

Our regulatory capital practice

Expertise and experience

August 2022



Our practice

Our regulatory capital practice is market leading and has been at the forefront of the design, structure and issuance of new capital instruments for many years. We have acted on the first issuance of Restricted Tier 1 contingent convertible notes under the Solvency II regime for RSA, the first sustainable Restricted Tier 1 and Tier 2 notes issued by a UK insurer for Just Group, the first Tier 2 notes issued under Hong Kong's new capital regime for Prudential, and, most recently, the first AT1 capital issuance under the UK's new Investment Firms Prudential Regime for abrdn.

We act for a substantial number of financial institutions in relation to regulatory capital matters, including established global, and newer challenger, banks, such as Standard Chartered Bank, Santander, Westpac, Shawbrook, Aldermore and OneSavings Bank; almost all of the major UK insurance groups, for whom we are lead issuer Counsel, including Aviva, Bupa, Direct Line, Legal & General, Pension Insurance Corporation, Prudential and RSA; asset managers, including abrdn and M&G; and payments and e-money firms. Further examples of our recent experience supporting these, and other, clients is provided under 'Our recent relevant experience' overleaf.

Our expertise

More specifically, our experience covers the design and issuance of regulatory capital instruments across the banking, insurance, asset management and payments/e-money sectors, and advice on the broader requirements that apply to firms under each relevant regime. This includes extensive experience advising issuers on contingent convertible, and temporary and permanent, write-down instruments, subordinated debt instruments, equity and equity-like instruments across each of the relevant capital regimes and both in the context of ordinary course issuances and those required in a strategic context, including acquisitions and other transactional activity.

We also advise on the management and amendment of these instruments over their life spans; on the grandfathering of legacy instruments to ensure compliance with relevant regimes; on liability management issues, including consent solicitation, tender offers and reinfection mitigation work; and on financial institutions' broader capital structures, including in relation to the implementation and operation of the requirements under the UK and EU MREL regimes.

Our broad financial services client base enables us to address and negotiate questions of market practice that go beyond pure regulatory requirements. This combination of technical expertise and market knowledge means we are at the forefront of the legal, regulatory and market developments affecting our financial institution clients and are able to deliver commercial, practical and innovative solutions to the full spectrum of regulatory capital issues they face.

Responding to regulatory change

All of our work involves the interpretation and analysis of the evolving regulatory requirements and

expectations applying to our clients and supporting their compliance with these requirements.

The pace of regulatory change continues to accelerate and now the UK has left the EU, both the EU and the UK regulatory frameworks are developing separately and diverging in certain respects.

Our close and continuous relationships with UK regulators, long-standing relationships with leading law firms globally, and involvement with key industry bodies and trade associations, means we have critical insight into the considerations of policy makers. This allows us to provide responsive and effective advice to our clients as legal and regulatory frameworks evolve and change.

How we can help you

As well as its technical excellence and commercial pragmatism, our team is known for its attentive, client-focused service. We set ourselves apart by focussing on client relationships rather than on niche practice areas.

Our teams are small and versatile with the same individuals able to cover the full spectrum of regulatory debt instruments and to support on both new debt and liability management of existing debt. These teams are also specifically tailored to the needs of our clients and the particular matters on which we support them. We draw on the experience of our corporate and financial regulation groups to put together integrated, responsive and cost-effective teams that can support our clients effectively on the full breadth of regulatory capital issues affecting their businesses.

If you would like to discuss your firm's regulatory capital requirements, or its capital structure more broadly, please do contact us (our details are set out under 'Key contacts' below).

Our recent relevant experience

In the banking sector, advising:

- **Aldermore Group** on several issuances of Tier 2 notes admitted to trading on LSE's Regulated Market
- **OneSavings Bank** on the establishment of its GBP3bn euro MTN programme for the issuance of Tier 2 subordinated, and other, notes, and its GBP150m Tier 1 contingent convertible securities issuance admitted to trading on the LSE's International Securities Market
- **Santander** on a wide range of capital raisings, including the establishment of its EUR30bn EMTN programme; regular updates to its EUR35bn global covered bond programme and the ANTS USD30bn EMTN programme; and several standalone AT1 issuances, including its £500m fixed rate perpetual AT1 issuance admitted to the Official List of the Irish Stock Exchange and the Global Exchange Market of Euronext, Dublin. This work has included advice on internal and external MREL requirements under the UK and EU MREL regimes, and on internal funding arrangements
- **Standard Chartered** on numerous capital issuances, including the establishment and updates to its USD77.5bn debt issuance programme established by Standard Chartered plc and Standard Chartered Bank. Most recently, we have supported them on fixed and floating rate notes issuances listed on the LSE and standalone AT1, and Tier 2, issuances listed on the Hong Kong Stock Exchange and LSE's International Securities Market. We also regularly support them on liability management exercises and internal funding arrangements
- **Westpac Banking Corporation** on the regular updates to, supplements of, and drawdowns under, its USD40bn global covered bond, and USD60bn EMTN, programmes

In the insurance sector, advising:

- **Athora** on regulatory capital matters in relation to its acquisition of VIVAT's life and asset management business from Anbang Group Holdings Co Ltd, including, most recently, several Tier 3 term loan issuances

- **Aviva** on its issuance of £500m fixed rate reset perpetual RT1 contingent convertible notes listed on LSE's International Securities Market
- **Aviva** on the establishment and update of its GBP7bn euro note programme; numerous capital issuances under the programme in compliance with the EU Solvency II regime, including its GBP400m and EUR700m Tier 2 notes' issuances; and providing advice on internal funding arrangements
- **Bupa** on its debt issuances of Tier 2 notes and contingent convertible RT1 notes under the Solvency II regime, including bespoke structuring and engagement with the PRA in light of the issuer's status as an intermediate holding company without a listed holding company and the need to demonstrate availability of funds
- **Direct Line** on its debut issue of contingent convertible RT1 notes listed on the Global Exchange Market of the Irish Stock Exchange, and advice on its Tier 2 redemption
- **Just Group** on the first issuance, by a UK insurer, of a Green Bond comprising GBP250m fixed rate reset subordinated Tier 2 notes and on the first issuance by a UK insurer of a Sustainable Bond, comprising GBP 325m contingent convertible RT1 notes
- **Legal & General** on its issuance of GBP 500m RT1 contingent convertible notes under the EU Solvency II regime, as well as regular capital issuances under, and the update and amendment, of its £5bn euro note programme
- **M&G** on the establishment of a GBP10bn EMTN programme, enabling it to issue senior and subordinated notes capable of qualifying as Tier 2 regulatory capital under the Solvency II regime
- **Pension Insurance Corporation** on the establishment of its GBP3bn EMTN programme and its first regulatory capital issuances under the programme, including GBP400m and GBP300m Tier 2 notes' issuances due 2031
- **Prudential** on multiple issuances of Tier 2 notes, including the structuring and issuance of novel substitutable Tier 2 capital, which permitted the transfer of the notes from it to M&G prior to M&G's demerger from Prudential, and the first Tier 2 notes issued under Hong Kong's new capital regime

- **RSA** on its issuance of SEK 2,500m contingent convertible RT1 notes under the EU Solvency II regime, being the first public RT1 issuance made under the regime by a UK insurer

In the asset management and payments sector, advising:

- **abrdn** on its issuance of GBP210 million fixed rate reset perpetual subordinated contingent convertible AT1 notes admitted to trading on LSE's International Securities Market, the first issuance by an asset manager under the UK's new Investment Firms Prudential Regime
- **a number of payments and e-money firms** on their respective capital arrangements under applicable capital requirements regimes.

On Liability management, advising:

- **Close Brothers** on the issuance of £200m subordinated Tier 2 fixed rate notes and the concurrent tender offer to existing noteholders to repurchase up to the full amount of £175m subordinated notes due 2027
- **International Personal Finance** on its cash tender offer to holders of its EUR225m guaranteed notes and its exchange offer made to holders of the GBP101.5m guaranteed notes, combined with a simultaneous cash offer for additional GBP denominated 7.75% guaranteed notes
- **Just Group** on a liability management exercise related to its issuance of GBP250 subordinated Tier 2 green notes and its cash tender offer to holders of the its remaining £300m RT1 contingent convertible notes (see further under insurance section above)

- **Nordea Bank AB** on its cash tender offer for the outstanding EUR155m class A2 secured floating rate notes issued by Midgaard Finance Ltd
- **Prudential plc** on the consent solicitations made to bondholders of its GBP600m and GBP700m Tier 2 notes
- **Santander** on a LIBOR transition-related consent solicitation made to the holders of its outstanding GBP 750m 7.375% and GBP 500m 6.75% AT1 capital securities. This was the first successful consent solicitation in relation to the transition to SONIA linked reference rates and which added the industry standard credit spread adjustment
- **Santander** on the tender offers for four series of outstanding capital securities issued by Santander UK and Abbey National Capital Trust I
- **Standard Chartered plc** on a consent solicitation in relation to several AT1 instruments to amend subordination provisions to mitigate infection risk in respect of the subsequent legacy preference shares' re-classification as Tier 2, and on several tender offers
- **Standard Life Aberdeen (now abrdn)** on several tender offers and consent solicitations, including in respect of holders of subordinated guaranteed bonds and mutual assurance capital securities
- **Westpac** on a LIBOR-related consent solicitation made to the holders of the GBP500m covered bond series such that the existing GBP LIBOR interest rate basis of the bonds was replaced by the Compounded Daily Sterling Overnight Index Average interest rate basis.

// They are very professional and efficient with the speed and quality of their response. //

Chambers 2021

Key contacts



Caroline Phillips

Partner

T +44 (0) 20 7090 3884

E caroline.phillips@slaughterandmay.com



Jansy Man

Senior Counsel

T +44 (0)20 7090 3498

E jansy.man@slaughterandmay.com



Guy O'Keefe

Partner

T +44 (0)20 7090 3299

E guy.o'keefe@slaughterandmay.com



David Shone

Associate

T +44(0) 20 7090 5242

E david.shone@slaughterandmay.com



Matthew Tobin

Partner

T +44 (0)20 7090 3445

E matthew.tobin@slaughterandmay.com



James Costi

Associate

T +44(0) 20 7090 5375

E james.costi@slaughterandmay.com



Jan Putnis

Partner

T +44 (0)20 7090 3211

E jan.putnis@slaughterandmay.com



Christian Elliott

Associate

T +44 (0)20 7090 3086

E christian.elliott@slaughterandmay.com



Nick Bonsall

Partner

T +44 (0)20 7090 4276

E nick.bonsall@slaughterandmay.com



Peaches Stanforth

Associate

T +44 (0)20 7090 4183

E peaches.stanforth@slaughterandmay.com



Charlie McGarel-Groves

Partner

T +44(0) 20 7090 3579

E charlie.mcgarel-groves@slaughterandmay.com



Ryan Law

Associate

T +44 (0)20 7090 4149

E ryan.law@slaughterandmay.com



Kevin Howes

Partner

T +44(0) 20 7090 3173

E kevin.howes@slaughterandmay.com



Adriana Bica

Associate

T +44 (0)20 7090 5100

E adriana.bica@slaughterandmay.com

© Slaughter and May August 2022

This material is for general information only and is not intended to provide legal advice.
For further information, please speak to your usual Slaughter and May contact.

75978421