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INSURANCE REGULATORY EBULLETIN

ROUND UP OF REGULATORY DEVELOPMENTS IN MARCH 2023



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 from the last month and their implications across the insurance sector.

The particular matters of interest contained in this month's edition are a speech by Shoib Khan, Chief Executive of the PRA, highlighting the responsibilities of the insurance sector in respect of the use of models, the use of stress testing and exit planning, in order to cease underwriting new business. In respect of exit planning, the planned release of a Consultation Paper, later in 2023, was heralded. This will set out the PRA's expected approach to exit planning for insurers.

Climate issues have again been to the fore in various aspects. The Bank issued a report setting out its latest thinking on climate-related risks and regulatory capital frameworks. Later in the month, HMT and the Department for Business, Energy and Industrial Strategy published a policy paper setting out the strategy for UK's financial services sector to support the UK's climate and environmental objectives.

In addition, the FCA has set out its assessment of the risks observed, and issues identified, in its ESG Benchmarks Review.

The thematic findings of the PRA's Cyber Stress Test, performed in 2022, in respect of retail payments will also be of interest to many readers.

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

Please do not hesitate to contact myself or your usual BDO contact if you have any concerns over any matter highlighted in this update. For more information about our audit, tax and advisory services to the insurance sector, visit our [insurance services](#) page.

I hope you enjoy reading this latest update.



ALEX BARNES
PARTNER

+44 (0)20 7651 1213
alex.barnes@bdo.co.uk

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PRUDENTIAL REGULATION

SPEECH BY SHOIB KHAN: IT'S NOT THE PLANE, IT'S THE PILOT

On 27 March, Shoib Khan, Chief Executive of the PRA, delivered a [speech](#) at the Westminster Business Forum policy conference on the unique combination of risks currently facing the UK's insurance sector, and how the prudential supervisors are working to ensure insurers maintain their financial stability and protect policyholders. He explained that insurers share an important responsibility in looking beyond the mechanics of their models and should:

- ▶ Know when models are not correctly reflecting prevailing conditions;
- ▶ Be confident that management actions will be available if needed during times of stress; and
- ▶ Ensure that firms can achieve a safe and orderly exit.

BANK OF ENGLAND REPORT ON CLIMATE-RELATED RISKS AND THE REGULATORY CAPITAL FRAMEWORKS

On 13 March, the Bank [published](#) a report setting out its latest thinking on climate-related risks and regulatory capital frameworks. The report includes updates on:

- ▶ capability and regime gaps;
- ▶ capitalisation timelines; and
- ▶ areas for future research and analysis.

The report identifies areas for future work, and the Bank will carry out more analysis to explore whether changes to the regulatory capital frameworks might be needed. Areas where the Bank intends to progress work include:

- ▶ ensuring firms continue to make progress to address capability gaps;
- ▶ building capabilities and forward-looking tools to judge the resilience of financial system to climate risks;

- ▶ supporting initiatives to improve climate disclosures; and
- ▶ building understanding of and addressing material regime gaps in the capital frameworks.

GREEN FINANCE STRATEGY

On 30 March, HMT and the Department for Business, Energy and Industrial Strategy (BEIS) published a [policy paper](#) setting out a strategy to harness the UK's financial services sector to support the UK's climate and environmental objectives. The strategy sets out a framework for supporting technologies as they grow to commercialisation, including through the work of public finance institutions. It also sets out the next steps to grow high integrity voluntary markets including a framework for developing nature markets in the UK. 'Mobilising green investment: 2023 green finance strategy' is an update to the earlier 2019 strategy.

The FCA, the Financial Reporting Council (UK) (FRC), the Bank, and the Pensions Regulator (TPR) have issued a [joint statement](#) welcoming the Government's updated Green Finance Strategy. The statement notes that managing the risks and opportunities associated with climate change is crucial to maintain the resilience of the financial system, the integrity of UK markets, and ensure a smooth and effective transition to net zero. The FCA, the FRC, the Bank and the TPR have taken steps to embed climate considerations in their work and are now actively supervising and holding organisations within their regulatory perimeter to account on climate-related matters.

ECONOMIC CRIME PLAN 2023 TO 2026

On 30 March, HM Treasury (HMT) published the [Economic Crime Plan 2](#) which sets out what the public and private sectors should do to continue to transform the UK's response to economic crime. The plan builds on the public-private partnership, expanding to take a multi-stakeholder approach to its development and implementation. It sits alongside the forthcoming

anti-corruption strategy and above the forthcoming fraud strategy. It is intended to build on the first economic crime plan by delivering real-world outcomes to cut crime, protect national security, and support the UK's legitimate economic growth and competitiveness.

THEMATIC FINDINGS FROM THE 2022 CYBER STRESS TEST

On 29 March, the PRA [published](#) the thematic findings from the Bank's cyber stress test (CST22). The findings support individual and collective work to improve the financial sector's response to, and recovery from, incidents. These findings are relevant to PRA-regulated firms and financial market infrastructure firms (FMI), including those that did not participate in the test. Therefore, the PRA strongly urges all such firms to reflect on these findings and include relevant aspects in their continuing implementation of operational resilience and related policies.

SYSTEMIC RISK SURVEY RESULTS - 2023 H1

The Bank has [published](#) the results of the 2023 H1 Systemic Risk Survey, which was conducted between 6 January and 3 February. The results show that on balance, survey respondents remain confident in the stability of the UK financial system. Net confidence has decreased since the 2022 H2 survey (conducted between 27 July and 26 August) but remains higher than the 2016-19 average.

OFSI ENFORCEMENT AND MONETARY PENALTIES GUIDANCE

The Office of Financial Sanctions Implementation (OFSI) has published [guidance](#) enforcement and monetary penalties for breaches of financial sanctions. The Policing and Crime Act 2017 (the "2017 Act") contains powers for HMT to impose monetary penalties. The Sanctions and Anti-Money Laundering Act (2018) (SAML) amended the 2017 Act, which ensured that the majority of provisions in regulations made under SAML fall within the 2017 Act definition of 'Financial sanctions legislation', which in turn ensures that where there has been a breach of those provisions a monetary penalty under the 2017 act

can be applied. This guidance sets out what the powers are, how OFSI will use them, and a person's rights if OFSI imposes a monetary penalties on them.

PRO-INNOVATION REGULATION OF TECHNOLOGIES REVIEW: DIGITAL TECHNOLOGIES

HMT has issued a [review](#) of how pro-innovation regulation can support emerging digital technologies with recommendations to government, as well as the government's response, which accepts the recommendations and sets out how they will be implemented.

CP4/23 THE STRONG AND SIMPLE FRAMEWORK: LIQUIDITY AND DISCLOSURE REQUIREMENTS FOR SIMPLER-REGIME FIRMS

The PRA has issued a [consultation paper](#) setting out the first phase of the PRA's proposed simplifications to the prudential framework that would apply to Simpler-Regime Firms. The PRA has indicated that it intends to implement this change in a number of stages in the coming years. The first stage of the simplification is to apply the net stable funding ratio (NSFR) to the retail deposit ratio (RFR) and Pillar 2 liquidity. The second stage will apply the NSFR to Pillar 3 disclosures.

The deadline for submitting comments is 30 May 2023.

DP1/23 REVIEW OF THE SENIOR MANAGERS AND CERTIFICATION REGIME (SM&CR)

The PRA has [published](#) a discussion paper on their review of the Senior Managers and Certification Regime (SM&CR). The FCA and PRA are reviewing the effectiveness, scope, and proportionality of the regulatory regime, which is the basis for this Discussion Paper. HMT has, in parallel, launched a Call for Evidence to look at the legislative aspects of the regime. The reviews aim to understand stakeholders' views on the functioning of the SM&CR and to identify ways to improve the regime to help it work better for firms and regulators, while preserving its underlying aims.

Comments should be submitted by 1 June 2023.

PRA REGULATORY DIGEST - FEBRUARY 2023

On 2 March, the PRA [published](#) the February 2023 edition of its Regulatory Digest, which highlights key regulatory news and publications for the month of December. Among other things, it includes an article on an update on the sixth edition of the Regulatory Initiatives Grid.

CONDUCT REGULATION

DEAR CEO LETTER: ESG BENCHMARKS REVIEW

On 20 March, the FCA published a [letter](#) from Jon Relleen, Director of Infrastructure & Exchanges at the FCA, setting out its assessment of the risks observed and issues identified in its ESG Benchmarks Review. The FCA has indicated that it will be doing more work in this area across the portfolio and will holistically consider the risks of harm related to ESG benchmarks across the value chain. If firms fail to consider the feedback from the FCA, it will deploy its formal supervisory tools and, where appropriate, consider enforcement action.

The issues identified, included:

- ▶ not enough detail on the ESG factors considered in benchmark methodologies;
- ▶ not ensuring that the underlying methodologies for ESG data and ratings products used in benchmarks are accessible, clearly presented and explained to users;
- ▶ not fully implementing ESG disclosure requirements; and
- ▶ benchmark administrators failing to implement their ESGs benchmarks' methodologies correctly.

PRINCIPALS AND APPOINTED REPRESENTATIVES

On 13 March, the FCA updated its [guidance](#) for principal firms and appointed representatives (ARs) on how to oversee their ARs and when to notify the FCA.

CFRF GUIDE 2023: CLIMATE DISCLOSURES DASHBOARD 2.0

The FCA has [published](#) the Climate Financial Risk Forum (CFRF) Climate Disclosures Dashboard 2.0, which builds on the illustrative dashboard published by the CFRF in 2021. The updated Dashboard incorporates both recent regulatory developments and progress made by industry in preparing climate-related disclosures. The Dashboard is split into five categories of climate disclosures - Transition risks, Physical risks,

Financed emissions and portfolio alignment, Financing the transition (previously Mobilising transition finance) and Engagement. For each category, the Dashboard proposes three levels of recommended metrics - Foundation, Stretch and Advanced - in recognition that disclosure approaches will naturally evolve over time, as firms expertise improves and is supported by continued progress in climate data, analytics and emerging practice.

The CFRF Disclosures, Data and Metrics working group has also presented a series of [webinars](#) interrogating the current state of portfolio-level climate data, common challenges faced by firms and approaches taken by some practitioners to overcome these difficulties.

UPDATE ON FCA AUTHORISATIONS OPERATING SERVICE METRICS

The FCA has [published](#) an updated version of its update on FCA Authorisations operating service metrics statements. The latest metrics show April to September 2022 as two separate quarters (Q1 and Q2) and including performance for October to December 2022 (Q3) and January/February 2023. The FCA is no longer reporting on the voluntary metrics for Approved Persons Status or Payment Services Agent notifications due to the additional checks at the gateway.

FCA APPOINTS EXECUTIVE DIRECTORS TO CO-LEAD ENFORCEMENT AND MARKET OVERSIGHT

On 23 March, the FCA [announced](#) that it has appointed Therese Chambers and Steve Smart as joint Executive Directors of Enforcement and Market Oversight.

FCA TO COLLECT TREASURY'S ECONOMIC CRIME LEVY (ANTI-MONEY LAUNDERING) FROM JULY

On 9 March, the FCA [announced](#) that it will be collecting the Treasury's economic crime levy (Anti-Money Laundering) from July 2023. The levy will be collected for the Government by HM

Revenue and Customs (HMRC), the FCA and the Gambling Commission, and will apply to AML regulated businesses including financial institutions.

CALL FOR INPUT: SME ACCESS TO THE FINANCIAL OMBUDSMAN SERVICE

On 17 March, the FCA [issued](#) a call for input to inform its review of whether the thresholds for small and medium sized enterprises (SMEs) to be able to refer complaints to the Financial Ombudsman Service (Ombudsman Service) remain appropriate. The aim of the review is to understand whether current thresholds for SMEs to be able to refer complaints to the Ombudsman Service continue to be appropriate according to the FCA's policy objective.

Responses to the survey should be submitted on or before 28 April 2023.

REGULATION ROUND UP

On 30 March, the FCA published its monthly Regulation Round-up. In addition to various topics, detailed above, this noted, amongst other matters, the following:

- ▶ Defined benefit pension transfer redress calculations

The FCA have published clarifications to the rules and guidance in DISP Appendix 4 that firms must use from 1 April 2023 when calculating redress for non-compliant pension transfer advice.

- ▶ Reminder: How to log in to FCA systems has changed, with a multi-factor authentication being introduced.

- ▶ Consumer Duty updates

The FCA have launched a Consumer Duty firm survey, which is being carried out by Ipsos Mori.

- ▶ British Steel Pension Scheme: Tools for firms. The British Steel Pension Scheme redress scheme started on 28 February. The FCA has published redress scheme tools and supporting material to enable firms to carry out the steps in the scheme rules.

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:

LETTER FROM JOHN BERRIGAN - ONE OFF CLIMATE RISK SCENARIO EXERCISE

On 9 March, EIOPA published a [letter](#) from John Berrigan, Director-General of the European Commission's Directorate For Financial Stability, Financial Services and Capital Markets Union, regarding an invitation to conduct a one-off climate risk scenario analysis to assess, in cooperation with the ECB and the ESRB, the resilience of our financial system on the way to the EU's targets for 2030. This one-off exercise should go beyond the usual climate stress tests, as a cross-sectoral exercise looking also at contagion and second-round effects.

EIOPA-BOS-23/076: SUPERVISORY STATEMENT ON DIFFERENTIAL PRICING PRACTICES IN NON-LIFE INSURANCE LINES OF BUSINESS

On 16 March, EIOPA published a [Supervisory Statement](#), addressed to competent authorities on differential pricing practices in non-life insurance lines of business that aims at eliminating price-setting strategies which lead to the unfair treatment of customers.

JOINT ESAS-ECB STATEMENT ON DISCLOSURE ON CLIMATE CHANGE FOR STRUCTURED FINANCE PRODUCTS

On 13 March, the European Banking Authority (EBA), European Securities and Markets Authority (ESMA), EIOPA (The European Supervisory Authorities (ESAs)) and European Central Bank (ECB) issued a [Joint Statement](#) on climate-related disclosure for structured finance products, encouraging the development of disclosure standards for securitised assets through harmonised climate-related data requirements. The Statement sets out the joint

efforts to facilitate access to climate-related data with a view to improving sustainability-related transparency in securitisations and to promoting consistent and harmonised requirements for similar instruments.

EIOPA-BOS-23/071: CONSULTATION ON THE TECHNICAL ADVICE FOR THE REVIEW OF THE IORP II DIRECTIVE

On 3 March, EIOPA [published](#) a consultation paper on technical advice for the review of the IORP II Directive (Institutions for Occupational Retirement Provision Directive).

Comments should be submitted on or before 25 May 2023.

EIOPA-23/247: EIOPA STAFF PAPER ON NATURE-RELATED RISKS AND IMPACTS FOR INSURANCE

On 29 March, EIOPA issued a [document](#) concerning nature-related risks and the impacts on insurance, following the European Commission's proposal for a regulation on nature restoration in June 2022 and the UN Biodiversity Conference's (COP15) Kunming-Montreal Global Biodiversity Framework. EIOPA has considered the role of the insurance sector in contributing to the restoration and conservation of nature through investment and underwriting activity and assesses from a prudential perspective how nature-related risks can affect (re)insurers' balance sheets and business more generally.

QUESTION ID 2589: - REPORTING TEMPLATES

EIOPA has [confirmed](#) that the new S.37.02 and S.37.03 QRT should always be reported to show all exposures, regardless of whether the exposure is a significant risk concentration.

QUESTION ID: 2594 - VALIDATIONS

EIOPA has [published](#) a question and answer providing clarification on discrepancies in the Solvency II list of validations published in the PWD3 of the Taxonomy 2.8.0.

CORPORATE GOVERNANCE

SCOPE AND AUTHORITY OF AUDIT AND ASSURANCE PRONOUNCEMENTS

The FRC has published a [document](#) to facilitate understanding of the scope and authority of the audit and assurance pronouncements the FRC issues. The document includes:

- ▶ Quality management standards;
- ▶ Ethical standards; and
- ▶ Engagement standards for audits of financial statements and other public interest assurance engagements, including reviews of interim financial information by the auditor, reports in connection with investment circulars, engagements to provide assurance on client assets, and other assurance engagements.

FRC ANNOUNCES REVISIONS TO TAS 100

On 3 March, the FRC [published](#) version 2.0 of Technical Actuarial Standard 100 (TAS 100) and its associated guidance, which includes revisions to ensure that it reflects current practices in actuarial work and addresses known gaps in the quality of actuarial work.

The FRC will be hosting a webinar on the TAS 100 on 14 March 2023.

INFORMATION COMMISSIONER'S OFFICE

We continue to monitor material being issued by the Information Commissioner's Office (ICO) with a view to highlighting high-level matters that may be relevant to readers. The following has been identified for this month:

GUIDANCE ON AI AND DATA PROTECTION

On 15 March, the ICO published its [Guidance](#) on AI and data protection, to clarify requirements for fairness in artificial intelligence (AI). The update covers:

- ▶ accountability and governance implications of AI;
- ▶ ensuring transparency and lawfulness in AI; and
- ▶ accuracy and statistical accuracy.

ICO STATEMENT ON GOVERNMENT RESPONSE TO SIR PATRICK VALLANCE'S PRO-INNOVATION REGULATION OF TECHNOLOGIES REVIEW

On 15 March, ICO issued a [statement](#) following the Government's response to Sir Patrick Vallance's Pro-Innovation Regulation of Technologies Review. The ICO welcomes the focus this report will bring and it will continue prioritising work in this area. The ICO is working on guidance, including in relation to personal data processing relating to AI as a service.

ENFORCEMENT ACTION

PRA / FCA REGULATORY FINES ROUND-UP

We have reviewed key relevant enforcement action announced by the PRA / FCA during March and there were no relevant matters to report.

CONTACTS

EXTERNAL AUDIT

ALEX BARNES

Partner & Head of Insurance
alex.barnes@bdo.co.uk

GEETA JOSHI

Partner
geeta.joshi@bdo.co.uk

JOHN PERRY

Partner
john.perry@bdo.co.uk

TOM REED

Partner
tom.reed@bdo.co.uk

RUPERT LIVINGSTONE

Principal
rupert.livingstone@bdo.co.uk

INTERNAL AUDIT

CHRIS BELLAIRS

Partner
christian.bellaairs@bdo.co.uk

SAM PATEL

Partner
sam.patel@bdo.co.uk

LUKE PATTERSON

Partner
luke.patterson@bdo.co.uk

REGULATORY ADVISORY

RICHARD BARNWELL

Partner
richard.barnwell@bdo.co.uk

JOHN OWENS

Director
john.owens@bdo.co.uk

NICOLA BALL

Director
nicola.ball@bdo.co.uk

ACCOUNTING & CORPORATE REPORTING ADVISORY

MARK SPENCER

Principal - Accounting & Corporate Reporting Advisory Leader
mark.spencer@bdo.co.uk

ACTUARIAL

ROB MURRAY

Partner & Head of Actuarial
rob.murray@bdo.co.uk

SANTIAGO RESTREPO

Partner
santiago.restrepo@bdo.co.uk

ELINORE O'NEILL

Director
elinore.oneill@bdo.co.uk

TAX

THOMAS TO

Partner
thomas.to@bdo.co.uk

CORPORATE FINANCE

ADAM WHISTANCE

Director & Head of Insurance M&A
adam.whistance@bdo.co.uk

FORENSICS

RICHARD CAMERON-WILLIAMS

Partner
richard.cameron-williams@bdo.co.uk

OUTSOURCING

ROBERT HUTCHINGS

Director
robert.hutchings@bdo.co.uk

FOR MORE INFORMATION:

ALEX BARNES

+44 (0)7903 891 435
alex.barnes@bdo.co.uk

JOHN OWENS

+44 (0)7946 700 242
john.x.owens@bdo.co.uk

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