

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 FINANCIAL STABILITY BOARD

- 1.1 **Depositor behaviour and interest rate and liquidity risks in the financial sector - FSB publishes report - 23 October 2024** - The Financial Stability Board (FSB) has published a report that assesses vulnerabilities in the global financial system related to solvency and liquidity risks amid rising interest rates, the influence of technology and social media on depositor behaviour during bank runs and the impact of technologies on the planning and execution of a resolution.

In short, the analysis finds that life insurers, non-bank real estate investors (comprising real estate investment trusts, real estate funds, and other non-bank mortgage lenders), as well as a weak tail of banks, are the most vulnerable to solvency and liquidity risks. This is because these firms typically have a high proportion of interest rate-sensitive assets and liabilities, and are affected by higher rates through various solvency and liquidity risk channels.

[FSB report: Depositor Behaviour and Interest Rate and Liquidity Risks in the Financial System: Lessons from the March 2023 banking turmoil](#)

[Webpage](#)

[Press release](#)

2 EUROPEAN COMMISSION

- 2.1 **DORA - European Commission adopts Delegated and Implementing Regulations on notifications and reports of major ICT-related incidents and cyber threats - 23 October 2024** - The European Commission has adopted a Delegated Regulation and an Implementing Regulation supplementing the Regulation on digital operational resilience for the financial sector ((EU) 2022/2554) (DORA). They are:

- a Delegated Regulation containing Regulatory Technical Standards on the content and time limits for the initial notification of, and intermediate and final report on, major ICT-related incidents, and the content of voluntary notifications for significant cyber threats (C(2024)6901); and
- an Implementing Regulation laying down Implementing Technical Standards on the standard forms, templates, and procedures for financial entities to report a major ICT-related incident and to notify a significant cyber threat (C(2024)7277).

The Regulations will now be scrutinised by the Council of the EU and the European Parliament.

[Commission Delegated Regulation \(EU\) .../... supplementing DORA with regard to RTS specifying the content and time limits for the initial notification of, and intermediate and](#)

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[final report on, major ICT-related incidents, and the content of the voluntary notification for significant cyber threats \(C\(2024\)6901\)](#)

[Commission Implementing Regulation \(EU\) .../... laying down ITS for the application DORA with regard to the standard forms, templates, and procedures for financial entities to report a major ICT-related incident and to notify a significant cyber threat \(C\(2024\)7277\)](#)

3 EUROPEAN BANKING AUTHORITY

- 3.1 **MiCA - EBA publishes decision on significance of token issuances - 22 October 2024** - The European Banking Authority (EBA) has published a decision (EBA/DC/558) on the procedure for classifying asset-referenced tokens and e-money tokens as “significant” for the purposes of the Regulation on markets in cryptoassets ((EU) 2023/1114) (MiCA). The decision also addresses the transfer of supervisory powers and reporting on tokens following classification.

The decision will come into force the day after its adoption.

[EBA Decision \(EBA/DC/558\)](#)

[Press release](#)

4 UK PARLIAMENT

- 4.1 **Data (Use and Access) Bill - First reading in House of Lords and text published - 23 October 2024** - The Data (Use and Access) Bill has been published following the completion of its first reading in the House of Lords. Among other things, the Bill seeks to update the Government’s regulation-making powers to allow it to establish effective smart data schemes, in the near-term, for open banking and open finance.

A second reading in the House of Lords has yet to be scheduled.

[Data \(Use and Access\) Bill](#)

[Memorandum](#)

[Hansard](#)

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5 PRUDENTIAL REGULATION AUTHORITY AND FINANCIAL CONDUCT AUTHORITY

- 5.1 **Mansion House speeches on growth, bonuses and enforcement - published by PRA and FCA - 17 October 2024** - The Bank of England has published a speech given by Sam Woods, Deputy Governor for Prudential Regulation and Chief Executive Officer of the Prudential Regulation Authority, explaining how the PRA is supporting the UK’s economic growth and international competitiveness.

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In the speech, Mr Woods states that the PRA is undertaking its pro-growth work in a “*careful, balanced way*” with a view to “*reducing bureaucratic processes and some excess conservatism while preserving financial stability*”. He cites the removal of the bankers’ bonus cap as an example of the PRA’s pro-growth work. He also refers to the PRA’s intention to bring forward proposals to move to a five-year deferral period for all senior managers, rather than the current eight years, and to a four-year deferral period for other individuals in the scope of the regime. The PRA also proposes to abolish the 6 to 12 month retention period that applies to higher-paid senior managers and to allow vesting on a pro rata basis from the first year.

The FCA has similarly published a speech given by Nikhil Rathi, FCA Chief Executive, at the same Mansion House event, on growth. Mr Rathi remarks that the new secondary growth objective has enabled the FCA and the industry to have a more candid conversation about their collective risk appetite. Mr Rathi also refers to the development of the FCA’s proposed new approach to publicising enforcement investigations. The FCA intends to publish in November 2024 more data and case studies on how a public interest test could work in practice in this context. The FCA board will decide on the proposals in early in 2025.

The FCA will shortly open a research competition on links between financial regulation and growth. Mr Rathi cites the findings of an FCA research note, also published on 17 October 2024, on the current evidence base connecting financial services regulation to economic growth.

[Bank of England speech: Competing for growth](#)

[FCA speech on growth](#)

[Literature review on regulation and economic growth](#)

6 FINANCIAL CONDUCT AUTHORITY

- 6.1 Cryptoasset businesses registering under MLRs 2017 - FCA publishes blog - 21 October 2024 -** The FCA has published a blog by Val Smith, FCA Head of Payments and Digital Assets, Authorisations Division, on cryptoasset businesses registering under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017/692) (MLRs 2017). Cryptoasset businesses are encouraged to engage with the FCA early through pre-application meetings and use the wide range of practical support offered throughout the registration process. The FCA’s decision on whether to register a cryptoasset business is not just based on the controls and systems that a business has in place, says Ms Smith; it also looks at the environment it operates in, the people involved in its processes and the customers it wants to reach.

[FCA blog: Cryptoasset registrations: building strong foundations](#)

- 6.2 FCA and Practitioner Panel survey 2023/24 - FCA publishes findings - 23 October 2024 -** The FCA has published the findings of the FCA and Practitioner Panel survey for 2023/24. The

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majority of responding firms have a positive view of the FCA's performance over the last year. Areas where the FCA could improve, according to the findings, include doing more to facilitate growth and competitiveness; ensuring that the FCA acts proportionately when introducing new initiatives; and improving the data collection processes to reduce the regulatory burden on firms.

[FCA & Practitioner Panel Survey 2023/24](#)[Press release](#)

BANKING AND FINANCE //

7 FINANCIAL STABILITY BOARD

- 7.1 **Enhancing cross-border payments - FSB publishes progress reports - 21 October 2024** - The Financial Stability Board (FSB) has published three reports on improving cross-border payments: a consolidated report on actions being progressed as part of the G20 Roadmap for Enhancing Cross-Border Payments; a report on meeting relevant key performance indicators measuring aspects of the user experience in payments; and a report on the implementation of the Legal Entity Identifier.

Overall, the FSB wishes to encourage discussion about the nature of the challenges in meeting relevant targets and the potential ways forward to address them. See also the item below on two new initiatives launched by the ECB on cross-border payments.

[FSB: G20 Roadmap for Enhancing Cross-border Payments: consolidated progress report for 2024](#)[FSB: Annual Progress Report on Meeting the Targets for Cross-border Payments: 2024 Report on KPIs](#)[FSB: Implementation of the Legal Entity Identifier: Progress Report](#)[Press release](#)

8 BANK FOR INTERNATIONAL SETTLEMENTS

- 8.1 **Tokenisation for central banks - CPMI and BIS publish report - 21 October 2024** - The Committee on Payments and Market Infrastructures (CPMI) and the Bank for International Settlements (BIS) have jointly published a report on the implications of tokenisation for central banks, which has been prepared for the G20.

The report explains that the use of platform-based intermediation could reduce existing frictions and could potentially decrease transaction costs, enable new use cases and better match supply and demand. The potential of token arrangements to improve the safety and efficiency of the

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financial system will, however, require sound governance and risk management, says the report. One key consideration noted for central banks in the report is whether, and to what extent, they react to ongoing private sector tokenisation initiatives.

[BIS report: Tokenisation in the context of money and other assets: concepts and implications for central banks](#)

[Webpage](#)

[Press release](#)

9 EUROPEAN BANKING AUTHORITY

- 9.1 **Treatment of structural FX positions - EBA launches consultation - 24 October 2024** - The European Banking Authority (EBA) has published a consultation paper (EBA/CP/2024/21) on draft Regulatory Technical Standards (RTS) on the treatment of and reporting on the structural foreign exchange (FX) positions under Article 104c of the Capital Requirements Regulation (575/2013) (CRR).

Among other things, the EBA plans to introduce clear quantitative thresholds for when a currency is to be considered eligible for the structural FX treatment as well as the possibility for banks to consider only credit risk own funds requirements when determining the position neutralising the sensitivity to the capital ratios in certain situations.

The deadline for responses is 7 February 2025.

[EBA consultation paper: Draft RTS on the treatment of structural FX positions under Article 104c of CRR and on the reporting on structural FX positions \(EBA/CP/2024/21\)](#)

10 EUROPEAN CENTRAL BANK

- 10.1 **SIPS Regulation - ECB launches consultation - 18 October 2024** - The European Central Bank (ECB) has published for consultation a recast version of the Regulation on oversight requirements for systemically important payment systems (SIPS) ((EU) 765/2014) (the SIPS Regulation). The SIPS Regulation applies to large-value and retail payment systems of systematic importance.

Among other things, the ECB intends to amend the definition of a SIPS operator to allow, on an exceptional basis, a euro area branch belonging to a legal entity located outside the euro area to be responsible for the operation of a SIPS.

The deadline for responses is 29 November 2024.

[Recast SIPS Regulation](#)

[Webpage](#)

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- 10.2 Revised Eurosystem cyber resilience strategy - published by ECB - 18 October 2024** - The European Central Bank (ECB) has published a revised version of its cyber resilience strategy. The scope of the strategy has been expanded beyond financial market infrastructures to include entities that are overseen under the Eurosystem oversight framework for electronic payment instruments, schemes and arrangements.

[Revised Eurosystem Cyber Resilience Strategy](#)[Press release](#)

- 10.3 Cross-border payment systems - ECB launches initiatives - 21 October 2024** - The European Central Bank (ECB) has launched two initiatives to improve cross-border payments by interlinking fast payment systems, building on the Eurosystem's TARGET Instant Payment Settlement (TIPS) service. They will involve the implementation of a cross-currency settlement service in TIPS as well as exploratory work on linking TIPS with other fast payment systems, including with partners outside the EU.

See also the item above on the publication by the Financial Stability Board of three reports on cross-border payments.

[ECB statement: TIPS to include cross-currency instant payments service](#)[ECB statement: TIPS to connect to other fast payment systems globally](#)[Press release](#)**11 PRUDENTIAL REGULATION AUTHORITY**

- 11.1 Large exposures framework - PRA consults on amendments - 18 October 2024** - The PRA has published a consultation paper (CP14/24) on amendments to the large exposures framework.

The proposals would involve removing the possibility for firms to use internal model (IM) methods to calculate exposure values to securities financing transactions (SFTs) and to introduce a mandatory substitution approach to calculate the effect of the use of credit risk mitigation techniques. The PRA also intends to amend the limits to trading book exposures for third-party exposures and for intragroup exposures. These changes are partly intended to align the PRA's large exposures framework with the large exposures standard set by the Basel Committee on Banking Supervision. The content of the Large Exposures Part of the PRA Rulebook would be merged with that of Large Exposures (CRR) Part and there would be consequential changes to the PRA supervisory statement on large exposures (SS16/13), as described further in the appendices to the CP.

The deadline for responses is 17 January 2025. The reforms would take effect shortly after the publication of the final policy statement (apart from the proposal to remove the possibility for

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firms to use IM methods to calculate exposure values to SFTs, which would take effect on 1 January 2026).

For more information, see our [briefing on the Slaughter and May website](#).

[PRA consultation paper: Large Exposures Framework \(CP14/24\)](#)

12 FINANCIAL CONDUCT AUTHORITY

- 12.1 Financial resilience of consumer credit firms and non-bank mortgage lenders - FCA publishes multi-firm review findings - 23 October 2024** - The FCA has published its findings from a multi-firm review of consumer credit firms and non-bank mortgage lenders and their approach to financial resilience.

The FCA found that the majority of firms could improve their approach to risk governance and risk management. In particular, firms did not always identify and monitor their risks and financial metrics to give a greater insight into the challenges they face. The FCA also found that there was a lack of adequate wind-down planning undertaken by firms.

The FCA has set out examples of good practice and suggested areas for improvement with respect to the two different categories of firm it reviewed. All firms operating in the consumer credit and non-bank mortgage lending market are expected to review the findings and assess their own approaches and procedures.

[Multi-firm review of consumer credit firms and non-bank mortgage lenders](#)

13 PAYMENT SYSTEMS REGULATOR

- 13.1 Card-acquiring market remedies - PSR seeks feedback - 21 October 2024** - The Payment Systems Regulator (PSR) is seeking feedback on its card-acquiring remedies, which came into effect in 2023. These remedies were originally introduced to make it easier for small and medium-sized (SME) businesses across the UK to compare prices, to negotiate better deals and to switch providers if needed.

Among other things, the PSR is keen to know whether businesses found it easy to locate the online quotation tool and summary box under Specific Direction 14, whether they have seen the trigger messages provided under Specific Direction 15 and if they have ever acted on them. The feedback gathered will help inform the PSR's remedies progress report, which it plans to publish in 2025.

[Press release](#)

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SECURITIES AND MARKETS //

14 EUROPEAN SECURITIES AND MARKETS AUTHORITY

14.1 Legal entity identifiers - ESMA launches survey - 18 October 2024 - The European Securities and Markets Authority (ESMA) has published a survey on the use of legal entity identifiers (LEIs). It is addressed to financial market participants subject to one or more EU regimes, including entities such as cryptoasset service providers, which will be subject to record keeping requirements under the Regulation on markets in cryptoassets ((EU) 2023/1114) (MiCA) and financial entities subject to the Regulation on digital operational resilience for the financial sector ((EU) 2022/2554) (DORA).

The survey has been launched in the context of ongoing discussions on the use of alternative identifiers for legal entities. ESMA will consider the feedback received to the survey by 12 November 2024.

[Survey](#)[Press release](#)

15 UK PARLIAMENT

15.1 Critical Benchmarks Regulations 2024 published - 22 October 2024 - The Critical Benchmarks Regulations 2024 (SI 2024/1051) have been published, together with an explanatory memorandum.

These Regulations specify two benchmarks - the WMR Closing Spot Rates (commonly known in the market as the WMR London 4PM Closing Spot Rate or WMR 4PM Fix) and the ICE Swap Rate® (ISR) - as 'critical' for the purposes of the UK Benchmarks Regulation. As a result, both benchmark administrators must meet additional requirements and will become subject to enhanced regulatory supervision. These specifications also mean that the FCA could, where the relevant criteria are met, use the additional powers specified in the legislation to support their orderly wind-down.

The Regulations will come into force on 13 November 2024.

[Critical Benchmarks Regulations 2024 \(SI 2024/1051\)](#)[Explanatory memorandum](#)[Webpage](#)

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16 ASSOCIATION FOR FINANCIAL MARKETS IN EUROPE

16.1 Reforms to MiFIR and MiFID II - AFME publishes implementation guide - 24 October 2024 - The Association for Financial Markets in Europe (AFME) has published a guide on EU implementation of the second Markets in Financial Instruments Regulation ((EU) 2024/791) (MiFIR II) and the third Markets in Financial Instruments Directive ((EU) 2024/790) (MiFID III) and related aspects of the UK Wholesale Markets Review. It has been written primarily for sell-side firms operating in wholesale secondary markets but may be of wider interest to other market participants.

[AFME: MiFIR / MiFID II reforms in the EU and the UK Implementation Guide for firms operating in wholesale secondary markets](#)

ASSET MANAGEMENT //

17 FINANCIAL CONDUCT AUTHORITY

17.1 Vulnerable customers in the wealth management sector - FCA publishes speech - 24 October 2024 - The FCA has published a speech by Graeme Reynolds, FCA Director of Competition, on vulnerability in the wealth management sector.

Mr Reynolds remarks that some firms are not adequately or proactively identifying vulnerability within their client base and as such cannot accommodate their diverse needs. These failures mean that firms may not be meeting the FCA's expectations under the Consumer Duty. Firms that are getting it right are, firstly, identifying vulnerability and understanding how their clients' vulnerability characteristics will affect their needs as they use their services. They also provide support and adaptations to make those services work for their diverse clients' needs and monitor their clients to recognise how those characteristics and needs change over time.

[FCA speech: Vulnerability is not a buzzword](#)

INSURANCE //

18 INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS

18.1 Strategic Plan 2025-29 - published by the IAIS - 22 October 2024 - The International Association of Insurance Supervisors (IAIS) has published its strategic plan for 2025 to 2029.

Its core objectives will involve placing a greater emphasis on globally consistent implementation of IAIS supervisory material, as well as strengthening its assessment of the implementation of agreed IAIS standards. The three strategic themes that will feature prominently in the IAIS' work programme are climate change, digital innovation and supporting insurance to deliver on its societal purpose of building resilience.

[IAIS Strategic Plan 2025-29](#)

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19 EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

19.1 Standard formula capital requirements for cryptoassets - EIOPA launches consultation - 24 October 2024 - The European Insurance and Occupational Pensions Authority (EIOPA) has published a consultation paper (EIOPA-BoS-24-413) on draft technical advice on standard formula capital requirements for cryptoassets within the EU's regulatory framework for insurers.

In light of the findings of an earlier analysis conducted by EIOPA, it is proposing a 100% haircut to insurers' cryptoassets regardless of their balance sheet treatment and investment structure. It recommends revisiting the prudential treatment of these assets in the future given the relative infancy of the cryptoasset markets.

The deadline for responses 16 January 2025.

[EIOPA consultation paper: technical advice on standard formula capital requirements for investments in cryptoassets \(EIOPA-BoS-24-413\)](#)

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

20 UK PARLIAMENT

20.1 Draft Insurance Distribution (Regulated Activities and Miscellaneous Amendments) Regulations 2024 published - 23 October 2024 - The draft Insurance Distribution (Regulated Activities and Miscellaneous Amendments) Regulations 2024 have been published, along with an explanatory memorandum. The draft Regulations will remove or amend references to the Insurance Distribution Directive ((EU) 2016/97)) which still exist across the UK statute book and are no longer required.

The draft Regulations will come onto force on 1 January 2025.

[Draft Statutory Instrument](#)[Explanatory memorandum](#)[Webpage](#)

21 PRUDENTIAL REGULATION AUTHORITY

21.1 UK Solvency II review - PRA publishes statement on proposed permission requirement for the calculation of loss-absorbing capacity of deferred taxes - 23 October 2024 - The PRA has

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published a statement on the proposed permission requirement for the calculation of loss-absorbing capacity of deferred taxes under the standard formula.

This follows the PRA's proposal, set out in Consultation Paper CP5/24 - Review of Solvency II: Restatement of assimilated law, to introduce a permission requirement, under section 138BA of the Financial Services and Markets Act 2023, in respect of the recognition of an increase in deferred tax assets by firms in their calculation of the loss-absorbing capacity of deferred taxes (LACDT). The statement notes that the PRA is considering whether it is appropriate to introduce a temporary delay in implementing that requirement, to provide firms with additional time to submit relevant applications for s138BA permissions.

In any event, firms must ensure that they can continue to justify using increases in deferred tax assets in their LACDT calculations consistently with the existing requirements, taking into account all relevant matters. The PRA will publish its final policy on CP5/24 proposals in mid-November 2024. If the PRA decides to delay the implementation of the requirement mentioned above, it will provide additional details in that publication.

[PRA statement: Review of Solvency II - PRA statement on proposed permission requirement for the calculation of loss-absorbing capacity of deferred taxes under the standard formula](#)

FINANCIAL CRIME //

22 HM TREASURY

22.1 Counter-terrorism sanctions and the licensing delegation framework - OFSI publishes updated guidance - 21 October 2024 - The Office of Financial Sanctions Implementation (OFSI) has published updated guidance to assist in the implementation of, and compliance with, the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 and on the licensing delegation framework.

[OFSI guidance: Counter-Terrorism sanctions](#)

[OFSI guidance: Licensing Delegation Framework](#)

ENFORCEMENT //

23 FINANCIAL CONDUCT AUTHORITY

23.1 Treatment of customers in financial difficulty - FCA fines motor finance firm £5.4 million - 21 October 2024 - The FCA has published a final notice imposing a fine of £5,397,600 on Volkswagen Financial Services (UK) Limited (the firm), one of the UK's largest motor finance providers, for failing to treat customers in financial difficulty fairly. The failings were identified during the FCA's supervisory work to assess how lenders support borrowers in difficulty.

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According to the FCA, between 1 January 2017 and 31 July 2023, the firm failed to understand its customers' individual circumstances and to provide support tailored to their needs. This meant that, in some cases, the firm took cars away from vulnerable customers without considering other options. The failings were compounded by poorly templated and automated communications. The FCA's work resulted in the firm setting up a redress scheme to compensate affected customers. It has also made improvements to its training for customer service staff and communications, and has introduced a new debt collection model.

[Final Notice: Volkswagen Financial Services \(UK\) Limited](#)**[Press release](#)**

- 23.2 Action against 'finfluencers' - launched by FCA - 22 October 2024** - The FCA has announced that it is interviewing under caution 20 finfluencers, who may be carrying on illegal activity in respect of financial services products, as a part of a targeted campaign. The FCA has also issued 38 alerts against social media accounts operated by finfluencers that may contain unlawful promotions.

The FCA announced in May 2024 that it had brought charges against nine finfluencers in connection with an unauthorised foreign exchange trading scheme, as previously reported in this bulletin. In March 2024 the FCA published social media guidance to help clarify its expectations of firms and other persons (including influencers and finfluencers) communicating financial promotions on social media.

[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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