



IDEAS | PEOPLE | TRUST

INSURANCE REGULATORY EBULLETIN

ROUND UP OF REGULATORY DEVELOPMENTS IN
JANUARY 2020



WELCOME TO OUR INSURANCE REGULATORY EBULLETIN

Welcome to this edition of our Insurance Regulatory eBulletin, which aims to keep you updated with significant regulatory developments and their implications across the insurance sector.

2020 has started relatively quietly from a regulatory point of view. The theme of the month appears to be data and its use, with the PRA setting out its proposals for quarterly reporting of insurance data, the FCA revising its Data strategy and the Bank of England issuing a discussion paper on improving the timeliness and effectiveness of data collection from firms across the financial system. The FCA also issued an impact assessment on the extension of the SM&CR to the 47,000 solo-regulated firms which includes estimates for the one-off and ongoing compliance costs for individual firms and the sector as a whole.

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.



ALEX BARNES
PARTNER

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

CONTENTS

EIOPA

- ▶ EIOPA technical specifications for the Market and Credit Risk Comparative Study (MCRCS)
- ▶ Information on the use of limitations and exemptions from reporting under Solvency II

Prudential regulation

- ▶ Firm Feedback Survey 2018/19
- ▶ PRA announces special requirements regarding whistleblowing systems and controls at the Society of Lloyd's
- ▶ Solvency II: Longevity risk transfers - PS1/20
- ▶ Financial Services Compensation Scheme - Management Expenses Levy Limit 2020/21- CP1/20
- ▶ Insurance data release: information and format: A call for feedback
- ▶ Next steps on LIBOR transition

Data privacy

- ▶ ICO consultation on the draft direct marketing code of practice

Conduct regulation

- ▶ FCA Regulation round-up
- ▶ FCA Board Minutes: 20 and 21 November 2019
- ▶ Dear CEO letter: Non-financial misconduct in wholesale general insurance firms
- ▶ Data strategy reforms
- ▶ Brexit: What an implementation period would mean
- ▶ Money Laundering Regulations
- ▶ Evaluation of the Retail Distribution Review and the Financial Advice Market Review
- ▶ Impact Assessment: Extending SM&CR to solo-regulated firms
- ▶ Firms now need to update or confirm their Firm Details annually
- ▶ Financial Services AI Public Private Forum
- ▶ Interim FCA Chief Executive appointment
- ▶ Technical consultation: Fifth Money Laundering Directive and Trust Registration Service

Enforcement action

- ▶ FCA regulatory fines round-up

EIOPA

EIOPA TECHNICAL SPECIFICATIONS FOR THE MARKET AND CREDIT RISK COMPARATIVE STUDY (MCRCS)

On 13 January, EIOPA published the [instructions and technical specifications](#) for the MCRCS YE2019. The MCRCS is an annual Europe-wide comparative study on the modelling of market and credit risk. Its main objective is to compare risk charges for a selection of asset portfolios to be used as a tool for the supervisory review of internal models.

The study also aims to highlight the causes of potential differences between internal models by analysing risk charges for individual asset classes such as fixed income or equity. In this edition, the study will include a specific focus on interest rate risk modelling.

Undertakings using an internal model covering market risk and holding material exposure to Euro-denominated investments are expected to take part in the study.

National supervisory authorities will inform the undertakings expected to take part in the study.

Participants are requested to follow the instructions for filling out the data request, using the provided answer templates and submit the relevant documentation to their National Supervisory Authorities by 31 May 2020.

INFORMATION ON THE USE OF LIMITATIONS AND EXEMPTIONS FROM REPORTING UNDER SOLVENCY II

On 28 January, EIOPA published today its [Annual Report](#) on the use of exemptions and limitations from regular supervisory reporting during 2018 and Q1 2019 by national competent authorities (NCAs) under Solvency II.

- ▶ 13 NCAs (2018: 13) granted limitations (under Article 35(6) of the Solvency II Directive) to 838 solo undertakings for first-quarterly reporting in 2019 (Q1 2018 - 791 solo undertakings).
- ▶ 5 NCAs (2017: 5) granted limitations and exemptions from reporting using item-by-item templates (under Article 35(7)) to 136 solo undertakings for annual reporting in 2018 (2017: 139).
- ▶ 5 NCAs (2018: 3) granted limitations for quarterly reporting to 37 groups in Q1 2019 (Q1 2018: 33). 2 NCAs (2017: 3) granted limitations and exemptions from reporting on an item-by-item basis for annual reporting to 6 groups in 2018 (2017: 7).

The report on the use of limitations and exemptions from supervisory reporting addresses the issue of proportionality in the requirements, by emphasising these should not be seen as the only proportionality tools, and introduces two new examples / measures of how proportionality is being implemented in reporting:

- ▶ the look-through reporting of collective investment undertakings (CIUs) for unit-linked contracts, and
- ▶ the number of templates used by different sized companies.

PRUDENTIAL REGULATION

FIRM FEEDBACK SURVEY 2018/19

On 20 December, the PRA published the results of the latest annual [firm feedback survey](#), which sets out opinions provided by PRA-authorized firms on their experience of being supervised.

Following a review of the process, in 2018/19 the surveys were simplified and aligned for all firms with 13 questions being asked. For the 2018/19 survey, 93% of large firms responded and 182 small and medium firms were invited to take part of whom 137 (75%) firms responded.

PRA ANNOUNCES SPECIAL REQUIREMENTS REGARDING WHISTLEBLOWING SYSTEMS AND CONTROLS AT THE SOCIETY OF LLOYD'S

On 23 December, the Bank of England issued a [news release](#) announcing the PRA's new special requirements concerning whistleblowing systems and controls in place at the Society of Lloyd's. Following Lloyd's disclosure of various inadequacies in its current system to the PRA earlier in 2019, it agreed to be subject to a number of [additional measures](#) relating to whistleblowing. The additional measures apply to the 2020, 2021, and 2022 calendar years.

Under the new measures, the Society of Lloyd's Whistleblowers' Champion will have to attest to the soundness of its whistleblowing systems and controls on an annual basis.

SOLVENCY II: LONGEVITY RISK TRANSFERS - PS1/20

On 9 January, the PRA issued a [Policy Statement \(PS1/20\)](#) providing its feedback to responses to Consultation Paper (CP) 3/19 'Solvency II: Longevity risk transfers - simplification of pre notification expectations'. The document also contains the PRA's final policy in an updated version of [Supervisory Statement \(SS\) 18/16 'Solvency II: longevity risk transfers'](#).

Following the review of responses received during the consultation period, the PRA has amended the headings used in the reporting template, providing more clarity on how firms should complete them, including explanatory footnotes; and changed the phrasing on how firms should include basis risk in their risk assessments of longevity risk transfers.

FINANCIAL SERVICES COMPENSATION SCHEME - MANAGEMENT EXPENSES LEVY LIMIT 2020/21- CP1/20

On 15 January, the PRA and FCA published a [Consultation Paper \(CP1/20\)](#) setting out proposals for the Management Expenses Levy Limit (MELL) for the Financial Services Compensation Scheme (FSCS) for 2020/21.

The proposed MELL is £83.2 million for 2020/21, consists of a management expenses budget of £78.2 million and an unlevied contingency reserve of £5 million, and would apply from Wednesday 1 April 2020 to Wednesday 31 March 2021. This is an increase of 4.8% (£3.6 million) over the 2019/20 management expenses budget of £74.6 million published in PS10/19 in March 2019. 75% of the increase can be attributed to a forecast rise in the volume and complexity of claims expected by the FSCS.

Comments should be submitted before 17 February 2020.

INSURANCE DATA RELEASE: INFORMATION AND FORMAT: A CALL FOR FEEDBACK

On 15 January, the PRA and Bank of England [announced](#) they are intending to publish regular, aggregated data relating to the UK Insurance market on a quarterly basis. The proposed content of the publication represents core insurance statistics, some of which were included in the PRA and Bank of England's Insurance Data Release, published in October 2017.

The publication of PRA aggregated insurance statistics will be accompanied with underlying aggregated granular data to enable users to perform bespoke analysis. The content will also seek to incorporate, within the publication, aggregated statistics currently published by EIOPA, for ease of analysis. The PRA will not comment on the data or seek to provide any explanation of observed trends or movements.

The content of the initial publication will be based on Solvency II Quantitative Reporting Templates (QRTs) and, where relevant, supplemented with PRA data collections. The schedule for publication will be at a timely point following the submission and quality checking of quarterly and annual data, with the intention of publishing the information when it is of most relevance.

The first Insurance Data Release in the new format is intended for publication during the first half of 2020, with the content of the initial publication based on Solvency II Quantitative Reporting Templates. The list of proposed statistics to be published represents areas of core insurance data that may be expanded upon in future publications, with the publication including the split of Life and Non-Life insurance where relevant.

The purpose of the announcement is to inform potential users of such data and the proposed content and presentation, and invite comment and feedback.

Comments should be submitted on or before 16 March 2020.

NEXT STEPS ON LIBOR TRANSITION

On 16 January, the PRA and FCA jointly released a [Dear SMF Letter](#) regarding the next steps on the LIBOR transition. The key message is that “sterling LIBOR will cease to exist after the end of 2021 and that no firm should plan otherwise”.

The update from the FCA and the PRA sets out their initial expectations for transition progress during 2020.

DATA PRIVACY

ICO CONSULTATION ON THE DRAFT DIRECT MARKETING CODE OF PRACTICE

On 8 January, the ICO published a [Consultation](#) on the draft Direct Marketing Code of practice, which aims to provide practical guidance and promote good practices regarding the compliance of data protection and e-privacy rules in direct marketing.

All organisations have an obligation to ensure their direct marketing activities comply with the General Data Protection Regulation, Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003. The draft code aims to help those undertaking direct marketing to comply.

The ICO has previously produced direct marketing guidance and the draft code builds on this, as well as taking into account the input received during the initial call for views. The code takes a practical life-cycle approach to direct marketing.

Comments must be received on or before 4 March 2020.



CONDUCT REGULATION

FCA REGULATION ROUND-UP

On 16 January, the FCA published its monthly Regulation round-up. The Hot Topics included what the Brexit Withdrawal Agreement and implementation period means for firms*, easy access rates for cash savings consultation, the FCA Call for Input on open finance, the extension of the SM&CR to solo-regulated firms*.

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

- ▶ Value in The Distribution Chains - Finalised Guidance (FG19/5) published in November 2019
- ▶ Requirement for firms to update or attest their Firm Details annually *
- ▶ Private motor insurance compliance reporting to the Competition and Markets Authority (CMA) - deadline is 1 February 2020
- ▶ Non-Financial Misconduct - Dear CEO Letter *
- ▶ Data Strategy - publication of refreshed strategy setting out transformation plan to become a data-driven regulator *
- ▶ Digital Regulatory Reporting (DRR) - publication of a Viability Assessment report on the latest DRR pilot
- ▶ Insurance companies to submit certified persons data by the 9 March deadline

* covered below

FCA BOARD MINUTES: 20 AND 21 NOVEMBER 2019

On 24 December, the FCA published the [minutes of its Board Meeting](#) of the 20 and 21 November 2019. Included in the meeting agenda was:

- ▶ the proposed content of a consultation paper on a New Consumer Duty that is scheduled to be issued following the Feedback Statement on a Duty of Care;
- ▶ a discussion about the responses received to its Discussion Paper on price discrimination in the cash savings market;
- ▶ an update on the PRA's recent work that is relevant to the FCA;
- ▶ an update on the evaluation of the Retail Distribution Review (RDR) and the Financial Advice Market Review; and
- ▶ a summary of the principal issues that had been identified with the online marketing of speculative debt securities.

DEAR CEO LETTER: NON-FINANCIAL MISCONDUCT IN WHOLESALE GENERAL INSURANCE FIRMS

On 6 January, the FCA published a [Dear CEO Letter](#) emphasising the regulatory expectation that, if an incident of non-financial misconduct occurs, it should be dealt with proactively by the firm. The FCA noted that poor culture in financial services can lead directly to harm to consumers, market participants, employees and markets. Poor culture was a key root cause of recent major conduct failings within the industry. How a firm handles non-financial misconduct throughout the organisation, including discrimination, harassment, victimisation and bullying, is indicative of a firm's culture.

The FCA expect all firms to review the letter and share it with the senior executive committee and Board (or equivalent). If firms identify gaps or shortcomings between FCA expectations and current arrangements, the FCA expect firms to act promptly to address them.

DATA STRATEGY REFORMS

On 7 January, the FCA and the Bank of England outlined their plans to develop their data and analytics capabilities. Both authorities depend on access to high-quality data to fulfil their respective missions of maintaining monetary and financial stability, market integrity, effective competition and consumer protection

The FCA's refreshed [Data Strategy](#) sets out a transformation plan to become a highly data-driven regulator. The strategy outlines the FCA's increased focus on the use of advanced analytics and automation techniques to deepen its understanding of how markets function and allow the FCA to efficiently predict, monitor and respond to firm and market issues. Alongside investment in new technology and increased use of external data, the FCA will pursue a broader transformation, investing in skills and new ways of working to enable it to better understand and use data and innovative technology. The approach includes data science units being established in selected parts of the organisation and exploitation of new opportunities arising from the FCA's migration to cloud-based IT infrastructure.

The Bank of England also published a [Discussion Paper \(DP\), Transforming data collection from the UK financial sector](#), to improve the timeliness and effectiveness of data collection from firms across the financial system. The Bank's DP marks the first step of a review announced in its response to Huw van Steenis' Future of Finance report, which recommended that the Bank develop a new digital data strategy. The DP sets out the issues facing the current data collection system and identifies and explores a series of potential solutions, to prompt feedback from and further discussion with industry.

BREXIT: WHAT AN IMPLEMENTATION PERIOD WOULD MEAN

On 8 January, the FCA updated its Brexit [webpage](#) following the UK government's commitment to the UK leaving the EU with a Withdrawal Agreement on 31 January 2020.

During the implementation period, EU law would continue to apply in the UK. Passporting would continue, as would consumer rights and protections derived from EU law. New EU legislation that takes effect before the end of the implementation period would also apply to the UK.

Firms will need to consider how the end of the implementation period will affect it and its customers, and what action may need to be taken to be ready for 1 January 2021.

MONEY LAUNDERING REGULATIONS

On 10 January, changes to the Government's Money Laundering Regulations came into force. They update the UK's AML regime to incorporate international standards set by the Financial Action Task Force (FATF) and to transpose the EU's 5th Money Laundering Directive.

The [FCA's webpage](#) highlights some specific new areas that firms need to comply with.

EVALUATION OF THE RETAIL DISTRIBUTION REVIEW AND THE FINANCIAL ADVICE MARKET REVIEW

The Retail Distribution Review (RDR) and the Financial Advice Market Review (FAMR) aimed to improve consumer outcomes from financial advice and guidance. The FCA are reviewing their impact on the market to date, and assessing how the market may develop, to ensure it meets consumer needs now and in the future.

On 14 January, the FCA updated its [webpage](#) setting out progress to date on the RDR and FAMR following its previous update in July 2019:

- ▶ In August 2019, the FCA surveyed a sample of approximately 400 firms, asking them to provide information on their advice services, including business models and strategies, target customers, charging structures, future plans, use of technology and any recent innovations. Almost 300 responses were received and the FCA are now analysing the data, and will use it, together with other data, to inform its view of how services are developing to serve consumers.
- ▶ The FCA have commissioned qualitative research on how consumers interact with the market. This research will explore consumers' view of their needs for support with financial issues, how they go about getting that support, and their experiences.

The FCA is continuing with consumer research and the analysis of the firm data to assess whether there are any gaps between the products and services firms are offering and what consumers need and want.

The FCA expect to publish the final RDR/FAMR Review report later in the year.

IMPACT ASSESSMENT: EXTENDING SM&CR TO SOLO-REGULATED FIRMS

On 16 January, the FCA published an [Impact Assessment](#) on Extending the Senior Managers & Certification Regime to solo-regulated firms.

The impact assessment contains the following in relation the application of the SM&CR and the related costs for firms:

Firm tiers	Number of firms	Average firm costs		Overall industry-wide costs	
		one-off, £	Ongoing, £	one-off, £m	Ongoing, £m
Limited Scope	26,120	950 - 990	120 - 400	24.7 - 25.8	3.1 - 10.4
Core	20,540	18,440 - 18,620	5,730 - 7,720	397.4 - 401.1	120.1 - 162.2
Enhanced	280	467,470 - 469,350	61,870 - 96,410	132.8 - 133.3	17.6 - 27.4
Total	46,940			554.9 - 560.3	140.8 - 200.0

FIRMS NOW NEED TO UPDATE OR CONFIRM THEIR FIRM DETAILS ANNUALLY

On 23 January, the FCA reminded firms through a [press release](#) that from 31 January 2020, firms that come under the Sup 16.10 reporting requirements must check, amend or confirm the accuracy of their Firm Details annually, using the FCA's Connect portal.

This must be completed within 60 business days of their Accounting Reference Date (ARD) and even if details have not changed from the previous year. The FCA encourages firms that have not registered on Connect to do so as soon as possible in order to comply with this reporting requirement.

FINANCIAL SERVICES AI PUBLIC PRIVATE FORUM

On 23 January, the FCA [announced](#) its commitment to work with the Bank of England (the Bank) to understand better how data availability developments are driving change in financial markets, including products, services, business models and consumer engagement.

The FCA and the Bank are establishing a forum, the Financial Services AI Public Private Forum (AIPPF) to further constructive dialogue with the private and public sectors to understand better the use and impact of artificial intelligence (AI) and machine learning (ML), including the pros and cons to deployment as well as the risks related to the application of AI/ML.

INTERIM FCA CHIEF EXECUTIVE APPOINTMENT

On 24 January, HM Treasury, following advice of the Board of the FCA, appointed Christopher Woolard as Interim Chief Executive.

Mr Woolard takes on the Chief Executive role following Andrew Bailey's departure to become Governor of the Bank of England. He is currently the FCA's Executive Director of Strategy and Competition and an Executive member of the FCA's Board.

As Executive Director of Strategy and Competition, Mr Woolard is responsible for the FCA's policy output, its work on innovation, competition and economics and for helping direct the strategy for the financial regulator. He joined the Financial Services Authority in 2013, to help lead the creation of the FCA. Before that, he worked at Ofcom (2009-2012), the BBC (2005-2009) and in the civil service (1995-2005).

The Chief Executive of FCA is a public appointment made by HM Treasury, who will be running an open competition for the permanent Chief Executive on which further details will be announced in due course.

TECHNICAL CONSULTATION: FIFTH MONEY LAUNDERING DIRECTIVE AND TRUST REGISTRATION SERVICE

On 24 January, HM Treasury issued a [technical consultation](#) following its consultation, entitled 'Transposition of the Fifth Money Laundering Directive', which closed on 10 June 2019. The consultation relates to changes to the Trust Registration Service, and is to test whether the draft legislation transposes the Directive in a proportionate way, in particular with the types of trust that will be out of scope of registration.

The document provides a brief background to the Fifth Money Laundering Directive, the information required at registration, who is required to register, what information will be collected, and the deadlines and penalties for non-compliance. The consultation also provides information on who can access the information on the trust register and the proposed processes for obliged entities, legitimate interest and third country entity enquiries.

HM Treasury welcomes comments and further evidence on the Trust Registration Service prior to 21 February 2020.



ENFORCEMENT ACTION

FCA REGULATORY FINES ROUND-UP

FCA regulatory fines in 2019 totalled [£392.3m](#). The first new fines announced in 2020 amount to [£0.1m](#). The following fines and related enforcement actions have been announced in the past month:

Hall and Hanley Limited

Following the First-tier Tribunal (the Tribunal) upholding a fine of £91,000 imposed on Hall and Hanley Limited (H&H) by the Claims Management Regulator (CMR), the former regulator for claims management companies (CMCs). The FCA, which has taken over the functions of the CMR, has issued the related Final Notice.

H&H is a CMC whose business focused on claims for mis-sold payment protection insurance (PPI). The £91,000 fine was initially imposed by the CMR under the previous regulatory regime for CMCs due to data breaches and unauthorised copying of client signatures. H&H appealed to the Tribunal against the fine.

On 5 March 2019, the CMR found that H&H had breached rules requiring CMCs to take all reasonable steps to ensure that any referrals, leads or data purchased from third parties had been obtained in accordance with applicable laws. Marketing text messages concerning PPI claims were sent to consumers' mobile telephone numbers, without H&H having taken sufficient steps to check that affected consumers had consented to receiving such messages.

In addition, when reviewing a sample of 16 of H&H's client files, the CMR found that in 8 of the files clients' signatures on claim documentation (including letters of authority) had been copied without authorisation. The CMR considered the unauthorised copying of clients' signatures, submitted by H&H to financial firms, to be a serious matter and considered H&H to have been negligent in failing to detect and prevent this conduct by one of its employees.

The Tribunal upheld the CMR's decision in its entirety. In relation to data breaches, the Tribunal found that these were serious and followed from H&H not having taken previous compliance advice and warnings on board. It concluded that H&H failed to act with the required degree of competence and therefore acted negligently.

Regarding the copied customer signatures, the Tribunal concluded that H&H acted negligently in failing to provide proper training and supervision to its employees, and that 'the underlying matter was so serious that a financial penalty is justified.'

FOR MORE INFORMATION:

ALEX BARNES

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

CHARLES PORTSMOUTH

+44 (0)20 7651 1428
charles.portsmouth@bdo.co.uk

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained therein without obtaining specific professional advice.

Please contact BDO LLP to discuss these matters in the context of your particular circumstances. BDO LLP, its partners, employees and agents do not accept or assume any liability or duty of care for any loss arising from any action taken or not taken by anyone in reliance on the information in this publication or for any decision based on it.

BDO LLP, a UK limited liability partnership registered in England and Wales under number OC305127, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. A list of members' names is open to inspection at our registered office, 55 Baker Street, London W1U 7EU. BDO LLP is authorised and regulated by the Financial Conduct Authority to conduct investment business.

BDO is the brand name of the BDO network and for each of the BDO Member Firms.

BDO Northern Ireland, a partnership formed in and under the laws of Northern Ireland, is licensed to operate within the international BDO network of independent member firms.

We will not share your details with third parties other than those agents and service providers used to meet your requirements. To correct your personal details or if you do not wish us to provide you with information that we believe may be of interest to you, please contact us.

© January 2020 BDO LLP. All rights reserved.

www.bdo.co.uk