

FINANCIAL REGULATION WEEKLY BULLETIN

Major UK and European regulatory developments of interest to banks, insurers and reinsurers, asset managers and other market participants

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If you have any comments or questions, please contact: [Selmin Hakki](#).

Slaughter and May also produces a periodical Insurance Newsletter. If you would like to go on the distribution list, please contact: [Beth Dobson](#).

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GENERAL //

1 EUROPEAN PARLIAMENT

- 1.1 **Legislative proposal for a framework for financial data access - ECON votes to adopt draft report on proposed Regulation - 18 April 2024** - The European Parliament's Economic and Monetary Affairs Committee has voted to adopt its draft report on the European Commission's legislative proposal for a Regulation on a framework for financial data access (FIDA). The draft Regulation will be followed up by the new Parliament after the June 2024 European elections. FIDA will address rights related to customer data sharing in the financial sector, going beyond payment accounts covered by the revised Payment Services Directive ((EU) 2015/2366).

[ECON draft report 2023/0205\(COD\)](#)

[Press release](#)

2 EUROPEAN SUPERVISORY AUTHORITIES

- 2.1 **DORA - ESAs launch consultation on joint examination teams - 18 April 2024** - The Joint Committee of the European Supervisory Authorities (ESAs) (comprising the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) have published a consultation paper (JC 2024 24) on draft regulatory technical standards (RTS) on the harmonisation of conditions enabling the conduct of oversight activities under the Regulation on digital operational resilience for the financial sector ((EU) 2022/2554) (DORA).

Under DORA, a lead overseer for each critical ICT third-party service provider would be assisted by a joint examination team (JET) composed of staff members from the ESAs and relevant national competent authorities. The proposed RTS contain provisions relating to, among other things, the establishment of the JET and tasks of JET members.

The deadline for responses to the consultation is 18 May 2024.

[ESAs consultation paper: Draft RTS on the harmonisation of conditions enabling the conduct of the oversight activities under Article 41\(1\) point \(c\) of DORA \(JC 2024 24\)](#)

[ESMA webpage](#)

[EIOPA webpage](#)

[Press release](#)

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3 EUROPEAN SYSTEMIC RISK BOARD

- 3.1 Macroprudential tools for cyber resilience - ESRB publishes report - 16 April 2024** - The European Systemic Risk Board (ESRB) has published a report on macroprudential tools that are used to respond to systemic cyber incidents at national and supra-national level. It focuses on tools for gathering, sharing and managing information; coordination tools; and emergency and backup systems to help ensure continuity of critical economic functions. The report makes several recommendations, from improving information management and information sharing efforts to aligning crisis management and coordination practices. It also encourages further consideration of the pros and cons of system-wide contingency options and backup arrangements at a European level.

An accompanying press release notes that the ESRB will continue its work on developing a comprehensive macroprudential cyber strategy and that this will be consistent with the implementation of the Regulation on digital operational resilience for the financial sector ((EU) 2022/2554).

[ESRB report: Advancing macroprudential tools for cyber resilience - Operational policy tools](#)

[Press release](#)

4 HM TREASURY

- 4.1 FCA and Bank of England - HMT publishes MoU - 18 April 2024** - HM Treasury has published a revised Memorandum of Understanding (MoU) between the FCA and the Bank of England (exercising its prudential regulation functions) which replaces the previous version adopted in July 2019. The MoU sets out a high-level framework for coordination and cooperation between the authorities in carrying out responsibilities under various pieces of legislation, including the Financial Services and Markets Act 2023 and assimilated law (previously referred to as retained EU law).

[Memorandum of Understanding](#)

[Updated webpage](#)

5 NETWORK FOR GREENING THE FINANCIAL SYSTEM

- 5.1 Transition plans - NGFS publishes package of reports - 17 April 2024** - The Network for Greening the Financial System (NGFS) has published several reports (dated 15 April 2024) exploring the role of transition plans and their relevance to micro-prudential supervision. The reports are as follows:

- *Tailoring transition plans*, which considers the specific needs of emerging market and developing economies;

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- *Connecting transition plans*, which assesses the interlinkages between real economy and financial institution transition plans, noting that there is no uniform approach towards the collection and use of information from non-financial firms' plans; and
- *Credible transition plans*, which examines the credibility of financial institutions' transition plans from a micro-prudential perspective.

The NGFS has also published a cover note that sets out several cross-cutting recommendations in this context, based on the above reports.

[NGFS report: Tailoring Transition Plans: Considerations for EMDEs](#)

[NGFS report: Connecting Transition Plans: Financial and non-financial firms](#)

[NGFS report: Credible Transition Plans: The micro-prudential perspective](#)

[Transition package cover note](#)

[Webpage](#)

[Press release](#)

BANKING AND FINANCE //

6 BASEL COMMITTEE ON BANKING SUPERVISION

- 6.1 **Climate scenario analysis - BCBS publishes discussion paper - 16 April 2024** - The Basel Committee on Banking Supervision (BCBS) has published a discussion paper (BCBS 572) on the role of climate scenario analysis (CSA) in strengthening the management and supervision of climate-related financial risks. The BCBS' 'Principles for the effective management and supervision of climate-related financial risks', published in 2022, encouraged banks to use CSA to assess the resilience of their business models to a range of plausible climate-related pathways and to determine the impact of climate-related risk drivers on their overall risk profile.

The BCBS has found that differences in the scope, features and approaches of CSA exercises impede the harmonisation of supervisory expectations and the comparability of results. It is therefore issuing this discussion paper to gather feedback from stakeholders on the practical application of CSA. Based on the feedback received and building on the work underway in other global fora, the BCBS will consider undertaking work in this area.

The deadline for responses is 15 July 2024.

[BCBS discussion paper: The role of climate scenario analysis in strengthening the management and supervision of climate-related financial risks](#)

[Webpage](#)

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7 EUROPEAN PARLIAMENT

- 7.1 EDIS Regulation - ECON adopts report - 18 April 2024** - The European Parliament's Economic and Monetary Affairs Committee (ECON) has adopted its report on the proposed Regulation establishing the European Deposit Insurance Scheme (EDIS) (2015/0270(COD)) (EDIS Regulation). The report sets out a revised version of the EDIS Regulation that is limited to the establishment of the first stage of EDIS (referred to in the report as EDIS I). This would involve EDIS operating as a liquidity scheme providing loans to participating deposit guarantee schemes.

[Press release](#)

8 COUNCIL OF THE EUROPEAN UNION

- 8.1 MREL reforms - Council publishes adopted text of proposed Directive - 15 April 2024** - The Council of the EU has published the text of a proposed Directive that would make targeted amendments to the Bank Recovery and Resolution Directive (2014/59/EU) (BRRD) and the Single Resolution Mechanism (SRM) Regulation (806/2014) concerning the minimum requirement for own funds and eligible liabilities (MREL) (often referred to as the 'daisy-chain proposal').

The Directive will enter into force on the 20th day after its publication in the Official Journal of the European Union.

[European Parliament legislative resolution of 27 February 2024 on the proposal for a directive of the European Parliament and of the Council amending BRRD and SRM as regards certain aspects of the MREL \(2023/0113\(COD\)\)](#)

9 BANK OF ENGLAND

- 9.1 ISO 20022 migration - Bank of England publishes policy statement and consultation paper - 12 April 2024** - The Bank of England (the Bank) has published a policy statement and consultation paper on mandating ISO 20022 enhanced data in CHAPS. It has also updated its webpage on the Real-Time Gross Settlement (RTGS) renewal programme.

The new material provides further clarification on previously published mandatory requirements for enhanced data (related to the use of purpose codes and inclusion of legal entity identifiers, structured addresses and structured remittance) that are due to come into effect in 2025 and 2026. It also seeks views on proposals for expanding the mandatory requirements for enhanced data in CHAPS payments from 2027. Further, it reiterates the Bank's role in facilitating and working with the payments industry to realise the potential benefits of ISO 20022 enhanced data, such as improved efficiency, payment prioritisation and prevention of financial crime. Finally, it signposts how the Change Management Framework for technical updates to the RTGS and CHAPS ISO 20022 schemas has been aligned to support global harmonisation.

The deadline for comments on the consultation is 28 June 2024.

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[Bank of England Policy Statement and Consultation Paper: Mandating ISO 20022 enhanced data in CHAPS](#)

[Updated webpage: RTGS Renewal Programme](#)

- 9.2 Innovation in UK payments - Bank of England publishes speech - 16 April 2024** - The Bank of England has published a speech by Sarah Breeden, the Bank's Deputy Governor, on how it can "*deliver trust and support innovation*", both as a provider and as a regulator of retail and wholesale money.

Among other things, Ms Breeden refers to the November 2023 discussion paper on a proposed regulatory regime for stablecoins in retail payments, as previously reported in this bulletin. She notes that some respondents to that paper have commented that the proposed requirements "*would challenge stablecoin issuers' business models and so might effectively bar use of stablecoins at systemic scale*". A further consultation on this is expected in due course.

Ms Breeden also confirms that the Bank's work over the next two years will involve considering the potential design of a digital pound in greater detail. This will be informed by technological experimentation and proofs of concept within the private sector.

The Bank is increasingly focusing on wholesale innovation and, in particular, how its infrastructure should best evolve to support the settlement of tokenised transactions so as to ensure the continued role of central bank money in wholesale payments. Ms Breeden refers to the recent consultation on implementing and operating the Digital Securities Sandbox. Finally, Ms Breeden notes that the Bank wants to encourage more action by banks in payments innovation, including on how tokenisation might be applied to bank deposits. It plans to publish a discussion paper focusing on innovation in wholesale payments in the summer.

[Bank of England speech: Modernising the trains and rails of UK payments – speech by Sarah Breeden](#)

10 FINANCIAL CONDUCT AUTHORITY

- 10.1 Motor finance complaints - FCA publishes statement and Dear CEO letter - 12 April 2024** - The FCA has published an update on its review into the historical use of discretionary commission arrangements (DCAs) in the motor finance industry. It has also published a Dear CEO letter sent to motor finance firms.

The FCA explains that many firms are struggling to provide the data the FCA needs. This is often due to data being stored on multiple systems or spread between lenders and brokers. It has observed firms taking different approaches to account for the potential impact of the previous use of DCAs on their financial resources. The Dear CEO letter reminds firms that the FCA expects them to assess the adequacy of their financial resources as well as to ensure the accuracy of their financial statements and regulatory reporting. Assessments are expected to be forward looking and must consider the risks, and potential liabilities, that the firm is exposed to, including any potential redress liabilities.

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As the FCA's review continues, firms should continue to investigate the complaints they receive involving DCAs and consider the Information Commissioner's Office (ICO) guidance on responding appropriately to data subject access requests. They should also notify the FCA if they are involved in litigation relating to motor finance commissions that are subject to, or likely to be subject to, appeal to the High Court or Court of Appeal. The FCA will set out its next steps relating to the review by 24 September 2024.

The FCA also refers to judicial review proceedings of the FOS' decision to uphold a complaint relating to DCAs commenced on 3 April 2024.

[FCA statement regarding motor finance firms' financial resources](#)

[FCA Dear CEO letter](#)

[Updated webpage on motor finance complaints](#)

SECURITIES AND MARKETS //

11 FINANCIAL STABILITY BOARD

11.1 Enhancing liquidity preparedness for margin and collateral calls - FSB launches consultation report - 17 April 2024 - The Financial Stability Board (FSB) has published a consultation report setting out eight policy recommendations to enhance the liquidity preparedness of non-bank market participants for margin and collateral calls in centrally and non-centrally cleared derivatives and securities markets. These recommendations would apply to a broad range of non-bank market participants, including insurance companies, pension funds, hedge funds and non-financial entities, such as commodities traders.

The FSB has previously highlighted the need for policy adjustments to deal with liquidity strains in the non-bank financial intermediation (NBFII) sector arising from spikes in margin and collateral calls during times of market stress. These new recommendations cover, among other things, liquidity risk management practices and governance; they also deal with liquidity stress testing and scenario design for margin and collateral calls during normal and stressed market conditions. Several of the recommendations aim to ensure that sufficient collateral is available, as and when required. Annexes 1 and 2 to the report provide an overview and guidance on existing liquidity rules and regulations.

Comments can be made on the proposals until 18 June 2024.

[FSB consultation report: Liquidity Preparedness for Margin and Collateral Calls](#)

[Webpage](#)

[Press release](#)

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12 INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS

- 12.1 IOSCO publishes 2024-2025 work plan - 12 April 2024** - The International Organization of Securities Commissions (IOSCO) has published its 2024-2025 workplan, updating its 2023-2024 Work Programme published in April 2023. In particular, we note that IOSCO has announced new workstreams to reflect increased focus on AI, tokenisation, transition plans and green finance.

[IOSCO 2024-2025 workplan](#)[Press release](#)

ASSET MANAGEMENT //

13 FINANCIAL CONDUCT AUTHORITY

- 13.1 Applying for authorisation in the asset management sector - FCA publishes guidance - 15 April 2024** - The FCA has published a new webpage setting out some of the common errors that are made by asset managers when applying for authorisation, which have reduced firms' chances of success or caused delays to applications.

Common pitfalls include failing to meet the FCA's expectations in relation to senior management arrangements. This has typically been due to a lack of competence, expertise or an appropriate level of seniority. Some firms have also appeared to misunderstand the 'location of offices' threshold condition. Other errors include applicants failing to identify the risks that their business model poses and considering how they might remove or mitigate those risks.

In some applications, firms have not considered the relevant rules, the applicant's responsibilities and the impact on their business when outsourcing. Other firms have failed to consider potential conflicts of interest adequately, or at all, in their applications. Some asset managers have sought exemption from the Financial Ombudsman Service and the Financial Services Compensation Scheme when this is not appropriate. This can increase how long it takes the FCA to conclude its assessment.

[Webpage](#)

INSURANCE //

14 PRUDENTIAL REGULATION AUTHORITY

- 14.1 Matching adjustment reforms - PRA publishes statement - 15 April 2024** - The PRA has published a statement to follow up on clarifications requested by firms in their responses to its consultation paper on matching adjustment (MA) reforms in the context of adapting the Solvency II framework to the UK insurance market (CP19/23) (published in September 2023 and previously reported in this bulletin).

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Among other things, the statement confirms that the PRA has no plans to require firms to reapply for permission to apply the MA when such permission has been provided prior to 30 June 2024. Moreover, the PRA does not intend for the policy proposals in CP19/23 to require reclassification of significant volumes of existing assets in MA portfolios as having highly predictable cash flows (rather than fixed cash flows). The PRA will consider making changes to the proposed policy materials to clarify that changes to its policy on what is 'fixed' are not within the scope of CP19/23 if necessary.

Some firms interpreted the proposed changes to the expected triggers for variations of MA permissions as a requirement for new applications in a wider range of circumstances than is currently the case. The PRA confirms that its proposed policy intent is not to change the status quo on this issue. The statement also provides further guidance on MA attestations, voluntary fundamental spread additions, notching of the fundamental spread and the sub-investment grade MA cap.

The PRA intends to publish a policy statement to CP19/23 in June 2024. It will provide further guidance and materials on the MA application process under the reformed regime in advance of its coming into force on 30 June 2024.

[PRA statement: Solvency II Review - Matching adjustment reform implementation considerations for 30 June 2024](#)

FINANCIAL CRIME //

15 PAYMENT SYSTEMS REGULATOR

15.1 Authorised push payment scams - PSR launches consultation into reimbursement requirement - 17 April 2024 - The Payment Systems Regulator (PSR) has published a consultation paper (CP24/3) on its proposals for compliance and monitoring under the Faster Payments System (FPS) reimbursement requirement to fight authorised push payment (APP) scams. As the operator of Faster Payments, Pay.UK will be responsible for monitoring payment service providers' (PSPs) compliance with the FPS reimbursement requirement, which comes into force on 7 October 2024.

CP24/3 sets out the PSR's proposals relating to, among other things, how PSPs that are in scope of the requirement should report data and information to Pay.UK. The PSR proposes to include new requirements within existing specific directions.

CP24/3 closes to comments on 28 May 2024. Subject to the PSR's approval, the compliance monitoring regime will be published by Pay.UK by 7 June 2024.

[PSR consultation paper: The FPS APP scams reimbursement requirement: compliance and monitoring \(CP24/3\)](#)

[Webpage](#)

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This Bulletin is prepared by the Financial Regulation Group of Slaughter and May in London. The Group comprises a team of lawyers with expertise and experience across all sectors in which financial institutions operate.

We advise on regulatory issues affecting firms across the financial services sector, including banks, investment firms, insurers and reinsurers, brokers, asset managers and funds, non-bank lenders, payment service providers, e-money issuers, exchanges and clearing systems. We also advise non-regulated businesses involved in financial regulatory matters. In addition, our leading financial regulatory investigations practice is regularly instructed by financial institutions requiring specialist knowledge of financial services regulation together with experience in high profile and complex investigations and contentious regulatory matters.

Most of the projects that we advise on have an extensive international or cross-border element. We work in seamless integrated teams with leading independent law firms which offer many of the most highly regarded financial institutions lawyers in Europe, the US and Asia, as well as strong and constructive relationships with local regulators.

Our Financial Regulation Group also produces occasional briefing papers and other client publications. The five most recent issues of this Bulletin and our most recent briefing papers and client publications appear on the Slaughter and May website [here](#).

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