

# INSURANCE OUTLOOK 2023

## Key dates

1 January 2023	New FCA Environmental, Social and Governance Sourcebook requirements come into force for smaller firms
Q1 2023	Launch of review of the Senior Managers & Certification Regime
3 March 2023	End of Treasury consultation period on PRIIPs and UK Retail Disclosure
11 March 2023	End of FCA consultation period on changes to ICOBS re: consumers in financial difficulty
Before Easter 2023	Financial Services and Markets Bill expected to become law
End of April 2023	Consumer Duty deadline for manufacturers to have completed necessary reviews and shared necessary information with distributors
30 June 2023	Expected application date of FCA anti-greenwashing rules
31 July 2023	<ul style="list-style-type: none"> <li>• Consumer Duty comes into force (other than for closed products)</li> <li>• Expected application date of FCA guidance (in ICOBS) on consumers in financial difficulty</li> </ul>
By end of 2023	<ul style="list-style-type: none"> <li>• “Significant progress” expected on reform of Solvency II - this may include reforms to the risk margin and some matching adjustment reforms</li> <li>• Changes to the insurer write-down regime expected to be brought into force</li> </ul>
2024	<ul style="list-style-type: none"> <li>• Solvency UK expected to be fully implemented</li> <li>• Possible new insurer resolution regime to be implemented</li> <li>• New retail disclosure regime expected to be implemented</li> </ul>

## PRA priorities in insurance supervision in 2023

The PRA [wrote to CEOs of insurance firms](#) on 10 January setting out its priorities for insurance supervision. These can be expected to inform the PRA’s approach to supervision of the sector in general in 2023.

Key areas identified were:

- **Financial resilience:** in particular, the challenge of the recessionary and inflationary economic outlook. For general insurers the area of biggest concern is pressures on claims inflation. For life insurers, the PRA is concerned about credit and concentration risk, in particular in respect of internally rated and valued assets
- **Risk management:** including robustness of credit and counterparty risk capabilities, validity of internal models and the resilience of liquidity sources. The PRA also flags that it intends to carry out a thematic review of the adequacy of risk management in respect of increases in bulk purchase annuities deals in the market

- **Implementation of financial reforms:** the PRA indicates that it will be engaging with firms on the Solvency II reforms during the course of 2023 “in advance of formal consultation” (for which no date is given)
- **Reinsurance risk:** the PRA continues to be concerned about high levels of longevity reinsurance, in particular the potential rise in offshore counterparty concentration risk, as well as complex “funded reinsurance” structures. The PRA will “examine the need for policy action on reinsurance structures and limits”
- **Operational resilience:** this is an area of continued focus for the PRA, considering in particular the ability of insurers to operate within identified impact tolerances (including in the event of cyber-attack)
- **“Ease of exit”:** the PRA intends to consult during 2023 on requirements for firms to prepare exit plans. In advance of this the PRA expects firms to start considering how they might exit the market if the need arose and what the obstacles might be (in accordance with Fundamental Rule 8 - A firm must prepare for resolution). It is not entirely clear how this will tie in with the expected Bank of England consultation on “Insurer Insolvency Enhancements”, discussed under “Insurer Insolvency” below.

## Financial Services and Markets Bill

The Financial Services and Markets Bill (FSMB) is proceeding through the Parliamentary process and is expected to come into force before the **Easter recess**. This will allow a number of proposed reforms in the financial services area to move forward.

The most direct consequences for the insurance sector of the FSMB becoming law will be, firstly, the changes to the objectives of and the accountability framework for the regulators set out in the Bill and, secondly, the changes to the insurer insolvency write down regime - discussed below.

More generally, the FSMB provides for the repeal of onshored EU financial services legislation, including Solvency II, to be replaced by UK versions of the relevant regimes. Some indication of the timeline for this was given in the Chancellor’s “Edinburgh Reforms” announcements, discussed below.

## The Edinburgh Reforms

In a written statement published on 9 December, the Chancellor of the Exchequer set out his set of “[Edinburgh Reforms](#)”, intended to drive growth and competitiveness in the financial services sector. These include taking forward the process of repealing and reforming onshored EU law following the FSMB coming into force. Some other proposals of particular interest to the insurance industry are:

- proposed review of the Senior Managers & Certification Regime to begin in Q1 2023; and
- repeal of the onshored Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation. PRIIPs is discussed further below.

The Government also published its [final response document](#) on the Future Regulatory Framework Review alongside the Edinburgh Reforms. The main response document was published in July 2022 alongside the FSMB and this further document focuses on implementation, including the pace of the implementation programme, which is divided into tranches:

- Tranche 1, which includes Solvency II, are areas where work is already underway and “significant progress” is expected to be made by the **end of 2023**
- Tranche 2 includes further work on Solvency II plus work on PRIIPs and the Insurance Distribution Directive. Again, “significant progress” is expected to be made by the **end of 2023**
- Any areas not included within Tranche 1 or 2 will be reviewed separately to assess the benefits of bringing them into Tranche 2 and/ or deciding the order in which they should be prioritised in Tranche 3.

## Solvency UK

We still lack a clear timetable for the implementation of so-called “Solvency UK” - the new version of Solvency II to be implemented following the UK Solvency II review. Solvency II falls within Tranche 1 of the timetable announced as part of the Edinburgh reforms but this only means that “significant progress” will be made on it this year.

As noted in our briefing on the [Results of the Solvency II Review](#), certain key aspects of reform will be set out in secondary legislation, with the remainder of the reforms to be introduced through changes to the PRA Rulebook. The legislation will cover the risk margin methodology, the fundamental spread calculation and certain changes to matching adjustment asset eligibility. As these are core to the Government’s intention to unlock capital for insurers to invest in useful long-term assets it may be that these changes come into effect relatively quickly after the legislation is made and therefore have effect **during 2023**.

The PRA is expected to consult on the wider package of Rulebook changes during **2023** but there is likely to be a reasonably lengthy implementation period for these changes, to give industry time to adapt. We may therefore not see the full version of Solvency UK in force until **2024**.

## Insurer Insolvency

Changes to section 377 of FSMA, which allows the Court to write down certain insurer liabilities in the event of a potential insolvency, are due to be implemented by the FSMB and are therefore likely to come into force **this year**. As well as widening the circumstances in which the section can be used, a new framework for its operation will be introduced. A summary of the key provisions of the Bill can be found [here](#). Some points to note in particular include:

- under the new provision, the court can make a write down order if the insurer is “likely to become” unable to pay its debts. The order must be likely to lead to a better outcome for policyholders and other creditors, and there is therefore an expectation that the order of priority on an insolvency will be taken into account (although this is not explicit)
- the write down power applies in principle to all liabilities but there are certain exclusions, including financial services contracts and amounts secured by fixed charges
- restrictions on termination will apply during the write down period to certain contracts, including financial contracts and outwards reinsurance agreements
- in determining the value of any liability under an outwards reinsurance, no account is to be taken of the reduction in value of any underlying liabilities under the primary contracts of insurance
- it is expected that the PRA will make changes to the Financial Services Compensation Scheme so that policyholders’ rights are valued at the pre-write down amount for the purposes of the scheme.

Broader changes to insurer insolvency arrangements are also coming down the track. In the April 2022 response document to its consultation on Amendments to the Insolvency Arrangements for Insurers, the Treasury commented that it was “*actively engaging with the Bank of England to develop a proposal for the introduction of a specific resolution regime for insurers*”. A consultation paper on “Insurer Insolvency Enhancements” was included in the Bank’s 13 December 2022 list of upcoming publications. This consultation is expected to set out proposals for an insurer resolution regime. The PRA has also indicated that it intends to consult during 2023 on requirements for insurers to produce exit plans, although it is not clear if this is a separate consultation. There has been a large amount of scepticism within industry as to the necessity of introducing a resolution regime, but it is consistent with international regulatory expectations and is therefore likely to proceed. As legislation will probably be required the timing is uncertain and implementation of any proposed regime is unlikely to take place before **2024**.

## PRIIPS

As part of the Edinburgh Reforms, the Government announced its intention to get rid entirely of the PRIIPs regime inherited from the EU. On 9 December the Treasury published a consultation on [PRIIPs and UK Retail Disclosure](#), in which it set out its reasons for this and its plans for a new retail disclosure framework. The key points are:

- the Government believes that the PRIIPs regime is not fit for purpose as it is overly prescriptive and is aimed at allowing comparability between what are in some cases fundamentally non-comparable products. It also believes that the requirements have led to some products not being offered to retail customers, thereby reducing choice
- the consultation proposes that the onshored PRIIPs Regulation is repealed and that retail disclosure requirements are instead set out in FCA rules
- although there will be disclosure requirements to ensure that retail investors have access to clear and useful information about the products they buy, the expectation is that no formal “Key Information Document” will be prescribed
- the Government does not intend to introduce any specific “have regards” in respect of the new retail disclosure regime so this will purely be a matter for the FCA, operating within its existing objectives and consistently with existing regulatory principles.

In terms of timeline, the consultation period ends on **3 March**. The FCA will have to then formally consult on its new rules, although it has begun the process by publishing a discussion paper - [DP22/6: Future Disclosure Framework](#). It is likely that the new regime will therefore not come into force until **early 2024**.

## The Consumer Duty

The new Consumer Duty comes into effect on **31 July 2023** for all existing products and services open for sale or renewal. Under the new duty, “*A firm must act to deliver good outcomes for retail clients*”.

Firms should already have in place their implementation plans and by the **end of April** manufacturers will need to have (i) completed all the reviews necessary to meet the four outcomes and (ii) shared with distributors the information necessary for them to meet their obligations under the duty.

The FCA sees the new Consumer Duty as representing a major shift in financial services, although arguably it is the detail of the rules rather than the overarching principle which will require changes to be made.

In considering its obligations under the new duty firms should also take into account recent communications from the FCA in relation to both COVID-19 and the cost of living crisis, including in Dear CEO letters sent to [life insurers on 14 December 2022](#) and to [general insurers on 29 September 2022](#). These suggest, among other things, that firms should be already having regard to the new requirements. In the 14 December letter the FCA observes that “*Consistent with the Consumer Duty, which comes into force next year, we also expect that life insurers consider how they act to deliver good outcomes via their customer propositions in the changing economic environment*”.

The FCA intends to formalise some of its guidance on supporting customers in financial difficulty within ICOBS and to expand it to cover all customers in financial difficulty, regardless of the reasons for being so. On 11 January it published a [consultation paper \(CP23/1\)](#) on these proposed changes, which it plans to bring into force on **31 July 2023** at the same time as the new Consumer Duty. The consultation period runs until **11 March 2023**. The new guidance in ICOBS will address the identification of consumers in financial difficulty, signposting to available support and options firms should consider to enable them to deliver good outcomes for these customers.

## Climate change initiatives

A number of climate change disclosure initiatives will begin to bite in 2023:

- mandatory climate-related financial disclosures in the Strategic Report apply for financial periods starting on or after 6 April 2022 and will therefore be required for the first time in Strategic Reports produced **this year**
- the new FCA Environmental, Social and Governance Sourcebook requirements for asset managers, life insurers and FCA regulated pension providers to produce TCFD entity and product reports will apply from **1 January 2023** for smaller firms (for asset owners, meaning those with less than £25 billion AUM) who are above the £5 billion AUM threshold

- anti-greenwashing requirements for all regulated firms, as set out in [FCA CP22/20](#), are expected to come into force on **30 June 2023**. These will be aimed at ensuring that any references to the sustainability characteristics of a product are consistent with its sustainability profile and are clear, fair and not misleading

In practice, most large insurers are already publishing extensive climate-related information and will continue to do so. The Government has committed to introducing a mandatory requirement for net zero transition plans in the UK but no consultation on this has been published yet and there is no firm timing. This may be something which emerges during 2023.

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