

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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[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 BANK OF ENGLAND AND FINANCIAL CONDUCT AUTHORITY

- 1.1 **Transforming data collection in the UK financial sector - Bank of England and FCA share future strategy - 28 March 2024** - The Bank of England (the Bank) and the FCA have published their future strategy for transforming data collection from the UK financial sector, seeking to reconsider their approach following the UK's departure from the European Union.

Motivated by industry recommendations on how to improve data reporting, the Bank and FCA are now planning several projects over the next 18 months which will contribute to the following five outcomes:

- data collections which meet and are proportionate to regulators' needs;
- effective and efficient internal processes for creating data collections;
- efficient processes and support for meeting regulatory obligations;
- clear and consistent data definitions; and
- modern systems to underpin data collections.

Industry working groups will be established where necessary to support the workstreams relevant to these five outcomes.

[Bank of England and FCA statement: Transforming Data Collection - response to phase two industry recommendations and future strategy](#)

[Press release](#)

2 FINANCIAL CONDUCT AUTHORITY

- 2.1 **FCA publishes Handbook Notice 117 - 2 April 2024** - The FCA has published Handbook Notice No.117 in which it confirms changes made to the FCA Handbook by the FCA's Executive Regulation and Policy Committee and the FCA board in March 2024. The changes include updates to the Supervision Manual to align with the FCA's refreshed 'Approach to Supervision' document, changes to clarify the requirements of the MIFIDPRU sourcebook, and amendments in relation to cost recovery for connecting to the consolidated tape provider for bonds.

[FCA Handbook Notice No.117](#)

BANKING AND FINANCE //

3 BANK OF ENGLAND

- 3.1 **Payment systems MoU - Bank of England, PRA, FCA and PSR conduct 2023 review - 28 March 2023** - The Bank of England (the Bank) has published a statement on the Memorandum of

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Understanding (MoU) between the Bank, the PRA, the FCA and the Payment Systems Regulator (PSR) (together, the Authorities) on the high-level framework the Authorities use for cooperation on payment systems in the UK. The Financial Services (Banking Reform Act) 2013 requires the Authorities to review this MoU annually.

Following a review in 2023, the Authorities have concluded that the MoU is working well. Areas for future co-operation that have been identified include revisions to the MoU regarding proposed stablecoin regulation, embedding the reforms from the Financial Services and Markets Act 2023, and further enhancing the sharing of information and data. These changes will be implemented over the coming year.

[Press release](#)

SECURITIES AND MARKETS //

4 EUROPEAN SECURITIES AND MARKETS AUTHORITY

4.1 Credit Rating Agencies Regulation - ESMA publishes Consultation Paper containing proposed revisions - 2 April 2024 - The European Securities and Markets Authority (ESMA) has published a Consultation Paper on proposed amendments to Annex I of Regulation 1060/2009 on Credit Rating Agencies (the CRA Regulation) and Delegated Regulation 447/2012 on the demonstration of compliance of credit rating methodologies. The proposals aim to:

- ensure that the relevance of ESG factors within credit rating methodologies is subject to systematic documentation;
- enhance disclosures on the relevance of ESG factors in credit ratings and rating outlooks; and
- deliver a more robust and transparent credit rating process through the consistent application of credit rating methodologies.

The deadline for responses is 21 June 2024. ESMA will consider the feedback received and then submit technical advice to the European Commission by December 2024

[ESMA Consultation Paper: Proposed Revisions to Commission Delegated Regulation \(EU\) 447/2012 and Annex I of CRA Regulation \(ESMA84-2037069784-2122\)](#)

[Press release](#)

5 HM TREASURY

5.1 Accelerated settlement - HM Treasury publishes independent report and response - 28 March 2024 - HM Treasury (the Treasury) has published a report produced by the independent Accelerated Settlement Taskforce (AST), which was created in December 2022 to examine the case for trades to be settled more quickly in the UK, alongside the government's response to the report.

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The government has accepted all of the recommendations of the AST. Most notably, the government fully endorses the AST's recommendation that the UK should commit to moving to a 'T+1' standard settlement period no later than 31 December 2027. The government also agrees with the AST's proposal that the UK should engage with the EU and Switzerland to explore whether coordinating a move to T+1 is possible.

In line with the report, the government is establishing a technical group of industry experts (the Accelerated Settlement Technical Group) to develop the technical and operational changes necessary for the UK to transition to T+1. The group will also determine the appropriate timing for mandating these changes, which should be a date in 2025, and the overall 'go-live' date for T+1.

[Accelerated Settlement Taskforce Report](#)

[HM Treasury policy paper: Accelerated Settlement Taskforce: Government Response](#)

INSURANCE //

6 EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

- 6.1 **Insurance stress test 2024 - EIOPA publishes details on scenario and timeline - 2 April 2024** - The European Insurance and Occupational Pensions Authority (EIOPA) has launched its 2024 stress test exercise which will focus on the economic consequences of a re-intensification or prolongation of geopolitical tensions, envisaging a widespread resurgence of supply chain disruptions leading to lower growth and higher inflation. EIOPA has translated this narrative into a set of market and insurance-specific shocks to assess the insurance industry's resilience to them from a capital as well as from a liquidity perspective. The sample for the stress test will include 48 undertakings from 20 member states and cover over 75% of the EEA market in terms of total assets.

Participating undertakings will have until mid-August 2024 to calculate their results based on the prescribed scenario and submit them to the relevant national supervisor. The outcome will be published in December 2024 in the form of a report based on aggregated data, as well as publication of individual results relating to a subset of capital-based indicators (subject to the consent of the relevant entity).

[Webpage](#)

[Press release](#)

- 6.2 **Solvency II - EIOPA publishes Consultation Paper on reassessment of natural catastrophe risks in standard formula - 3 April 2024** - EIOPA has published a Consultation Paper on reassessing natural catastrophe risks in the standard formula under the Solvency II Directive (2009/138/EC) (Solvency II). EIOPA's review of the parameters aims to better capture the risks stemming from perils such as earthquake, flood, hail and windstorm based on new insights, new data and new

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models that have come online since the last reassessment in 2018. The deadline for responses is 20 June 2024.

[EIOPA Consultation Paper: 2023/2024 \(Re\)assessment of the Nat Cat Standard Formula \(EIOPA-BoS-24/080\)](#)

[Press release](#)

- 6.3 Supervision of reinsurance concluded with third country insurance and reinsurance undertakings - EIOPA publishes supervisory statement - 4 April 2024** - EIOPA has published a supervisory statement (the Statement) on the supervision of reinsurance concluded with third-country insurance and reinsurance undertakings. The Statement intends to highlight the risks stemming from the use of reinsurance provided by reinsurers operating under regulatory regimes not recognised as equivalent to the Solvency II regime. The Statement also applies in some areas to reinsurance arrangements with reinsurers from equivalent third countries.

The Statement sets out supervisory expectations in several areas, including the assessment of the business context when using reinsurance from third countries and the importance of early supervisory dialogue. It further includes supervisory considerations on how to assess reinsurance agreements and undertakings' risk management systems for the use of third-country reinsurers. EIOPA states that national competent authorities should adopt a risk-based approach and consider the principle of proportionality when applying the Statement.

[EIOPA Supervisory Statement on Supervision of Reinsurance Concluded with Third Country Insurance and Reinsurance Undertakings \(EIOPA-BoS-24-075\)](#)

[Press release](#)

ENFORCEMENT //

7 BANK OF ENGLAND AND PRUDENTIAL REGULATION AUTHORITY

- 7.1 Enforcement under FSMA 2023 - Bank of England and PRA launch consultation - 28 March 2024** - The Bank of England (the Bank) and the PRA have published a Consultation Paper on their approach to enforcement, setting out proposed changes to statements of policy and procedure reflecting expanded powers created by the Financial Services and Markets Act 2023 (FSMA 2023) and the Securitisation Regulations 2024.

These additional enforcement powers cover, among other things, recognised payment systems using digital settlement assets, entities involved in the wholesale distribution of cash and critical third parties providing services to the financial sector. To the extent possible, the proposed approaches to using these additional enforcement powers follow the Bank and the PRA's approaches in the other contexts in which each has enforcement powers. The deadline for responses is 28 June 2024.

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[Bank of England and PRA Consultation Paper: The Bank of England's approach to enforcement: proposed changes to statements of policy and procedure following the Financial Services and Markets Act 2023](#)

8 FINANCIAL CONDUCT AUTHORITY

8.1 Unauthorised investment schemes - FCA secures High Court approval for settlement - 4 April 2024 - The FCA has secured approval from the High Court to obtain £1.6 million from Argento Wealth Ltd (AWL) and its sole director, Mr Daniel Willis, who promoted two alleged unlawful investment schemes.

The FCA previously commenced civil proceedings against AWL and Mr Willis in June 2023 to recover investor funds linked to the firm's alleged unlawful activity, with the regulator successfully securing undertakings which froze assets belonging to AWL and Mr Willis. The FCA alleged that AWL unlawfully:

- took approximately £2.8 million as deposits under loan agreements and/or as part of an unauthorised collective investment scheme; and
- arranged investments in EMB Fund Limited totalling about US\$9 million, which breached the restrictions on financial promotion.

The FCA also alleged that Mr Willis was knowingly concerned in this unlawful activity. The High Court has now approved a consent order, with the intention that the money is returned to investors in the schemes.

Neither AWL nor Mr Willis have admitted to the FCA's allegations but have agreed to pay money to the FCA intended for eventual distribution to investors. The FCA states that further court hearings are required to decide how and to whom the funds secured in this agreement should be distributed. The FCA further notes that this process may take a significant amount of time and that investors will incur substantial losses despite the settlement.

[Press release](#)

9 RECENT CASES

9.1 *Hayes and another v R*, [2024] EWCA Crim 304, 27 March 2024

LIBOR and EURIBOR manipulation - Conspiracy to defraud - Doctrine of precedent

The Court of Appeal (the Court) has dismissed appeals from Tom Hayes and Carlo Palombo (the Appellants) regarding their convictions in 2015 and 2019 respectively for conspiracy to defraud pursuant to allegations that they had dishonestly conspired with others to manipulate the London Interbank Offered Rate (LIBOR) and the EU Interbank Offered Rate (EURIBOR). Their convictions were said by the Appellants to have depended on the construction of LIBOR and EURIBOR adopted at their trials.

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The appeals were referred to the Court by the Criminal Cases Review Commission in 2023 following the successful appeals against similar convictions by two other individuals in the United States Court of Appeals for the Second Circuit in *United States v Connolly and Black*, No. 19-3806 (2d Cir. 2022). The decision in *Connolly and Black* adopted a different construction of LIBOR from that adopted by the Court in its previous decisions, which logically extended to EURIBOR.

The Court found nothing in the Second Circuit decision in *Connolly and Black* which caused it any doubt about the correctness of the English decisions as to the construction of LIBOR or EURIBOR as a matter of English law. In summary, this was because the US court was addressing a different question from that being addressed by the English court in its decisions. The Court held that it was bound by its own decisions rather than those of US law, following the doctrine of precedent, and that there was no substantial injustice in this case that would provide reason for the Court to reopen its previous decisions on the same points of law.

[Hayes and another v R, \[2024\] EWCA Crim 304, 27 March 2024](#)

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This Bulletin is prepared by the Financial Regulation Group of Slaughter and May in London. The Group comprises a team of lawyers with expertise and experience across all sectors in which financial institutions operate.

We advise on regulatory issues affecting firms across the financial services sector, including banks, investment firms, insurers and reinsurers, brokers, asset managers and funds, non-bank lenders, payment service providers, e-money issuers, exchanges and clearing systems. We also advise non-regulated businesses involved in financial regulatory matters. In addition, our leading financial regulatory investigations practice is regularly instructed by financial institutions requiring specialist knowledge of financial services regulation together with experience in high profile and complex investigations and contentious regulatory matters.

Most of the projects that we advise on have an extensive international or cross-border element. We work in seamless integrated teams with leading independent law firms which offer many of the most highly regarded financial institutions lawyers in Europe, the US and Asia, as well as strong and constructive relationships with local regulators.

Our Financial Regulation Group also produces occasional briefing papers and other client publications. The five most recent issues of this Bulletin and our most recent briefing papers and client publications appear on the Slaughter and May website [here](#).

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