

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 SUPERVISORY AUTHORITIES

- 1.1 Preparation for DORA - ESAs announce ‘dry run’ exercise - 11 April 2024** - 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 announced that they will conduct a voluntary ‘dry run’ exercise as part of the next stage of implementation of the Regulation on digital operational resilience for the financial sector ((EU) 2022/2554) (DORA).

DORA requires financial entities to have a register of information of all their contractual arrangements with ICT third-party providers available from 17 January 2025. To help financial entities compile their registers by this deadline, the ESAs and competent authorities will carry out a dry run on a best-efforts basis and provide feedback to participants. This exercise is expected to commence in May 2024, with the financial entities expecting to submit their registers of information to the ESAs between 1 July and 30 August 2024.

[Factsheet: ‘Dry run’ to prepare for DORA](#)

[Press release](#)

2 TRANSITION PLAN TASKFORCE

- 2.1 Climate transition plans - TPT publishes sector guidance - 9 April 2024** - The Transition Plan Taskforce (TPT) has published sector guidance designed to assist firms in their preparation of climate transition plans and to complement the final TPT Disclosure Framework, published in October 2023. The guidance includes sector deep dives for asset managers, asset owners and banks.

[Webpage](#)

[Press release](#)

3 PRUDENTIAL REGULATION AUTHORITY

- 3.1 PRA publishes its Business Plan for 2024/25 - 11 April 2024** - The PRA has published its business plan for 2024/25, which sets out the PRA’s workplan for each of its strategic priorities and its budget for the coming year. The PRA’s strategic priorities for 2024/25 are the same as those from 2023/24, and are to:

- maintain and build on the safety and soundness of the banking and insurance sectors, and ensure continuing resilience;
- be at the forefront of identifying new and emerging risks, and developing international policy;

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- support competitive and dynamic markets, alongside facilitating international competitiveness and growth, in the sectors that the PRA regulates; and
- run an inclusive, efficient and modern regulator within the central bank.

Initiatives that form part of the PRA's upcoming workplan that are flagged as particularly important include the PRA's 'Strong and Simple' project (as it moves towards finalising and implementing the Strong and Simple prudential framework for Small Domestic Deposit Takers during 2024), the 'Solvency UK' reforms of insurance capital standards, ring-fencing reforms and the implementation of the Basel 3.1 standards.

[PRA Business Plan 2024/25](#)

- 3.2 Fees and levies - PRA publishes Consultation Paper on rates proposals for 2024/2025 - 11 April 2024** - The PRA has published a Consultation Paper (CP4/24) on its rates proposals for its regulatory fees and levies for 2024/25. The deadline for responses is 10 May 2024. The PRA proposes that the implementation date for the changes resulting from this consultation would be 3 July 2024.

[PRA Consultation Paper: Regulated fees and levies: Rates proposals for 2024/25 \(CP4/24\)](#)

4 FINANCIAL CONDUCT AUTHORITY

- 4.1 Fees and levies - FCA publishes Consultation Paper on rates proposals for 2024/25 - 9 April 2024** - The FCA has published a Consultation Paper (CP24/6) on its rates proposals for its regulatory fees and the levies it collects for the Financial Ombudsman Service and government for the 2024/25 financial year. The consultation closes on 14 May 2024 and the FCA intends to publish the final fees and levy rates in a policy statement in July 2024.

[FCA Consultation Paper: FCA regulated fees and levies: rates proposals for 2024/25 \(CP24/6\)](#)

[Webpage](#)

BANKING AND FINANCE //

5 EUROPEAN BANKING AUTHORITY

- 5.1 Guidelines on resubmission of historical data under EBA reporting framework - EBA publishes final report - 18 April 2023** - The European Banking Authority (EBA) has published its final guidelines providing a common approach to the resubmission of historical data by financial institutions under the EBA reporting framework where there are errors, inaccuracies or other changes. Based on feedback received during the consultation period from May to July 2023, the EBA has provided further clarification on various provisions in the guidelines and adjusted the precision requirement in the EBA filing rules for monetary data from 1,000 to 10,000 to reduce the number of resubmissions. The new precision requirement will apply from 1 April 2025.

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The guidelines will start to apply three months after publication on the EBA's website in all official languages of the EU.

[EBA final report: Guidelines on resubmission of historical data under the EBA reporting framework \(EBA/GL/2024/04\)](#)

Press release

- 5.2 IFR - EBA publishes final guidelines on application of the group capital test for investment firm groups - 11 April 2024** - The European Banking Authority (EBA) has published its final guidelines on the application of the group capital test (GCT) for investment firm groups in accordance with Article 8 of the Investment Firms Regulation ((EU) 2019/2033) (IFR).

The EBA observes that the application of the GCT under Article 8 IFR appears to be subject to different interpretations from competent authorities, and so it has developed these guidelines to ensure a harmonised interpretation and implementation of the GCT across the European Union.

While the guidelines are intended to set objective thresholds and criteria that competent authorities should consider in their assessment of whether the conditions set out in Article 8 IFR are met, they also introduce some flexibility given the wide variety of investment firm group structures.

[EBA: Final Report on guidelines on the application of the GCT for investment firm groups in accordance with Article 8 of the IFR \(EBA/GL/2024/03\)](#)

Press release

6 FINANCIAL CONDUCT AUTHORITY

- 6.1 Strengthening protections for borrowers in financial difficulty - FCA publishes Policy Statement and updated Finalised Guidance - 10 April 2024** - The FCA has published a Policy Statement (PS24/2) on strengthening protections for borrowers in financial difficulty in relation to consumer credit and mortgages. This follows the publication of the FCA's Consultation Paper (CP23/13) on the same subject in May 2023. In tandem, and reflecting the changes brought about by PS24/2, it has published updated Finalised Guidance (FG24/2) clarifying how lenders can support borrowers who are affected by the rising cost of living.

The Policy Statement incorporates aspects of the FCA's Tailored Support Guidance (TSG) (established during the COVID-19 pandemic) into its Consumer Credit (CONC) and Mortgages and Home Finance: Conduct of Business (MCOB) sourcebooks. These changes include enhancing the FCA's expectations around customer engagement and expecting firms to consider a range of forbearance options and take reasonable steps to ensure arrangements remain appropriate. The Policy Statement also provides targeted additional changes, separate to the TSG, to better support consumers in financial difficulty.

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While respondents were largely supportive of the FCA's proposals in CP23/13, the FCA has made a number of amendments, including:

- clarifying that information given to customers to help them understand the implications of any proposed arrangement must include how it will be reported to their credit file in factual terms;
- for credit including overdrafts, changing the proposed guidance so that priority debts and essential living expenses include, but are not limited to, payments for mortgages, rent, council tax, food and utility bills; and
- for mortgages, not proceeding with the proposed changes to the provision of information requirements in MCOB 13.4 but instead making changes to MCOB 13.5 so that firms will be required to send regular statements to all customers in arrears.

The new rules (including FG24/2) will come into force on 4 November 2024, at which point the FCA will also withdraw the TSG.

[FCA Policy Statement: Strengthening protections for borrowers in financial difficulty: Consumer credit and mortgages - Feedback to CP23/13 and final rules \(PS24/2\)](#)

[FCA: Guidance for firms supporting existing mortgage borrowers impacted by rising living costs \(FG24/2\)](#)

7 PAYMENT SYSTEMS REGULATOR

7.1 Annual plan and budget 2024/25 - published by PSR - 9 April 2024 -The Payment Systems Regulator (PSR) has published its annual plan and budget for 2024/25, setting out its key aims, activities and costs. Initiatives in the period April-June 2024 will include:

- publishing a report on the barriers consumers face in using digital payments and how the PSR intends to support the take up of digital methods;
- issuing a publication setting out the PSR's next steps on the open banking future entity's capabilities, alongside the principles the PSR expects to be adopted for this entity's governance and funding; and
- consulting on the PSR's approach to supervising firms.

The PSR will host an event on 9 May 2024 to hear from stakeholders about the plan and discuss it in more detail.

[Annual Plan 2024/25](#)

[Press release](#)

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8 FINANCIAL MARKETS LAW COMMITTEE

8.1 Near-term reforms of the ring-fencing regime - FMLC publishes response to HM Treasury consultation - 2 April 2024 - The Financial Markets Law Committee (FMLC) has published a report responding to HM Treasury's September 2023 Consultation Paper on near-term reforms to the ring-fencing regime. The FMLC's working group behind this response was chaired by the Head of Slaughter and May's Financial Regulation Group and co-Head of its Financial Institutions Group, [Jan Putnis](#).

The FMLC welcomes HMT's decision to bring about reforms to the ring-fencing regime, and observes that the changes proposed help to address a number of areas of legal uncertainty that the FMLC has previously highlighted. The FMLC believes, however, that there are a number of uncertainties remaining which merit further consideration, including:

- **Excluded activities:** the FMLC supports HM Treasury's proposals in relation to ring-fenced bank dealing with sponsored structured finance vehicles and correcting share dealing errors, but recommends further clarification to counter uncertainties in the scope and application of these exemptions;
- **Financial institution exposures:** the cross-reference in the definition of 'exposure' in the Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014 (SI 2014/2080) (EAPO) to the retained UK version of the Capital Requirements Regulation (575/2013) continues to generate unhelpful legal uncertainty; and
- **Liquidity management for ring-fenced banks:** Under the EAPO, ring-fenced banks are permitted to deal in investments as principal provided the "sole or main purpose" of the transaction is to limit the extent to which "liquidity risk" adversely affects the ring-fenced bank. The FMLC recommends that this exemption be reformed to allow the activity of "dealing in investments as principal" to take place where this is part of a ring-fenced bank's broader liquidity management programme established and operated in compliance with applicable laws and regulations on liquidity management.

[FMLC: Response: A smarter ring-fencing regime, Consultation on near-term reforms](#)

SECURITIES AND MARKETS //

9 FINANCIAL CONDUCT AUTHORITY

9.1 Instrument reference data - FCA publishes Market Watch No. 78 - 9 April 2024 - The FCA has published issue 78 of Market Watch, in which it shares observations covering the completeness and accuracy of instrument reference data (IRD) under the UK version of Delegated Regulation (EU) 2017/585 (RTS 23).

The FCA explains that IRD submitting entities must have methods and arrangements to identify incomplete or inaccurate data and report data in a timely manner under Articles 2 and 6 of RTS 23. It further stresses that such processes should not be limited to rejections and warnings received. Despite this, the FCA states that some firms are repeatedly submitting identical

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records after receiving a rejection message, which could indicate poor exception management processes.

The FCA further outlines best practice for submission of accurate issuer legal entity identifiers (LEIs) and for using classification of financial instrument (CFI) codes, and clarifies its expectations regarding cancelled instrument reference data, use of dummy values and breach notifications.

[Market Watch No. 78](#)

ASSET MANAGEMENT //

10 FINANCIAL CONDUCT AUTHORITY

10.1 Payment optionality for investment research - FCA publishes Consultation Paper - 10 April 2024 - The FCA has published a Consultation Paper (CP24/7) putting forward plans for a new way of paying for investment research. These plans build on recommendations made by the UK Investment Research Review which were published in July 2023, and represent part of the UK government's 'Edinburgh Reforms' package, which seeks to drive growth and international competitiveness in UK financial services.

The FCA proposes a new option that enables firms that wish to buy investment research to use bundled payments for third-party research and execution services, subject to guardrails to protect investors. This option will sit alongside existing options, such as payment for research from a firm's own resources or from a dedicated account. The requirements placed on firms in relation to this new option would include (among other things):

- ongoing assessments of research value;
- an approach to the allocation of costs across their clients; and
- disclosures to clients on the firm's approach to bundled payments, their most significant research providers and costs incurred.

The FCA notes that the new plans are compatible with rules governing research payments in certain other major jurisdictions, making it easier for asset managers to buy research in the same way, across borders. The consultation closes on 5 June 2024, and the FCA aims to produce final rules in the first half of 2024. This timetable will, however, be determined by the amount, strength and breadth of the information gathered in the consultation.

[FCA Consultation Paper: UK Investment Research Review \(CP24/7\)](#)

[Press release](#)

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INSURANCE //

11 FINANCIAL CONDUCT AUTHORITY

11.1 Travel insurance signposting rules for consumers with medical conditions - FCA publishes findings from multi-firm review - 11 April 2024 - The FCA has published the findings of its multi-firm review into the implementation of FCA rules to improve access to travel insurance for consumers with more serious pre-existing medical conditions (PEMCs), introduced by its February 2020 Policy Statement (PS20/3). These rules require firms to signpost consumers with PEMCs, in some circumstances, to a directory of specialist firms.

The FCA explains that it expected to see improved access for some consumers with PEMCs, as well as lower prices for some customers. Overall, the FCA considers that its signposting intervention has had a positive, albeit lower than expected, impact on the market, estimating that the rules have resulted in an additional 21,000 policy sales.

The FCA will consult later in 2024 on updating the £100 medical condition premium trigger point for signposting, and will continue to engage with the directories as they look to refine and improve the content of the directories and consumer journeys.

[FCA: Post implementation review of the travel insurance signposting rules for consumers with medical conditions](#)

[Press release](#)

ENFORCEMENT //

12 FINANCIAL CONDUCT AUTHORITY

12.1 Link Fund Solutions Ltd and Woodford Equity Income Fund - FCA publishes Final Notice and Warning Notice Statement - 11 April 2024 - The FCA has published a Final Notice addressed to Link Fund Solutions Ltd (LFS) for failings in its role as Authorised Corporate Director of the LF Woodford Equity Income Fund (the WEIF).

Between 31 July 2018 and 3 June 2019, LFS failed to act with due skill, care and diligence in its management of the WEIF – in particular, failing to manage the liquidity of the fund – in breach of Principle 2 and Principle 6 of the FCA's Principles for Businesses. The Final Notice marks the culmination of an extensive and long-running investigation by the FCA, and follows the High Court's approval in February 2024 of redress payments to investors in the WEIF of up to approximately £230 million.

Separately, the FCA has also published a Warning Notice Statement about its proposed action against Woodford Investment Management Limited (WIM), which acted as the investment manager of the WEIF, and Neil Woodford, Head of Investments at WIM and lead fund manager for

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the WEIF. The FCA alleges that Mr Woodford had a defective and unreasonably narrow understanding of his responsibilities for managing liquidity risks. Furthermore, the FCA alleges that Mr Woodford and WIM failed to ensure that the WEIF's liquidity risk framework was appropriate to respond to the ongoing deterioration in the fund's liquidity and to maintain a reasonable liquidity profile for the WEIF. The warning notices given to Mr Woodford and WIM are not the FCA's final decisions and both parties have the right to make representations to the FCA's Regulatory Decisions Committee.

The FCA confirms that there are no other parties under investigation in relation to the WEIF.

[Final Notice: Link Fund Solutions Ltd](#)

[Warning Notice Statement 24/3](#)

[Press release](#)

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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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