

# 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 MONETARY AUTHORITY OF SINGAPORE

- 1.1 **Fund and asset tokenisation - MAS publishes Project Guardian report - 4 November 2024** - The Monetary Authority of Singapore (MAS) has published a report on tokenisation in the asset and wealth management sectors as part of its Project Guardian initiative. The report contains an initial set of non-prescriptive standards and industry best practices for tokenised funds. It also sets out a phased vision for the use of distributed ledger technology in asset management.

The FCA, which has been a member of Project Guardian since October 2023, has confirmed that it plans to collaborate with MAS during 2025 to consider regulatory and supervisory principles that could apply to tokenisation use-cases.

[Project Guardian report: Asset and Wealth Management - Funds Framework](#)

[Webpage](#)

[Press release](#)

### 2 UK PARLIAMENT

**Property (Digital Assets etc) Bill - Second reading in House of Lords - 6 November 2024** - The Property (Digital Assets etc) Bill (the Bill) has had its second reading in the House of Lords. The Bill gives effect to the Law Commission's 2023 report on digital assets, which recommended statutory confirmation that a thing should not be deprived of legal status as an object of personal property rights simply because it is neither a thing in possession nor a thing in action.

[Property \(Digital Assets etc\) Bill](#)

### 3 PRUDENTIAL REGULATION AUTHORITY AND FINANCIAL CONDUCT AUTHORITY

- 3.1 **Prudential assessment of acquisitions and increases in control - Policy statement and finalised guidance published - 1 November 2024** - The PRA has published a joint PRA/FCA policy statement on the prudential assessment of acquisitions and increases in control (PS18/24) with feedback on the related consultation of November 2023 (PRA CP25/23 and FCA CP23/23). The FCA has also published its finalised guidance on the same topic (FG24/5) to replace the guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2016/01), published by the Joint Committee of the European Supervisory Authorities in December 2016 (3L3 Guidelines).

In the final policy, the PRA and FCA have added new paragraphs on the identification of controllers in limited partnership structures and certain clarifications to the definition of 'significant influence'. They have also noted that they may contact relevant UK authorities and

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non-UK regulators about the timelines of their process and to request any information relevant to their assessment under the Financial Services and Markets Act 2000.

The PRA has deleted its previous supervisory statement on the aggregation of holdings for the purpose of prudential assessment of controllers (SS33/15). The new PRA supervisory statement (SS) 10/24 and FCA guidance (FG24/5) came into effect on 1 November 2024.

**[PRA and FCA joint policy statement: Supervisory statement - Prudential assessment of acquisitions and increases in control \(PS18/24\)](#)**

**[FCA finalised guidance: Prudential assessment of acquisitions and increases in control \(FG24/5\)](#)**

[Webpage](#)

## 4 FINANCIAL CONDUCT AUTHORITY

### 4.1 SDR and investment labels regime - FCA publishes pre-contractual disclosure examples - 1

*November 2024* - The FCA has published a document containing pre-contractual disclosure examples under the sustainability disclosure requirements (SDR) and investment labelling regime. The examples are intended to aid applicants as they prepare to meet relevant requirements to qualify for a label; the document also contains some examples of poor disclosure practices that do not meet SDR requirements. They are based on the FCA's experience of applications to date.

The SDR and investment labels regime enters into force on 2 December 2024. Firms have been able to use investment labels since 31 July 2024.

**[FCA: The SDR and investment labels: pre-contractual disclosure examples](#)**

### 4.2 Future of AI in financial services - FCA seeks stakeholder views - 5 November 2024

The FCA has published a webpage on its AI Input Zone, an online feedback platform that is intended to help the FCA to understand more about the development of transformative AI use cases and what it can do to support innovation. The webpage seeks views on a range of questions, including whether current financial services regulation is sufficient to support firms to embrace the benefits of AI in a safe and responsible way.

Responses are required by 31 January 2025.

[Webpage](#)

### 4.3 Supporting economic growth and net zero - FCA publishes speech - 6 November 2024

The FCA has published a speech given by Emily Shepperd, FCA chief operating officer, in which she considers the role of regulation in supporting the growth of the economy and the transition to net zero. Ms Shepperd refers to recent regulatory changes such as the Sustainability Disclosure

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Requirements and investment labels regime, the FCA's anti-greenwashing guidance, as well as the industry-led code of conduct for ESG data and ratings providers. She also confirms that the FCA will support the global adoption of International Sustainability Standards Board standards.

Ms Shepperd also notes that the FCA is currently reviewing 172 responses to its call for input on its review of retail conduct requirements. In providing feedback to this, the FCA will aim to address duplication, confusion or over-prescription, while "*demonstrating that it is possible to pursue market growth through sustained consumer benefit*".

Ms Shepperd also explains that the FCA has expanded its presence in Leeds and Edinburgh, to access skills in other markets and better reflect firm and consumer demographics.

[FCA speech: All aboard: strong infrastructure for smooth journeys](#)

## BEYOND BREXIT //

### 5 UK PARLIAMENT

5.1 **Insurance and Reinsurance Undertakings (Overseas Insurance Regime, Transitional Provisions, etc.) Regulations 2024 published - 7 November 2024** -The Insurance and Reinsurance Undertakings (Overseas Insurance Regime, Transitional Provisions, etc.) Regulations 2024 (SI 2024/2024/116) (the Regulations) have been published, together with an explanatory memorandum.

The Regulations ensure the continuing validity of certain approvals granted by the PRA and in force immediately before 31 December 2024 relating to the application of capital requirements under the Solvency 2 Regulations 2015 (SI 2015/575). They also introduce a new framework for making overseas recognition decisions for non-UK jurisdictions and will preserve pre-existing Solvency II overseas recognition decisions assimilated into UK law following exit from the EU.

The Regulations come into force on 31 December 2024.

[Statutory instrument](#)

[Explanatory memorandum](#)

[Webpage](#)

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## BANKING AND FINANCE //

### 6 SINGLE RESOLUTION BOARD

- 6.1 **Minimum bail-in data template - published by SRB - 5 November 2024** - The Single Resolution Board (SRB) has published its new minimum bail-in template (MBDT), designed to facilitate the execution of the bail-in tool or for testing exercises during the resolution planning phase.

The MBDT is now the sole standard for reporting data relating to the operationalisation of the bail-in and supersedes the minimum bail-in data set instructions and explanatory note that had previously been published. Relevant banks are expected to meet the requirements within 12 months (subject to limited exceptions).

[SRB MBDT](#)[Webpage](#)[Press release](#)

### 7 UK PARLIAMENT AND BANK OF ENGLAND

- 7.1 **Transfer of SVB UK - Draft Compensation Scheme Order 2024 and Bank of England report published - 6 November 2024** - A draft version of the Silicon Valley Bank UK Limited Compensation Scheme Order 2024 has been published on legislation.gov.uk, with a draft explanatory memorandum. The draft Order confirms in law that no compensation is due to the persons who held shares in Silicon Valley Bank UK Ltd (SVB UK) before those shares were transferred to HSBC UK Bank plc (HSBC) in March 2023 as part of the resolution of SVB UK.

The draft Order has been laid before Parliament. It will come into force the day after it is made.

Separately, the Bank of England has published a report on the transfer of SVB UK to HSBC for the purposes of section 79A of the Banking Act 2009. For more information about the resolution of SVB UK, please click [here](#).

[Draft Statutory Instrument](#)[Explanatory memorandum](#)[Webpage](#)[Report under section 79A of the Banking Act 2009 on the transfer of SVB UK to HSBC UK](#)

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## 8 HOUSE OF COMMONS TREASURY SELECT COMMITTEE

- 8.1 Acceptance of cash - Treasury Select Committee calls for evidence - 4 November 2024** - The House of Commons Treasury Select Committee has launched an inquiry into the acceptance of physical cash, ahead of public sessions which could begin in December. The Bank of England has noted that the decline in cash usage is increasing the infrastructure costs of retaining physical cash as a viable payment method, which could lead to disruption for businesses and consumers. The inquiry will focus on whether there is a need in the UK to regulate or mandate the acceptance of physical cash.

Evidence can be submitted until 2 December 2024.

[Press release](#)

# SECURITIES AND MARKETS //

## 9 FINANCIAL CONDUCT AUTHORITY

- 9.1 Improving transparency for bond and derivative markets - FCA publishes policy statement and discussion paper - 5 November 2024** - The FCA has published a policy statement (PS24/14) on improving transparency for bond and derivative markets, summarising and responding to feedback on the consultation (CP23/32) of December 2023.

The earlier proposals have undergone several targeted changes, including, for example, removing systems relying on negotiation from the scope of pre-trade transparency (rather than asking requiring trading venues to apply for a waiver from the obligation to provide pre-trade transparency for these systems). Chapter 9 of PS24/14 contains a discussion paper on the future of the systematic internaliser (SI) regime.

The new bond and derivatives transparency rules will come into force on 1 December 2025. The deadline for comments on the FCA's discussion paper on the SI regime is 10 January 2025. The FCA is also planning to establish a bond consolidated tape. The tender for appointment for this will begin in December 2024.

[FCA Policy Statement for Improving transparency for bond and derivatives markets including Discussion Paper on the Future of the SI regime \(PS24/14\)](#)

[Webpage](#)

[Press release](#)

- 9.2 UK MiFID transaction reporting regime - discussed in FCA's Market Watch - 7 November 2024** - The FCA has published its latest (81<sup>st</sup>) edition of Market Watch in which it sets out its observations on the UK MiFID transaction reporting regime (including its assessment of findings

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from skilled person reviews under section 166 of the Financial Services and Markets Act 2000 to address reporting failings).

The FCA groups its observations on the root causes of incomplete and inaccurate transaction reporting under five themes: change management; reporting process and logic design; data governance; control framework; and governance, oversight and resourcing. It expects firms to make necessary enhancements to their transaction reporting environment to comply with the relevant requirements.

[Market Watch 81](#)

## 10 RECENT CASES

### 10.1 *Allianz Funds Multi-Strategy Trust and others v Barclays plc* [2024] EWHC 2710 (Ch), 25 October 2024

The Chancery Division of the High Court has handed down summary judgment dismissing claims in a group action brought by Allianz Fund Multi-Strategy Trust and other institutional investors (the Claimants), under varying combinations of section 90A/Schedule 10A of the Financial Services and Markets Act 2000, against Barclays plc.

The judgment considered for the first time whether “market/price” reliance would satisfy the reliance requirement in section 90A/Schedule 10A. The decision also considered the interpretation and application of paragraph 5 of Schedule 10A on the dishonest delay of publication of inside information. In short, following the Court’s approach, passive investors that do not read the relevant published information will have no cause of action for misstatements or omissions under section 90A. The judge also held that, in order to make a claim for dishonest delay, there needs to have been a published statement or announcement; it does not suffice that there is a continuing delay in respect of publishing the delayed information.

The Claimants are expected to appeal the decision.

[Allianz Funds Multi-Strategy Trust and others v Barclays plc \[2024\] EWHC 2710 \(Ch\)](#)

# ASSET MANAGEMENT //

## 11 FINANCIAL CONDUCT AUTHORITY

### 11.1 Payment optionality for investment research for fund managers - FCA consults - 5 November 2024 - The FCA has published a consultation paper (CP24/21) on investment research payment optionality for fund managers (including UCITS management companies, full-scope UK alternative investment fund managers (AIFMs), small authorised UK AIFMs and residual collective investment scheme operators).



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Under the proposals, pooled vehicles will be treated consistently with segregated mandates and will be allowed to adopt the new payment option permitted under FCA rules (which allows joint payments for third-party research and execution services provided certain requirements are met). The consultation closes to comments on 16 December 2024. The FCA will publish its policy statement containing new rules and guidance in the first half of 2025.

[FCA consultation paper: Investment research payment optionality for fund managers \(CP24/21\)](#)

[Webpage](#)

[Press release](#)

## INSURANCE //

### 12 EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

**12.1 Prudential treatment of sustainability risks - EIOPA publishes report - 7 November 2024** - The European Insurance and Occupational Pensions Authority (EIOPA) has published a final report (EIOPA-BoS-24-372) on the prudential treatment of sustainability risks under the amended Solvency II Directive (2009/138/EC). This follows EIOPA's December 2022 discussion paper on methodologies and data sources and its December 2023 consultation paper on preliminary findings and policy proposals.

The report discusses the market risk of assets exposed to the climate transition, the impact of climate risk-related prevention measures on non-life underwriting risks, and the treatment of social risks. It has been submitted to the Commission, which will consider whether to implement EIOPA's proposed additional capital requirements for fossil fuel assets.

[EIOPA report: Prudential Treatment of Sustainability Risks \(EIOPA-BoS-24-372\)](#)

[Webpage](#)

[Press release](#)

### 13 FINANCIAL CONDUCT AUTHORITY

**13.1 Commercial and bespoke insurance business - FCA reopens discussion paper - 4 November 2024** - The FCA has partially reopened a discussion paper (DP24/1) (originally published in July 2024 and closed to responses in September 2024) to gather additional feedback on the impact of potential changes to the regulation of commercial and bespoke insurance businesses.

The reopened questions, in chapter 2 of DP24/1, relate to the application of rules to the commercial insurance market, in particular the point at which some rules are disapplied based on the size and nature of the commercial customer. Other reopened questions, set out in

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chapters 3 and 4, concern the application of rules where multiple firms are responsible for manufacturing insurance products and the regime for bespoke insurance contracts.

The deadline for responses to the reopened questions is 10 January 2025.

### [FCA discussion paper: Regulation of commercial and bespoke insurance business \(reopened questions\) \(DP24/1\)](#)

- 13.2 SIPP operators - FCA publishes portfolio letter - 4 November 2024** - The FCA has published a portfolio letter sent to firms within the self-invested pension plan (SIPP) operator portfolio summarising its priorities, expectations and upcoming work.

The FCA notes in the letter that there remain approximately 800 open SIPP due diligence cases at the Financial Ombudsman Service (FOS). Some of these cases are now over two years old and, in the FCA's view, are capable of being resolved informally based on lead or published final decisions from the FOS. Other key areas of focus are the handling of pension scheme money and assets, including the operation of trustee bank accounts and implementation of the consumer duty.

The FCA completed its 2024 SIPP data request in July 2024 and will use this information to increase proactive engagement with SIPP operators.

### [Portfolio letter](#)

- 13.3 Regulatory framework for pensions dashboard service firms - FCA publishes policy statement - 7 November 2024** - The FCA has published a policy statement on the regulatory framework for pensions dashboard service firms (PDS firms) (PS24/15), following a consultation on proposed requirements for firms operating a PDS published in December 2022 (CP22/25) and a further consultation (CP24/4) published in March 2024. In February 2024, the activity of operating a PDS was brought within the regulatory perimeter via article 89BA of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.

The FCA is not yet opening the gateway to receive applications for authorisation and variation of permission. Publication of the rules is intended to allow firms to start considering and preparing their prospective business models, service design, research and testing.

### [Policy Statement \(PS24/15\)](#)

### [Webpage](#)

## 14 FINANCIAL REGULATORS COMPLAINTS COMMISSIONER

- 14.1 Update on BSPS complaints - published by Complaints Commissioner - 5 November 2024** - The Office of the Financial Regulators Complaints Commissioner has published an update on its approach to complaints about the FCA relating to the British Steel Pension Scheme (BSPS).

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An investigation into the FCA's handling of BSPS is ongoing. The Office is in the process of scheduling a video conference call in November 2024 with interested complainants. It has recently been made aware of specific issues around redress and the timing of redress calculations, which are being investigated.

A further update is expected at the beginning of December 2024.

[Updated webpage](#)

## 15 ASSOCIATION OF BRITISH INSURERS AND LLOYD'S OF LONDON

**15.1 Defining a major cyber event - ABI and Lloyd's publish guide - 7 November 2024** - The Association of British Insurers (ABI) and Lloyd's of London (Lloyd's) have published a guide for insurers and reinsurers on how to approach defining a major cyber event.

The guide has been written by senior cyber insurance and reinsurance leaders and outlines the key insurance and reinsurance components for a consistent framework to define a major cyber event. Firms can consider the framework when building their own definition of what constitutes a major cyber event. The guide is intended to be used for increasing cyber awareness, education, risk management and developing insurance and reinsurance solutions for managing cyber risk.

[ABI and Lloyd's of London guide: Components of a major cyber event: a \(re\)insurance approach](#)

[Press release](#)

## FINANCIAL CRIME //

### 16 FINANCIAL ACTION TASK FORCE

**16.1 Money laundering national risk assessment - FATF publishes guidance - 7 November 2024** - The Financial Action Task Force (FATF) has published guidance for conducting national risk assessments (NRAs) of money laundering threats.

An NRA is, according to FATF, a process that enables a jurisdiction to systematically evaluate and address potential money laundering threats and vulnerabilities affecting it. The guidance document is intended to support that process, drawing on insights from within the FATF global network.

[FATF: Money Laundering National Risk Assessment Guidance](#)

[Webpage](#)

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## 17 UK PARLIAMENT AND HOME OFFICE

- 17.1 ECCTA - third commencement regulations and failure to prevent fraud guidance published - 6 November 2024** - The Economic Crime and Corporate Transparency Act 2023 (Commencement No. 3) Regulations 2024 (SI 2024/1108) (the Regulations) have been published. The Regulations, which were made on 5 November 2024, bring into force certain provisions of the Economic Crime and Corporate Transparency Act 2023.

The Home Office has also published guidance on the offence of failure to prevent fraud whereby large organisations may be held criminally liable where an employee, agent, subsidiary or other "associated person" commits a fraud intending to benefit the organisation. The guidance has been developed with input from the Crown Prosecution Service (CPS), the Serious Fraud Office (SFO), HM Treasury, and the FCA, among others. The offence of failure to prevent fraud will come into force on 1 September 2025. The offence will apply to large companies, not-for-profit organisations and incorporated public bodies.

### [Statutory instrument](#)

[ECCTA: Guidance to organisations on the offence of failure to prevent fraud](#)

### [Webpage](#)

### [Press release](#)

## ENFORCEMENT //

## 18 HOUSE OF LORDS FINANCIAL SERVICES REGULATION COMMITTEE

- 18.1 FCA approach to publicising enforcement investigations - Evidence from CLLS Regulatory Law Committee, among others, published - 5 November 2024** - The House of Lords Financial Services Committee (the Committee) has published written evidence submitted in relation to its inquiry into the FCA's proposals to take a new approach to publicising enforcement investigations (CP24/2).

The written evidence includes a response (dated 10 October 2024) from the Regulatory Law Committee of the City of London Law Society (CLLS) on the proposal to publish announcements and updates about enforcement investigations where these relate to firms rather than individuals. The CLLS is concerned that the FCA is proposing the changes without due consideration of their likely adverse impacts and whether similar objectives could be achieved through proportionate means. CLLS members include [Nick Bonsall](#), a partner in Slaughter and May's Financial Regulation Group.

The FCA is currently reviewing the responses received to its consultation paper.

### [City of London Law Society Regulatory Law Committee - Written evidence](#)

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## 19 FINANCIAL CONDUCT AUTHORITY

**19.1 Unauthorised activities - FCA charges three individuals and two firms - 5 November 2024** - The FCA has commenced criminal proceedings against three individuals and two firms for alleged unauthorised business activities in relation to luxury vacuum cleaners. The FCA is prosecuting the individuals and firms for alleged breaches of section 23(1) of the Financial Services and Markets Act 2000 (FSMA) by carrying out debt administration and debt collection, entering into regulated credit agreements and hire agreements, and effecting and carrying out contracts of insurance with retail customers for vacuum cleaners, without FCA authorisation.

The FCA is also prosecuting the individuals as company officers under section 400 of FSMA, in that they allegedly consented, connived or neglected to act in relation to the firms' alleged misconduct.

The defendants appeared before Westminster Magistrates' Court on 7 November 2024.

### [Press release](#)

**19.2 Investment fraud - FCA secures convictions - 7 November 2024** - The FCA has secured convictions against two individuals for their roles in a £1.5m investment fraud following a prosecution brought by the FCA. Between February 2017 and June 2019, the two individuals defrauded investors by cold-calling consumers and directing them to a professional-looking website where they were offered high returns for fake investments in crypto.

One of the individuals pleaded guilty to conspiracy to defraud, conspiracy to breach the general prohibition under the Financial Services and Markets Act 2000 and money laundering offences. The other pleaded guilty to conspiracy to defraud, conspiracy to breach the general prohibition and possession of false identification documents with an improper intention. They will be sentenced at a later date.

### [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](#).

If you would like to find out more about our Financial Regulation Group or require advice on a financial regulation matter, please contact one of the following or your usual Slaughter and May contact:

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