themselves that each distribution is prudent and consistent with their risk appetite.

The PRA published a [further statement](#) on 8 April welcoming the decision of some insurance companies to pause dividends given the uncertainties associated with COVID-19.

SOLVENCY II: INCOME PRODUCING REAL ESTATE LOANS AND INTERNAL CREDIT ASSESSMENTS FOR ILLIQUID, UNRATED ASSETS - PS9/20

On 2 April, the PRA published a [Policy Statement \(PS9/20\)](#) providing feedback to the responses to its Consultation Paper (CP23/19) on income producing real estate loans and internal credit assessment for illiquid, unrated assets under Solvency II.

This PS is directed at UK (re)insurers holding or intending to hold income producing real estate (IPRE) loans or firms investing in illiquid, unrated assets within their Solvency II matching adjustment (MA) portfolios. After considering the feedback, the PRA has maintained the expectations set out in CP23/19, but has revised the wording of the related [Supervisory Statement \(SS3/17\)](#) to clarify some PRA expectations.

REGULATED FEES AND LEVIES: RATES PROPOSALS 2020/21 - CP4/20

On 9 April, the PRA issued a [Consultation Paper \(CP4/20\)](#), setting out its proposals for fees and levies for 2020/21. The CP is relevant to all PRA regulated firms.

The purpose of the CP, which is expected to be implemented on 7 July 2020, is to amend the Fees Part of the PRA Rulebook, and the related Supervisory Statement (SS3/16).

The PRA's Annual Funding Requirement for 2020/21 is made up of the budgeted cost of Ongoing Regulatory Activities (ORA) and costs associated with the UK's withdrawal from the EU. The proposed ORA for 2020/21 is £263.8 million, an increase of £23.7 million (10%) on 2019/20.

Comments must be submitted on or before 15 May 2020.

PRA BUSINESS PLAN 2020/21 PRA BUSINESS PLAN 2020/21

On 9 April, the PRA has published its [Business Plan](#) for 2020/21. COVID-19 has caused the PRA to reassess the plan and to reprioritise work.

Thus the PRA took measures such as the cancellation of the 2020 annual cyclical scenario stress tests and delaying the publication of the 2019 biennial exploratory scenario (BES) results.

The PRA have also looked at its supervisory work with individual firms and postponed less critical elements where possible and delayed certain skilled person reviews so that firms can focus on their own contingency arrangements, and PRA staff can target key areas to support financial stability, the safety and soundness of firms, and protection of policyholders. In terms of policy setting the PRA have elected to extend consultation periods where suitable and extended implementation timescales.

The PRA's strategic goals and its plan in summary are:

SUMMARY OF PRA BUSINESS PLAN 2020/21

Strategic Goal	Business Plan Components
Robust prudential standards and supervision	<p>Focus supervision of banks and insurers on what matters most eg:</p> <ul style="list-style-type: none"> ▶ UK's withdrawal from EU ▶ LIBOR transition ▶ Integrity of regulatory reporting
Adapt to market changes and horizon scanning	<p>The following areas have been identified as of particular interest:</p> <ul style="list-style-type: none"> ▶ Climate change ▶ FinTech ▶ AI and machine learning
Financial resilience	<p>For insurers the key areas to work on are:</p> <ul style="list-style-type: none"> ▶ capital and balance sheet optimisation not reducing overall levels of financial resilience or policyholder protection ▶ internal model drift ▶ the matching adjustment ▶ the risk margin in the context of the Solvency II 2020 review ▶ the Insurance Capital Standard 2.0 ▶ asset quality and management of investment risk and governance of illiquid and other assets

SUMMARY OF PRA BUSINESS PLAN 2020/21

Strategic Goal Business Plan Components

Operational resilience	The deadline for responses to the policy proposals for impact tolerances for important business services and a publication of a Policy Statement has been delayed until after October 2020.
Recovery and resolution	<ul style="list-style-type: none"> ▶ working with the FSB and IAIS so that UK internationally active insurance groups contribute to the implementation of the recently-approved Holistic Framework for the assessment and mitigation of systemic risk in the insurance sector, including resolution planning ▶ contribute to the IAIS's development of an application paper on resolution powers and planning
Competition	<ul style="list-style-type: none"> ▶ supporting the New Insurers Start-up Unit ensuring that decisions on new bank authorisation applications are reached proportionately and on a timely basis ▶ setting capital requirements in a proportionate manner reflective of the risk profile of the individual firm, and reviewing capital requirements for new insurers annually for the first five years of their existence to ensure proportionality ▶ refining the framework to facilitate the issuance of Insurance Linked Securities (ILS) through ISPVs
EU withdrawal	<ul style="list-style-type: none"> ▶ taking forward work on the risk margin, regulatory data, and the appropriate calibration of the matching adjustment ▶ ensuring a smooth transition to the risk-free rate calculation ▶ developing capabilities to produce independently all the various Solvency II risk-free rate components.
Efficiency and effectiveness	<ul style="list-style-type: none"> ▶ continuing to build an increasingly talented and diverse workforce ▶ carrying out a discussion with firms to transform data collection from the UK financial sector over the next decade ▶ building core supervisory skills in financial resilience, business models, products and markets, operational resilience, cyber risks, and developing skills in areas such as climate change, reinsurance and illiquid assets.

WAIVERS OR MODIFICATIONS APPLICATIONS

On 17 April, the PRA requested that all waiver or modification applications be submitted by email only to PRA-Waivers@bankofengland.co.uk, and not sent by post

CONSULTATION ON EXPANDING THE DORMANT ASSETS SCHEME

On 31 March, HM Treasury [extended the deadline](#) for comments on its consultation regarding the expansion of the dormant assets scheme to include new financial assets.

The new deadline is 16 July 2020.

FINANCIAL REPORTING

MEASURES IN RESPECT OF COMPANY FILINGS, AGMS AND OTHER GENERAL MEETINGS DURING COVID-19

On 17 April, the FRC [issued Q&A](#) on planned measures to assist companies for which COVID-19 restrictions make it difficult to meet statutory obligations to hold meetings and to file documentation on the Companies Register.

The Government aims to bring forward legislation on the measures urgently. The Q&A provide additional information on how to plan activities over the coming months.



CONDUCT REGULATION

FCA REGULATION ROUND-UP - 7 APRIL

On 7 April, the FCA published a special COVID-19 Regulation round-up. In this edition the topics included avoiding coronavirus scams, the FCA response to the CMA's guidance on business cooperation under competition law, expectations on financial resilience, and work-related travel - responsibilities of Senior Managers.

Special topics for the general insurance sector included:

- ▶ expectations of insurers and of brokers in current circumstances;
- ▶ expectations on financial resilience;
- ▶ Department of Transport guidance on MOTs and the inability to renew an MOT in current circumstances;
- ▶ updated information on renewals - contacting customers;
- ▶ delaying the proposed remedies for General Insurance Pricing Practices;
- ▶ delays to publishing the directory of certified and assessed persons for at least a month;
- ▶ registering for the FCA's new data collection platform; and
- ▶ responding to the consultation on temporary financial relief for customers impacted by coronavirus which included insurance premium finance arrangements (NB - the consultation deadline has now passed)

* covered below

FCA REGULATION ROUND-UP - 21 APRIL

On 21 April, the FCA published a second special COVID-19 Regulation round-up. The all sector topics were the FCA Business Plan, regulated fees and levies proposals for 2020/21, SM&CR issues, the start of a daily FCA coronavirus update email, and confirmation of the temporary financial relief measures for customers impacted by coronavirus

Special topics for the general insurance sector were:

- ▶ a Dear CEO letter - Insuring SMEs: Business Interruption *;
- ▶ client assets and coronavirus;
- ▶ SM&CR and Coronavirus: expectations of solo-regulated firms
- ▶ SM&CR and Coronavirus: joint FCA and PRA expectations of dual-regulated firms *; and
- ▶ actions insurers and intermediaries should take to mitigate the impact of coronavirus on consumers.

* covered below

FCA CORONAVIRUS (COVID-19) INFORMATION

The FCA's COVID-19 information is now set out in dedicated sections of the FCA website: [fca.org.uk/coronavirus](https://www.fca.org.uk/coronavirus). This includes latest coronavirus information for [consumers](#) and [firms](#) and the latest [news](#) and [publications](#).

FCA AND PSR RESPOND TO THE CMA'S GUIDANCE ON BUSINESS COOPERATION UNDER COMPETITION LAW

On 27 March, the FCA and the Payment Systems Regulator (PSR) [jointly announced](#) their support of the Competition and Market Authority's (CMA) guidance on its approach to business cooperation under competition law, published on 25 March 2020.

In their statement, the FCA and PSR confirmed the importance of how competition law should not stop firms from working together to provide essential services to consumers in the current coronavirus situation, yet the regulators are resolute that neither will tolerate conduct that aims to exploit the situation and harms consumers.

WORK-RELATED TRAVEL - RESPONSIBILITIES OF SENIOR MANAGERS

On 27 March, the FCA [clarified](#) how firms should prioritise who should travel to the office and the responsibilities of Senior Managers in doing so.

JOINT FCA AND PRA STATEMENT ON SMCR AND COVID-19: EXPECTATIONS OF DUAL-REGULATED FIRMS

On 3 April, the FCA and the PRA issued a [joint statement](#) concerning their expectations of dual regulated firms as regards the senior managers and certification regime in light of the COVID-19 pandemic. The FCA and PRA recognise that firms directly affected by the pandemic will need to keep their governance arrangements under review. Where they can, the FCA and PRA intend to provide flexibility to dual-regulated firms.

The statement goes on to discuss:

- ▶ notifications about changes to senior manager responsibilities;
- ▶ temporary arrangements for senior management functions (SMFs);
- ▶ notifications about temporary arrangements (including allocating prescribed responsibilities to unapproved individuals acting up as SMFs under the 12-week rule);
- ▶ allocating responsibility for coordinating firms' responses to coronavirus among SMFs;
- ▶ furloughing SMFs; and
- ▶ certification requirements for dual-regulated firms.

The FCA and PRA state that they do not require or expect firms to designate a single SMF to be responsible for all aspects of their firm's response to the pandemic. The regulators add that it is important for firms to have a clear framework for allocating responsibilities to various SMFs for different aspects of their response to the pandemic but they do not prescribe a 'one-size-fits-all' approach. The exception to this is the identification of 'key workers' which should be allocated to the SMF1.

The PRA and FCA continue by stating that where firms have an SMF24, certain aspects of a firm's

response to the pandemic may naturally sit with this SMF. For instance, compliance with PRA and FCA requirements and expectations on: business continuity; information security; and outsourcing.

Other aspects of firms' responses to the pandemic may, however, sit naturally with other SMFs. For instance, managing liquidity in the current market, may naturally fall to the CFO. Moreover, given the likelihood of SMFs becoming suddenly, temporarily absent, the PRA encourages firms to consider how they may respond to unexpected changes to current contingency plans (contingencies upon contingencies).

FCA STATEMENT ON SMCR AND COVID-19: EXPECTATIONS OF SOLO-REGULATED FIRMS

On 3 April, the FCA published a [statement](#) setting out its expectations to help solo-regulated firms apply the SMCR. The statement covers:

- ▶ senior management responsibilities;
- ▶ statements of responsibilities and 'significant changes' to senior manager responsibilities;
- ▶ temporary arrangements for SMFs;
- ▶ notifications about temporary arrangements;
- ▶ furloughed staff; and
- ▶ reallocating prescribed responsibilities

FCA REGULATED FEES AND LEVIES PROPOSALS 2020/21 - CP20/6

On 7 April, the FCA published a [Consultation Paper \(CP20/6\)](#) on its proposed fee rates for 2020/21 and the changes the FCA intends to make to its application fees or other fees.

This consultation also covers the Financial Ombudsman Service general levy, Money and Pensions Service, Devolved Authorities and illegal money-lending levies for the next financial year.

The FCA's ongoing regulatory activities (ORA) budget for 2020/21 is £548.5m, an increase of 2% from 2019/20 (£537.7m). They note they are committed to delivering an ORA budget that is flat in real terms, subject to any changes in wider ongoing regulatory responsibilities. The 2% increase meets this commitment for 2020/21.

Given the influence of Covid-19, the FCA proposes to protect the smallest firms by proposing a freezing of minimum fees, and to help medium and small firms by extending the period for paying fees by two months to 90 days. Larger firms are expected to pay their fees under the usual payment terms.

Comments should be submitted on or before 19 May 2020.

FCA BUSINESS PLAN 2020/21

On 7 April, the FCA published its [Business Plan](#) outlining its priorities for 2020/21. It also focussed on the challenges presented by COVID-19.

The FCA's wants in general to achieve outcomes to ensure that consumers:

- ▶ can rely on safe and accessible payments to receive their pay or benefits, settle their bills and access cash when they need it;
- ▶ can make effective investment decisions about their savings, and are not exposed to risky or poor value investment products;
- ▶ do not get into unaffordable debt and are treated well if they do, so that credit markets work well for consumers; and
- ▶ are offered fair value products in a digital age, as use of consumer data and behaviour through digital channels increases, and with it the risk that consumers are not treated fairly in the pricing and other terms they receive.

The FCA will also focus on transforming its own operations for a digital age.

The FCA's key outcomes for the General insurance & protection (GI&P) sector are:

- ▶ products and services are suitable for customer needs and deliver on their promises at the time of claim;
- ▶ customers are not unfairly excluded from GI&P products and services;
- ▶ customers get high-quality, fair value, GI&P products and services which deliver on what is intended at the time of claim; and
- ▶ the sector is operationally resilient supplying important products and services with minimal disruption to customers and markets

SIGNPOSTING TO TRAVEL INSURANCE FOR CONSUMERS WITH MEDICAL CONDITIONS - PS20/3 ADDENDUM

On 5 February, the FCA issued a Policy Statement (PS20/3) which set out signposting rules and guidance to firms so that consumers with pre-existing medical conditions (PEMCs) will be better assisted in their search to find affordable travel insurance coverage for their conditions.

20 responses to the original consultation were not reviewed in error by the FCA, who have now analysed these responses. The [addendum](#) outlines the representations and how the FCA have subsequently taken them into account.

The FCA Board, having regard to the additional 20 responses, confirmed and re-made the Insurance: Conduct of Business Sourcebook (Access to Travel Insurance) Instrument 2020 (FCA 2020/03), and in light of stakeholder feedback to PS20/03 made two changes to the definitions in the rules to give more clarity about FCA expectations.

FCA BOARD MINUTES: 27 FEBRUARY 2020

On 9 April, the FCA released [the minutes](#) of its Board Meeting held on 27 February 2020.

The Board discussed, inter alia, the FCA Annual Plan & Budget for 2020/21, the FCA's Q3 2019/20 Performance report, the PPI complaints deadline final report and the FCA's approach to market integrity and wholesale markets.

DEAR CEO LETTER ON INSURING SME'S FOR: BUSINESS INTERRUPTION

On 15 April, the FC issued a [Dear CEO letter](#) to CEOs in the insurance sector on business interruption insurance and the measures that are to be taken to mitigate the economic effects of the ongoing COVID-19 outbreak.

In its letter, the FCA confirms that most policies have basic cover and do not cover pandemics. However, there are policies where it is clear that a firm has an obligation to pay and in these circumstances the FCA expect claims to be assessed and settled quickly.

FCA EXTENDS TIME LIMIT FOR OBTAINING APPROPRIATE QUALIFICATIONS

On 20 April 2020, the FCA updated its COVID-19 [web page](#) to provide information on how firms can comply with requirements to ensure that their employees complete appropriate qualifications during the COVID-19 pandemic.

The web page explains that during the pandemic, the FCA still requires firms to ensure that all employees have the skills, knowledge and expertise needed to discharge their responsibilities.

However, it has no intention of taking action against a firm or accountable individual that is not able to ensure that an employee has attained an appropriate qualification within the required time limits because the relevant examinations were cancelled or postponed;

CHANGES TO REGULATORY REPORTING UP TO 30 JUNE 2020

On 22 April 2020, the FCA published a new [web page](#) explaining that it had introduced certain temporary measures for firms submitting regulatory returns.

The FCA has extended the submission deadlines for certain regulatory returns. The extension applies for submissions that are due up to and including 30 June 2020 for certain regulatory returns by granting:

- ▶ a one-month extension for 17 returns due under chapter 16 of its Supervision manual (SUP 16);
- ▶ a two-month extension for FIN-A (annual report and accounts) due under SUP 16; and
- ▶ a two-month extension for annual financial reports (required under Disclosure Guidance and Transparency Rules), Credit union complaints return (CREDS 9 Annex 1R), Complaints return (DISP Annex 1R), and Claims management companies complaints return (DISP 1 Annex 1AB).

The FCA confirms that firms will not be required to submit the Employers' Liability Register compliance return for 2020.

Firms are still expected to submit their return as soon as possible and should they miss a deadline (in the period up to 30 June), the FCA will send a reminder letter to them.

Over the coming weeks the FCA will continue to monitor the situation and will keep these changes under review.

MUTUAL SOCIETIES - INCLUDING AGMS UPDATE

On 28 April the FCA provided an update for mutual societies on general meetings. The FCA are aware that some mutual societies are considering a number of options, including postponing scheduled member meetings, such as Annual General Meetings (AGMs). Societies are concerned that this could lead to them breaching their own rules or legislative requirements.

The FCA note it is for societies to reach their own decision as to whether to go ahead with any planned meeting, taking into account any relevant Government guidance, their own individual circumstances and, where appropriate, legal advice. Societies should take reasonable steps to ensure they meet any obligations they are under as soon as reasonably practicable. Societies will want to consider alternative arrangements such as making use of video conferencing where permitted.

The rules of an individual society govern the relationship between a society and its members. It is important members are afforded the ability to exercise their rights under the rules of a society. Societies may want to take their own advice to consider any risks arising from action taken by members as a result of a breach of their own rules. The FCA has no role to play in determining disputes over society rules.



ENFORCEMENT ACTION

FCA REGULATORY FINES ROUND-UP

FCA regulatory fines in 2020 total [£2.9m](#). No new fines have been announced by the PRA or FCA in the past month.

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