

Financial Regulation Weekly Bulletin

16 April 2020 / Issue 1055

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

Quick Links

[Selected Headlines](#)
[General](#)
[Banking and Finance](#)
[Securities and Markets](#)
[Asset Management](#)
[Insurance](#)
[Financial Crime](#)
[Enforcement](#)

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](#).

Selected Headlines

Banking and Finance

- COVID-19** - ECB supports macroprudential policy measures implemented by euro area authorities **11.1**
- Systemic Risk Buffer** - PRA maintains current rate in light of COVID-19 **14.1**
- Leverage ratio calculation rules** - PRA publishes direction for modification by consent **14.2**
- FCA Feedback Statement FS20/3**: Temporary financial relief for consumers impacted by coronavirus **15.1**
- COVID-19** - FCA publishes 'Dear CEO' letter to banks on SMCR responsibilities and SME lending and establishes a new small business unit **15.2**

Securities and Markets

- Stablecoins** - FSB publishes consultation on regulatory, supervisory and oversight challenges **16.1**
- COVID-19** - ESMA postpones publication of MiFID II trade transparency data for non-equity instruments **20.2**
- LIBOR** - ISDA announces preliminary results of its consultation on implementing pre-cessation fallbacks **21.1**

Asset Management

- COVID-19** - ESMA publishes statement on fund managers' periodic reporting deadlines under UCITS and AIFM Directives **22.1**
- COVID-19** - FCA updates webpage on its expectations of funds **23.1**

Insurance

- COVID-19** - FCA publishes 'Dear CEO' letter to insurers on business interruption cover for SMEs **24.1**

General

1. Financial Stability Board

- 1.1 Financial stability - FSB publishes letter on COVID-19 measures and ongoing policy work - 15 April 2020** - The Financial Stability Board (FSB) has published a letter to G20 Finance Ministers and Central Bank Governors outlining the work and policy measures undertaken to address the financial stability implications of the COVID-19 pandemic. The FSB's work to date has focused on three main areas: (i) assessing the resilience and vulnerability of critical nodes in the global financial system; (ii) sharing information on members' financial policy responses; and (iii) coordinating members' policy responses, including detailing how authorities can use existing flexibility within international standards.

The letter also outlines the FSB's work plans more generally, which include:

- improving the resilience of, and structural vulnerabilities identified within, the non-bank financial intermediation and asset management sectors;
- reporting on supervisory measures being taken to assist the transition away from the use of the London interbank offered rate (LIBOR) by the end of 2021;
- consulting on effective practices to assist financial institutions in their response to cyber incidents;
- developing a roadmap to improve cross-border payments and recommendations on the regulation, supervision and oversight of global stablecoin arrangements (see **Securities and Markets** section below for an item on stablecoins); and
- assessing to what extent post-crisis 'too-big-to-fail' reforms are working as intended.

[FSB letter to G20 Finance Ministers and Central Bank Governors on its policy responses to COVID-19](#)

[Webpage](#)

2. The Group of Twenty Finance Ministers and Central Bank Governors

- 2.1 G20 meeting of 15 April 2020 - communiqué published - 15 April 2020** - The G20 Finance Ministers and Central Bank Governors have published a communiqué following their virtual meeting of 15 April 2020. The communiqué addresses a range of financial sector-related issues, including: (i) facilitating international cooperation to recover from, and respond to, the economic impact and disruption caused by the COVID-19 pandemic; and (ii) promoting financial inclusion by maintaining accessible and affordable financial products and services through conventional and digital means.

[G20 communiqué following its 15 April 2020 meeting](#)

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

3. Prudential Regulation Authority

3.1 Business Plan 2020/21 - published by the PRA - April 2020 - The PRA has published its Business Plan for 2020/21, setting out key strategic goals for the year ahead. The goals are organised around the following themes:

- **Prudential standards and supervision** (pages 7-9): this includes the maintenance of robust prudential standards “*above those required by baseline international standards*”, holding regulated firms accountable for meeting these standards and securing an appropriate post-EU exit model to effectively supervise new cross-border structures and governance models;
- **Market changes and horizon scanning** (pages 9-10): the PRA plans to ensure that it can adapt to market changes and mitigate risks by continuing its work on the development of regulatory frameworks and the identification of risks in relation to climate change and financial technology;
- **Financial resilience** (pages 10-13): this will involve finalising proposals on how firms manage asset encumbrance risks, preparing to implement the final Basel III reforms and implementing global frameworks on the supervision of internationally active insurance groups (IAIGs) and the mitigation of systemic risk in the insurance sector, including the development of the insurance capital standard (ICS);
- **Operational resilience** (page 13): the PRA will publish a Policy Statement on operational resilience in 2020/21, following its consultation (CP29/19) in December 2019;
- **Recovery and resolution** (pages 13-14): this will involve the implementation of effective resolution frameworks and continuing a review of firms’ operational continuity in resolution;
- **Competition** (pages 14-15): among other things, this will involve analysing barriers to growth for, and developing a tailored approach to the supervision of, smaller firms;
- **EU withdrawal** (pages 15-16): the PRA plans to facilitate a smooth transition to a sustainable and resilient UK financial regulatory framework following Brexit by continuing its work on UK-EU and third-country equivalence assessments and monitoring further transition risks; and
- **Efficiency and effectiveness** (pages 16-18): the PRA plans to improve its operational efficiency and effectiveness by allocating resources to work that best advances its strategy and statutory objectives and by providing an inclusive working environment.

The Business Plan also refers to the challenges presented by the COVID-19 pandemic and the “*need to review and reprioritise this Business Plan during the year as the impacts and required work for us become clearer*”.

See item below for the PRA’s Budget for 2020/21 and proposed regulatory fees and levies for 2020/21, as contained in PRA CP4/20.

[PRA Business Plan 2020/21](#)

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

Webpage

- 3.2 PRA Consultation Paper CP4/20 - Regulated fees and levies: Rates proposals 2020/21 - April 2020** - The PRA has published a Consultation Paper (CP4/20) containing proposals for its regulatory fees and levies for 2020/21. Among other things, the Paper calculates the PRA's annual funding requirement for 2020/21 at £275.4 million, representing an 8% increase from 2019/20. This comprises ongoing regulated activities costs of £263.8 million and Brexit-related costs of £11.6 million.

The consultation period closes on 15 May 2020. The proposed implementation date for the proposals is 7 July 2020.

[PRA Consultation Paper CP4/20 - Regulated fees and levies: Rates proposals 2020/21](#)

Webpage

4. Financial Conduct Authority

- 4.1 COVID-19 - FCA announces launch of new daily email updates - 9 April 2020** - The FCA has launched a new daily email service, containing a round-up of all COVID-19-related news and publications published on its website. Firms and individuals wishing to receive the new daily email can sign up for the service via the FCA's website.

[FCA webpage on its daily email service for COVID-19 updates](#)

- 4.2 Complaints data - FCA publishes data for second half of 2019 - 16 April 2020** - The FCA has published its latest complaints data for regulated firms, covering the second half of 2019. The data shows an overall increase in complaints, from 4.29 million in the first half of 2019 to 6.02 million. According to the FCA, the increase in complaints is partly attributable to a 75% increase in payment protection insurance (PPI) complaints. Other points emerging from the data are that:

- 62% of the complaints received in the second half of 2019 were related to PPI;
- excluding PPI complaints, the volume of complaints received increased from 2.18 million to 2.31 million between the first and second halves of 2019; and
- the products subject to the most complaints were PPI (62%), current accounts (10%), credit cards (6%) and general insurance products (5%).

[Press release: FCA publishes complaints data for the second half of 2019](#)

[Aggregated complaints data for the second half of 2019](#)

Webpage

5. Financial Ombudsman Service

- 5.1 Ombudsman News Issue 151 - published by the FOS - 14 April 2020** - The Financial Ombudsman Service (FOS) has published Issue 151 of Ombudsman News. Among other matters, Issue 151 addresses: (i) guidance on complaints arising from the COVID-19 pandemic, including complaints relating to mortgages, credit arrangements, insurance products, and fraud and scams; (ii) business

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

complaints data relating to the second half of 2019; (iii) the FOS' strategic plans and budget for 2020/21; and (iv) the annual increase to the FOS award limit.

[Ombudsman News Issue 151](#)

[Webpage](#)

6. Competition and Markets Authority

- 6.1 **Annual concurrency report 2020 - published by the CMA - 15 April 2020** - The Competition and Markets Authority (CMA) has published its annual concurrency report for 2020 in relation to areas where the CMA and a relevant sector regulator have concurrent powers to apply competition law. The report assesses the operation of concurrency arrangements between the CMA and sector regulators such as the FCA and the Payment Systems Regulator (PSR) from 1 April 2019 to 31 March 2020. Financial services investigations are covered in paragraphs 35 to 40, while payment systems are covered in paragraph 41.

[CMA annual concurrency report 2020](#)

[Webpage](#)

7. UK Regulators Network

- 7.1 **Annual Report and 2020/21 Work Plan - published by UKRN - April 2020** - The UK Regulators Network (UKRN) has published its Annual Report and Work Plan for 2020/21. The annual report highlights the achievements of the UKRN (which includes the FCA and the Payment Systems Regulator (PSR)) in 2019/20 and outlines its plans to improve outcomes for consumers and the economy in 2020/21. The UKRN's main priorities for 2020/21 include: (i) facilitating collaboration on infrastructure and investment; (ii) using data to support customers in vulnerable circumstances; and (iii) improving how sector regulators cooperate and work together.

[UKRN annual report and 2020/21 work plan](#)

[Webpage](#)

Banking and Finance

8. Financial Stability Board

- 8.1 **Enhancing cross-border payments - FSB project to develop a roadmap - 9 April 2020** - The Financial Stability Board (FSB) has published a report on the development of a roadmap to enhance cross-border payments, with a view to making them "*faster, cheaper, more transparent and more inclusive*". According to the report, current issues with cross-border payment processes include fragmented data standards, poor interoperability, outdated legacy platforms and varying anti-money laundering (AML) and data protection compliance requirements. The report recognises that financial and technological innovation has the potential to improve the ease and efficiency of global cross-border payments, but that it may also present various challenges and risks.

The report was submitted to G20 Finance Ministers and Central Bank Governors, together with a technical background report providing further details.

[FSB report on developing a roadmap to enhance global cross-border payments](#)

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

[FSB technical report on global cross-border payments](#)

[Webpage](#)

[Press release](#)

9. [Bank for International Settlements](#)

- 9.1 Technological innovation and financial inclusion - CPMI and World Bank publish report on payments - April 2020** - The Bank for International Settlements' Committee on Payments and Market Infrastructures (CPMI) and the World Bank have published a report on the facilitation of payments and financial inclusion. The report follows and builds on the CPMI and World Bank's joint guidance on payment aspects of financial inclusion (PAFI), which was published in April 2016. That earlier document outlined seven guiding principles for public and private sector stakeholders and possible key actions for countries that wish to put the guiding principles into practice.

The headline message of this latest report is that financial technology can spur financial inclusion by facilitating payments, but that it also brings risks. The report concludes that *“to improve financial inclusion, initiatives need to be appropriately embedded in wider country-level reforms and global efforts that seek to put the PAFI guidance into practice”*.

[CPMI and World Bank report on payment aspects of financial inclusion in the FinTech era](#)

[Webpage](#)

[Press release](#)

10. [European Banking Authority](#)

- 10.1 Equivalence of confidentiality and professional secrecy regimes - EBA publishes updated Guidelines adding US - 15 April 2020** - The European Banking Authority (EBA) has updated its Guidelines on the equivalence of confidentiality and professional secrecy regimes by adding the United States State Department of Financial Services to the current list of equivalent third-country supervisory authorities. The EBA Guidelines are designed to: (i) assist EU authorities in their assessment of third-country equivalence; (ii) facilitate cooperation with third-country supervisory authorities; and (iii) facilitate the participation of equivalent third-country supervisory authorities in supervisory colleges overseeing international banks.

[EBA Guidelines on the equivalence of third-country confidentiality and professional secrecy regimes](#)

[Press release](#)

11. [European Central Bank](#)

- 11.1 COVID-19 - ECB supports macroprudential policy measures implemented by euro area authorities - 15 April 2020** - The European Central Bank (ECB) has announced that it supports the macroprudential policy measures taken by various euro area authorities in response to the COVID-19 pandemic. It effectively endorses the actions taken to reduce capital requirements, including the countercyclical capital buffer, the systemic risk buffer and buffers for systemically important institutions, under the Capital Requirements Regulation (575/2013/EU) (CRR), thereby freeing up

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

over €20 billion of common equity Tier 1 (CET1) capital for euro area banks to absorb losses and support lending.

The ECB has also published an overview of the macroprudential policy measures taken by national competent authorities (NCAs) since the beginning of the pandemic. See also below for the European Systemic Risk Board's (ESRB's) list of the various financial stability policy measures taken by EU member states.

[Press release: ECB supports macroprudential policy measures implemented by euro area authorities in response to COVID-19](#)

[ECB overview of macroprudential policy measures taken by authorities in response to COVID-19](#)

- 11.2 Single Supervisory Mechanism - ECB adopts amending Regulation on reporting of supervisory financial information - April 2020** - The ECB has published a Regulation, dated 9 April 2020, which amends ECB Regulation (EU) 2015/534 on the reporting of supervisory financial information by banks under the Single Supervisory Mechanism.

The amending Regulation sets out reporting requirements for credit institutions and rules governing the submission of information by national competent authorities (NCAs) to the ECB. It is intended to supplement Commission Implementing Regulation (EU) 680/2014, which contains implementing technical standards (ITS) on financial reporting requirements for firms under the CRR.

The amending Regulation will enter into force on the twentieth day following its publication in the Official Journal of the European Union and will apply from 1 June 2020.

[ECB Regulation amending ECB Regulation \(EU\) 2015/534 on the reporting of supervisory financial information by banks under the Single Supervisory Mechanism](#)

12. European Systemic Risk Board

- 12.1 COVID-19 - ESRB publishes overview of financial stability policy measures - 9 April 2020** - The European Systemic Risk Board (ESRB) has published a document listing the various financial stability policy measures taken by EU member states, institutions and national authorities in response to the COVID-19 pandemic. The document allows users to compare or collate specific types of policy measure taken by EU member states or authorities, including actions taken in relation to short selling, dividend distributions and reporting requirements.

The ESRB intends to update the document regularly.

[ESRB document containing an overview of financial stability policy measures in response to COVID-19](#)

[Webpage](#)

[Press release](#)

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

13. [European Payments Council](#)

- 13.1 SEPA SCT and SCT Inst rulebooks - EPC publishes updated clarification paper - 9 April 2020 -** The European Payments Council (EPC) has published an updated version of its clarification paper on the Single Euro Payments Area (SEPA) Credit Transfer (SCT) and SEPA Instant Credit Transfer (SCT Inst) rulebooks. The paper addresses operational issues arising from, and applies to, the 2019 SCT and SCT Inst scheme rulebooks.

[EPC clarification paper on SEPA SCT and SCT Inst rulebooks](#)

[Webpage](#)

[Press release](#)

14. [Prudential Regulation Authority](#)

- 14.1 Systemic Risk Buffer - PRA maintains current rate in light of COVID-19 - 9 April 2020 -** The PRA has published a statement announcing its decision to maintain the Systemic Risk Buffer (SRB) rate at the level set in December 2019. The PRA will next reassess the rate in December 2021. The SRB applies to ring-fenced banks (RFBs) and certain large building societies.

Any decision on the SRB rate taken in December 2021 would have effect from January 2023.

[PRA statement on its decision to maintain SRB rate in light of COVID-19](#)

[Webpage](#)

- 14.2 Leverage ratio calculation rules - PRA publishes direction for modification by consent - 9 April 2020 -** The PRA has published a direction for modification by consent relating to rules on the calculation of the total exposure measure of the leverage ratio in anticipation of revisions to be made to the CRR under the second Capital Requirements Regulation (EU) 2019/876 (CRR II) to the calculation of the exposure value of regular-way purchases and sales awaiting settlement (specifically the insertion of new Article 429(g) of the CRR by CRR II).

The modification by consent amends the Leverage Ratio Part of the PRA Rulebook, allowing relevant firms to calculate exposure value within their UK leverage exposure measures according to the new rules under the CRR II, if they choose to do so. It also contains related amendments to the Leverage Ratio Reporting and Public Disclosure Parts of the PRA Handbook concerning the disclosure and reporting of quarterly average figures.

[PRA modification by consent for amendments to leverage ratio calculation rules](#)

[PRA draft direction](#)

[Webpage](#)

15. [Financial Conduct Authority](#)

- 15.1 FCA Feedback Statement FS20/3: Temporary financial relief for consumers impacted by coronavirus - 9 April 2020 -** The FCA has published a Feedback Statement (FS20/3) and accompanying guidance confirming the adoption of a series of targeted, temporary financial relief measures for customers in light of the economic impact of the COVID-19 pandemic. The measures

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

focus on the application of FCA Principle 6 (treating customers fairly) and primarily cover credit cards, overdrafts and personal loans. This follows the FCA's consultation on the measures which took place between 2 and 6 April 2020, as reported previously in this Bulletin.

The FCA confirms that it will adopt its proposals largely as consulted on, save for some minor amendments clarifying the scope of application of the guidance in a number of areas, including in relation to product types and the circumstances of the customer. Among other things, the measures:

- offer customers who experience financial difficulties as a result of COVID-19 a temporary payment freeze or deferral on loan and credit card repayments for up to three-months;
- allow customers who are negatively impacted by COVID-19, and already have an arranged overdraft on their main personal current account, up to £500 charged at 0% interest for up to three months;
- ensure that all overdraft customers are no worse off in relation to overdraft pricing as compared to overdraft pricing charges before the FCA's recent overdraft pricing changes came into force; and
- ensure that customers using any of the temporary payment freeze measures will not have their credit file affected as a result.

The FCA confirms that the guidance applies to guarantor and logbook loans, home-collected credit, regulated loans issued by credit unions and community development finance institutions, and firms which have acquired such loans. However, the guidance does not apply to: (i) high-cost, short-term credit, buy-now pay-later or hire purchase products, for which the FCA expects to announce further measures; (ii) premium finance or pawnbroking, for which the FCA is currently considering whether further measures are appropriate; and (iii) consumer loans facilitated through peer-to-peer (P2P) lending platforms.

The FCA also clarifies that these measures do not replace normal forbearance rules where these would be more suitable for a consumer in serious and immediate financial difficulty.

The full range of measures applied from 14 April 2020.

[FCA Feedback Statement FS20/3: Temporary financial relief for consumers impacted by coronavirus](#)

[FCA temporary guidance for firms on credit cards in light of COVID-19](#)

[FCA temporary guidance for firms on overdrafts in light of COVID-19](#)

[FCA temporary guidance for firms on personal loans in light of COVID-19](#)

[Webpage](#)

[Press release](#)

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

15.2 COVID-19 - FCA publishes ‘Dear CEO’ letter to banks on SMCR responsibilities and SME lending and establishes a new small business unit - 15 April 2020 - The FCA has published a ‘Dear CEO’ letter from Christopher Woolard (Interim Chief Executive at the FCA) to banks on senior managers’ responsibilities under the Senior Managers and Certification Regime (SMCR) when lending to small and medium-sized enterprises (SMEs) during the COVID-19 pandemic. Although SME lending falls largely outside of the FCA’s regulatory scope, the SMCR governs the responsibilities and accountability of senior managers in banks in respect of all activities they conduct, whether regulated or not.

Accordingly, the letter notes that:

- each bank that lends to SMEs should have a senior manager with clear responsibility for that activity;
- senior managers responsible for lending to SMEs should discharge their responsibilities under the SMCR suitably and in compliance with the Lending Standards Board (LSB) Standards of Lending Practice for Business Customers; and
- banks’ CEOs and boards should take reasonable steps to ensure that senior managers responsible for lending to SMEs discharge their responsibilities effectively, including by collecting information on the bank’s treatment of small businesses and, where appropriate, challenging the senior manager(s).

The FCA has also established a new small business unit which will coordinate FCA activities across all small business issues. This will include supporting firms through the current challenges posed by the COVID-19 pandemic, ensuring small firms are treated fairly and ensuring that the FCA pursues a coordinated response to any issues raised. The new unit will be overseen by Jonathan Davidson (Executive Director of Supervision, Retail and Authorisation) and Sheldon Mills (Interim Executive Director of Strategy and Competition).

[FCA ‘Dear CEO’ letter to banks on SMCR responsibilities when lending to small businesses in light of COVID-19](#)

15.3 COVID-19 - FCA clarifies the application of the new currency conversion transparency requirements - 16 April 2020 - The FCA has updated its webpage on its expectations surrounding the application of new currency conversion transparency requirements under the revised Cross-border Payments Regulation (EU) 2019/518. The new text refers to a statement published by the European Commission on 9 April 2020 in which the Commission invited national competent authorities (NCAs) to enforce the upcoming requirements in a proportionate manner in light of the disruption caused by the COVID-19 pandemic.

The FCA states that it expects firms to comply with the new requirements from 19 April 2020 or, where this is not possible, as soon as possible thereafter. It confirms that it will take a reasonable approach towards enforcement of the new rules in recognition of the need to preserve the stability and continuity of online payment services in the current environment.

[FCA webpage on its expectations of firms in response to COVID-19](#)

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

Please see the **General** section for an item on the PRA's Business Plan for 2020/21 and an item on the launch of a new FCA daily email update on COVID-19.

Please see the **Securities and Markets** section for an item on the FSB's consultation on stablecoins and an item on IOSCO's report on the role of securities regulators in sustainable finance initiatives.

Securities and Markets

16. Financial Stability Board

16.1 Stablecoins - FSB publishes consultation on regulatory, supervisory and oversight challenges - 14 April 2020 - The Financial Stability Board (FSB) has published for consultation a document containing recommendations on how to address the various regulatory, supervisory and oversight challenges raised by global stablecoin arrangements.

The document provides a beginner's introduction to the function and operation of stablecoins and a guide to the various regulatory frameworks applicable to them, noting there are many different approaches to their regulation. Recognising that cross-border cooperation and coordination is crucial in the mitigation of risks posed by global stablecoins, the FSB makes ten high-level recommendations for the effective regulatory, supervisory and oversight approaches to global stablecoins, covering areas such as regulators' tools and powers, governance requirements, anti-money laundering (AML) measures and resolution frameworks.

The FSB also recommends that NCAs should apply supervisory practices under the "*same business, same risk, same rules*" principle to address the emerging business models and technologies employed by such arrangements.

The consultation period closes on 15 July 2020. The FSB intends to publish its final recommendations in October 2020.

[FSB consultation on addressing the regulatory, supervisory and oversight challenges raised by global stablecoin arrangements](#)

[Webpage](#)

[Press release](#)

17. International Organization of Securities Commissions

17.1 Sustainable finance - IOSCO publishes report on the role of securities regulators - April 2020 - The International Organization of Securities Commissions (IOSCO) has published a report on sustainable finance and climate change. According to the report, three key issues relating to sustainable finance regulatory regimes requiring improvement are:

- the proliferation of diverse, voluntary sustainability and environmental, social and governance (ESG) disclosure frameworks and standards;
- the absence of common definitions of 'sustainable investments' and 'sustainability risks'; and
- the lack of effective assurance processes to ensure that investors are not misled about companies' sustainable practices.

[Selected Headlines](#)
 [General](#)
 [Banking and Finance](#)
 [Securities and Markets](#)
 [Asset Management](#)
[Insurance](#)
 [Financial Crime](#)
[Enforcement](#)

IOSCO comments that these issues may be exacerbated by the cross-border nature in which many issuers and asset managers operate, being subject to different regulatory regimes and involved in multiple regional or international third-party initiatives with inconsistent objectives and requirements. With this in mind, IOSCO has established a Sustainability Task Force which will aim to improve sustainability-related disclosures made by issuers and asset managers and collaborate with other international organisations and regulators.

[IOSCO report on sustainable finance and the role of securities regulators](#)

[Press release](#)

18. [European Commission](#)

18.1 BMR - European Commission consults on draft Delegated Regulations - 8 April 2020 - The European Commission has published for consultation the draft texts of three Delegated Regulations on sustainable finance and financial benchmarking under the Benchmarks Regulation (EU) 2016/1011 (BMR). The draft Delegated Regulations cover:

- minimum standards and transparency requirements for EU climate transition benchmarks;
- minimum standards setting out how ESG factors are to be reflected in benchmark statements; and
- minimum standards setting out how ESG factors are to be reflected in benchmark methodologies.

The consultation period closes on 6 May 2020.

[European Commission consultation webpage on minimum standards for climate benchmarks under the BMR](#)

[European Commission consultation webpage on ESG factors and benchmark statements under the BMR](#)

[European Commission consultation webpage on ESG factors and benchmark methodologies under the BMR](#)

19. [Council of the European Union](#)

19.1 Taxonomy Regulation for sustainable investment - Council of the EU announces that it adopted position at first reading - 15 April 2020 - The Council of the European Union has announced that it has formally adopted, at first reading, the text of proposed Regulation (EU) 2018/0178 (COD) (Taxonomy Regulation) on the establishment of a framework to facilitate sustainable investment and identify green activities. The Council of the EU adopted the text on 1 April 2020 (as reported in a previous edition of this Bulletin).

The European Parliament is expected to formally adopt the text in plenary at second reading.

[Press release: Council of EU announces adoption of Taxonomy Regulation on sustainable investment at first reading](#)

Selected Headlines General Banking and Finance Securities and Markets Asset Management
Insurance Financial Crime Enforcement

[Adopted text of the proposed Taxonomy Regulation \(EU\) 2018/0178\(COD\) on the establishment of a framework to facilitate sustainable investment and identify green activities](#)

20. European Securities and Markets Authority

20.1 COVID-19 - ESMA publishes statement on external audit requirements for interest rate benchmarks under the BMR - 9 April 2020 - The European Securities and Markets Authority (ESMA) has published a statement encouraging national competent authorities (NCAs) to adopt a coordinated approach to their supervision of external audit requirements applying to interest rate benchmark administrators and contributors under the BMR.

ESMA notes that the COVID-19 pandemic has made it difficult for administrators and contributors to fulfill the external audit requirements set out under the BMR; as such, it expects NCAs to apply a risk-based approach in their day-to-day enforcement of the BMR, with the expectation that audits are carried out by 30 September 2020.

[ESMA statement on external audit requirements for interest rate benchmarks under the BMR in light of COVID-19](#)

[Press release](#)

20.2 COVID-19 - ESMA postpones publication of MiFID II trade transparency data for non-equity instruments - 9 April 2020 - ESMA has announced a postponement of the application of, and publication dates for, the annual transparency calculations for non-equity instruments and quarterly systematic internaliser data for non-equity instruments, other than bonds, under the Markets in Financial Instruments Directive (2014/65/EU) (MiFID II) and the Markets in Financial Instruments Regulation (600/2014) (MiFIR).

ESMA states that compliance with these requirements, which were originally scheduled for publication on 30 April and 1 May 2020, could create “*unintended operational risks*” for market participants in the current market environment. As such:

- transparency calculations will be published on 15 July 2020 rather than 30 April 2020 and will apply from 15 September 2020 rather than 1 June 2020. These include the liquidity assessment and the pre- and post-trade ‘large in scale and size specific to the instrument’ thresholds for derivatives, exchange traded commodities (ETCs), exchange traded notes (ETNs), emission allowances and structured finance products. The transitional transparency calculations will continue to apply until and including 14 September 2020;
- ESMA will publish data relating to the performance of the systematic internaliser test for derivatives, ETCs, ETNs, emission allowances and structured finance products by 1 August 2020. The mandatory systematic internaliser regime for these products will apply from 15 September 2020; and
- the publication and application of the annual transparency calculations for bonds remain unchanged. The new ‘pre-trade and post-trade large in scale and size specific to the instrument’ thresholds will apply from 1 June 2020.

[ESMA statement postponing the application of the annual transparency calculations and quarterly systematic internaliser data for non-equity instruments under MiFID II and MiFIR in light of COVID-19](#)

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

[Press release](#)

21. International Swaps and Derivatives Association

- 21.1 LIBOR - ISDA announces preliminary results of its consultation on implementing pre-cessation fallbacks - 15 April 2020** - The International Swaps and Derivatives Association (ISDA) has announced the preliminary results of its second consultation on the implementation of pre-cessation fallbacks for derivatives referencing the London interbank offered rate (LIBOR). The consultation sought feedback on whether to add a pre-cessation trigger to the permanent cessation fallbacks that ISDA is implementing in its standard documentation for LIBOR-referencing derivatives.

Initial results from the consultation indicate a majority preference for including both pre-cessation and permanent cessation fallbacks as standard language in its amended 2006 Definitions for LIBOR. ISDA also confirms that there appears to be majority support for an ISDA protocol to include the updated definitions in legacy trades.

Therefore, it is anticipated that pre-cessation and permanent cessation fallbacks will apply to all new and legacy derivatives referencing LIBOR that incorporate the amended 2006 ISDA Definitions. However, ISDA confirms that the updated definitions for other interbank offered rates (IBORs) will continue to include permanent cessation fallbacks only.

[Press release: ISDA announces preliminary results of its consultation on implementing pre-cessation fallbacks for derivatives referencing LIBOR](#)

Please see the **General** section for an item on the launch of a new FCA daily email update on COVID-19.

Asset Management

22. European Securities and Markets Authority

- 22.1 COVID-19 - ESMA publishes statement on fund managers' periodic reporting deadlines under UCITS and AIFMD - 9 April 2020** - The European Securities and Markets Authority (ESMA) has published a statement outlining its supervisory expectations for fund managers' publication of yearly and half-yearly reports for reporting periods ending from 31 December 2019 to 30 April 2020, inclusive. In summary, ESMA expects national competent authorities (NCAs) to adopt a risk-based approach towards fund managers, auditors and market participants in respect of upcoming periodic reporting deadlines under the UCITS Directive (2009/65/EC), the Alternative Investment Fund Managers Directive (2011/61/EU) (AIFMD), the European Venture Capital Funds Regulation (345/2013/EU) (EuVECA Regulation) and the European Social Entrepreneurship Funds Regulation (346/3013/EU) (EuSEF Regulation).

The statement is relevant to: (i) UCITS management companies; (ii) self-managed UCITS investment companies; (iii) authorised alternative investment fund managers (AIFMs) and non-EU AIFMs under Article 42 of the AIFMD; and (iv) fund managers under the EuVECA Regulation and the EuSEF Regulation.

[ESMA statement on fund managers' periodic reporting deadlines in light of COVID-19](#)

[Press release](#)

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

23. Financial Conduct Authority

23.1 COVID-19 - FCA updates webpage on its expectations of funds - 15 April 2020 - The FCA has updated its webpage on its expectations of funds in light of the COVID-19 pandemic. The additional information confirms that:

- the statements and supervisory measures outlined in the FCA’s ‘Dear CEO’ letter of 1 April 2020 to retail investment providers (including in relation to supervisory flexibility around 10% portfolio value reporting obligations under the Markets in Financial Instruments Directive (2014/65/EU) (MiFID II)) apply to non-retail client business performed by MiFID investment firms and collective portfolio management investment firms to the extent those requirements apply to these firms;
- repo transactions entered into for the sole purpose of liquidity management are unlikely to meet requirements under the FCA’s Collective Investment Scheme sourcebook (COLL) (i.e. that such transactions should only be used for efficient portfolio management); and
- authorised fund managers (AFMs) should consider options for ensuring that all unitholders in the fund are treated fairly where unitholders or potential investors become unable to deal in units in an authorised fund by physical means (such as by post or fax).

The FCA will keep this page updated as the situation develops.

[FCA webpage setting out its expectations of funds in light of COVID-19](#)

Please see the **General** section for an item on the launch of a new FCA daily email update on COVID-19.

Insurance

24. Financial Conduct Authority

24.1 COVID-19 - FCA publishes ‘Dear CEO’ letter to insurers on business interruption cover for SMEs - 15 April 2020 - The FCA has published a ‘Dear CEO’ letter from Christopher Woolard (Interim Chief Executive at the FCA) to insurance firms on the provision of business interruption insurance to small and medium-sized enterprises (SMEs). This follows the FCA’s letter of 19 March 2020 outlining its expectations of insurance firms in light of COVID-19, particularly as regards to treating customers fairly.

The letter states that, in the FCA’s estimation, “*most [business interruption] policies have basic cover, do not cover pandemics and therefore would have no obligation to pay out in relation to the...pandemic*”; in these circumstances the FCA would not intervene. The letter also notes, however, that:

- the FCA expects insurers and brokers to provide clear, accurate and timely communication to customers on the extent of cover in place. To this end, the FCA is collecting information from firms on how they are interpreting their policies;
- where it is clear that the firm has an obligation to pay out on a policy, claims should be assessed and settled quickly. If there are reasonable grounds to pay part of a claim but not to make payment in full, firms should consider making an interim payment. Any firm

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

that disagrees will need to explain how their approach represents a fair outcome for customers; and

- the Financial Ombudsman Service (FOS) will publish details of its approach to complaints about business interruption insurance. The FCA notes that disputed policies may fall under the jurisdiction of the FOS, which can offer the possibility of faster decisions than a court process (on claims up to £355,000) and, where appropriate, more timely payments to help businesses recover from the impact of COVID-19.

The FCA refers to the establishment of a new small business unit, also mentioned in the ‘Dear CEO’ letter to banks on senior manager responsibilities for SME lending, referred to in the **Banking and Finance** section above.

[FCA ‘Dear CEO’ letter to insurers on the provision of business interruption insurance to SMEs in light of COVID-19](#)

25. [Money and Pensions Service](#)

- 25.1 Pensions dashboards - MaPS publishes progress report - April 2020** - The Money and Pensions Service (MaPS) has published a progress update report by the Pensions Dashboards Programme (PDP) on the progress made in the development of pensions dashboards. The PDP comprises representatives from across the pensions sector, including Fintech and financial services, consumer groups, regulators and government.

The PDP is developing a secure digital architecture and governance framework to support the development and operation of pensions dashboards. Its approach and delivery will involve the following three distinct elements:

- Pension finder service: an electronic instruction to all data providers to search for a user’s pensions, which can be displayed on the user’s chosen dashboard when found;
- Identity service: a service allowing users to authenticate their identity; and
- Ecosystem governance framework: a framework specifying the data, technical, security and performance standards that dashboards must satisfy in order to be connected to the digital architecture.

The PDP has also published two working papers alongside the report exploring the breadth of dashboard coverage and the depth of information dashboards could show. In light of the disruption caused by the COVID-19 pandemic, the PDP aims to publish a more detailed work programme before the end of 2020.

[MaPS PDP progress update report on the development of pensions dashboards](#)

[PDP working paper on data scope for pensions dashboards](#)

[PDP working paper on data definitions for pensions dashboards](#)

[Press release](#)

[Selected Headlines](#) [General](#) [Banking and Finance](#) [Securities and Markets](#) [Asset Management](#)
[Insurance](#) [Financial Crime](#) [Enforcement](#)

Please see the **General** section for an item on the PRA Business Plan for 2020/21 and an item on the launch of a new FCA daily email update on COVID-19.

Financial Crime

26. Financial Ombudsman Service

- 26.1 Fraud and scams - FOS publishes information to help protect consumers - 16 April 2020** - The Financial Ombudsman Service (FOS) has published a new webpage containing consumer information on how to protect personal information to avoid becoming a victim of fraud or scams and how the FOS can help customers who believe that they have been treated unfairly. Among other things, the FOS encourages consumers to be vigilant to emerging scams relating to suspicious text messages and emails relating to the COVID-19 pandemic.

[FOS information to help protect consumers from fraud and scams](#)

[Press release](#)

Enforcement

27. Serious Fraud Office

- 27.1 False accounting practices - SFO confirms end of DPA with Tesco - 10 April 2020** - The Serious Fraud Office (SFO) has confirmed the end of its deferred prosecution agreement (DPA) with Tesco Stores Ltd (Tesco), following the fulfilment by Tesco of the terms of the DPA. The SFO and Tesco agreed the DPA with Tesco in April 2017, under which Tesco accepted responsibility for false accounting practices and agreed to pay a fine of £129 million and investigation costs of £3 million, and to undertake and implement an ongoing compliance programme during the term of the DPA.

[Press release: SFO confirms end of DPA with Tesco Stores Ltd](#)

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](#).

The Group's recent work includes advising:

- A number of global banks, insurance and asset management groups on their preparations for Brexit;
- A number of banking groups in relation to banking structural reform, including the UK ring-fencing regime;
- Prudential plc on the proposed demerger of its UK & Europe business (M&G Prudential) from Prudential plc, resulting in two separately-listed companies;
- Standard Life plc on the recommended all-share merger with Aberdeen Asset Management and the subsequent sale by Standard Life Aberdeen plc of its capital-intensive insurance business to Phoenix;
- UK Asset Resolution and Bradford & Bingley plc in relation to the disposal of legacy buy-to-let mortgage assets to Prudential plc and funds managed by Blackstone for a total consideration of £11.8bn;
- On the legal implications of developments across a broad Fintech waterfront for clients such as Euroclear, TreasurySpring, Bupa, TrueLayer, WorldRemit and Stripe, as well as other established businesses, challengers and start-ups; and
- A number of multi-national clients in relation to the UK, EU, and US economic and trade sanctions regimes.

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