

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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Slaughter and May
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periodical Insurance
Newsletter. If you
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the distribution list,
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GENERAL //

1 FINANCIAL STABILITY BOARD

- 1.1 Non-Bank Financial Intermediation - FSB publishes progress report on enhancing resilience - 22 July 2024** - The Financial Stability Board (FSB) has published a progress report alongside an accompanying letter on enhancing the resilience of non-bank financial intermediation (NBFi) ahead of the G20's meeting on 25-26 July 2024. The FSB emphasises the critical importance of finalising and implementing international reforms to enhance NBFi resilience, so that market participants internalise fully their own liquidity risk. The report concludes by outlining further work to assess and address systemic risk in NBFi.

[FSB progress report: Enhancing the Resilience of Non-Bank Financial Intermediation](#)

[FSB letter](#)

[Press release](#)

2 PRUDENTIAL REGULATION AUTHORITY

- 2.1 Rule permissions and waivers - PRA publishes policy statement and final statement of policy - 25 July 2024** - The PRA has published a policy statement (PS12/24) and a new statement of policy (SoP) setting out its approach to rule permissions, modifications and waivers made under section 138BA of the Financial Services and Markets Act 2000 (FSMA), as inserted by the Financial Services and Markets Act 2023. The SoP took effect on 25 July 2024.

This new power of the PRA to grant rule permissions under s138BA FSMA is expected to be used to transfer some assimilated law (previously known as retained EU law) permissions and approvals into the PRA Rulebook.

[PRA policy statement: The PRA's approach to rule permissions and waivers \(PS12/24\)](#)

BANKING AND FINANCE //

3 EUROPEAN COMMISSION

- 3.1 Basel III - European Commission adopts Delegated Regulation postponing the implementation of FRTB standards - 24 July 2024** - The European Commission has adopted a Delegated Regulation amending the Capital Requirements Regulation (575/2013) (CRR) postponing the date of application of the Basel III fundamental review of the trading book (FRTB) standards in the EU for calculation of banks' capital requirements for market risk, from 1 January 2025 to 1 January 2026.

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The next step is for the European Parliament and the Council of the EU to scrutinise the Delegated Regulation for a period of three months. Subject to this, the Delegated Regulation will come into force on the day after its publication in the Official Journal of the European Union and apply from 1 January 2025. The Commission has also published a Q&A document clarifying the implications of this postponement for banks.

[Commission Delegated Regulation \(EU\) amending the CRR with regard to the date of application of the own funds requirements for market risk \(C\(2024\) 5139 final\)](#)

Q&As

4 EUROPEAN BANKING AUTHORITY

- 4.1 **CRR - EBA publishes peer review report on applying definition of default - 22 July 2024** - The European Banking Authority (EBA) has published a peer review report on its guidelines on the application of the definition of 'default' under the Capital Requirements Regulation (575/2013) (CRR). Finding that the effectiveness of supervision in this area is good (in particular, as regards the monitoring of internal ratings-based approach institutions), the report identifies a small number of follow-up measures for competent authorities.

[EBA peer review on the guidelines on the application of the definition of default \(EBA/GL/2016/07\)](#)

[Press release](#)

5 EUROPEAN CENTRAL BANK

- 5.1 **Non-bank PSP access to central bank payment systems and accounts - ECB publishes policy - 19 July 2024** - The European Central Bank (ECB) has published a harmonised policy developed by the Eurosystem to allow non-bank payment service providers (PSPs) to access central bank-operated payment systems. Starting in April 2025, non-bank PSPs meeting certain requirements will be able to access TARGET, including T2 (for settling payments) and TIPS (for settling instant payments). Euro area national central banks that operate payment systems other than TARGET Services will develop the terms and conditions to implement access by non-bank PSPs in line with the principles outlined in the policy.

Finally, the policy confirms that the Eurosystem will not provide accounts to non-bank PSPs for safeguarding users' funds at central banks. A related ECB decision will follow in due course.

[ECB: Policy on access by non-bank payment service providers to central bank operated payment systems and to central bank accounts](#)

[Press release](#)

- 5.2 **Governance and risk culture - ECB launches consultation on draft guide for banks - 24 July 2024** - The European Central Bank (ECB) has published for consultation a draft guide on

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governance and risk culture, which aims to serve as a practical reference point for banks. The ECB highlights that there is still room and need for improvement in this area despite progress made since the global financial crisis, and the guide will replace the 2016 Single Supervisory Mechanism (SSM) supervisory statement on governance and risk appetite.

The guide, which does not lay down legally binding requirements, clarifies supervisors' expectations regarding how management bodies and committees should be composed and function, spells out the roles and responsibilities of the internal control functions, emphasises the importance of risk culture and outlines expectations regarding the risk appetite frameworks of banks. The deadline for responses is 16 October 2024.

[ECB consultation paper: Draft guide on governance and risk culture](#)

[Press release](#)

6 HM TREASURY

6.1 Bank Resolution (Recapitalisation) Bill laid before Parliament alongside HM Treasury Special Resolution Regime consultation response - 19 July 2024 - The Bank Resolution (Recapitalisation) Bill, sponsored by HM Treasury and announced at the King's Speech on 17 July 2024, has been laid before Parliament. The purpose of the Bill is to enhance the UK's resolution regime for managing the failure of financial institutions. Specifically, the Bill amends the Financial Services and Markets Act 2000 and the Banking Act 2009 to:

- expand the statutory functions of the Financial Services Compensation Scheme (FSCS), requiring it to provide funds to the Bank of England upon request which could be used to meet certain costs arising from the use of the resolution regime to manage the failure of a bank, building society or Prudential Regulation Authority (PRA)-authorised investment firm;
- allow for the FSCS to use its levy-raising powers to recover any funds provided to the Bank of England after a failure event by imposing levies on the banking sector (while exempting credit unions from any levy raised under this mechanism);
- give the Bank of England the express ability to require the issuance of shares in connection with a resolution, facilitating the Bank of England's use of these funds to meet a failing bank's recapitalisation costs; and
- make a number of minor and consequential amendments to legislation to support the measures outlined above and ensure FSCS funds can be used effectively in a resolution.

Alongside the Bill, HM Treasury has published a response to its January 2024 consultation on these reforms to the UK's Special Resolution Regime. HM Treasury states that, broadly, the Bill implements the position set out in that consultation. The main modification is that credit unions will not be required to contribute to the costs of recapitalisation should the new mechanism be used.

The Bill's second reading in the House of Lords is scheduled for 30 July 2024.

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[Government Response to Consultation: Enhancing the Special Resolution Regime](#)

[Bank Resolution \(Recapitalisation\) Bill](#)

7 FINANCIAL CONDUCT AUTHORITY

7.1 Access to cash - FCA publishes policy statement on final rules - 24 July 2024 - The FCA has published a policy statement (PS24/8) setting out final rules for its new access to cash regime. From 18 September 2024, banks and building societies will need to:

- assess cash access and understand whether additional services are required when changes are being made to local services;
- respond to local residents, community organisations and representative groups, who will be able to request an assessment of whether there are gaps in local access to cash;
- deliver reasonable additional cash services, where significant gaps are found; and
- keep facilities, including bank branches and ATMs, open until any additional cash services identified are available.

The FCA has made changes to the rules it consulted on in December 2023 (CP23/29), including extending the period for banks and building societies to carry out cash access assessments and giving local communities more time to make their case. Firms will also be able to review the provision of identified cash services after two years.

The FCA has also published a research note on who relies on cash. This found that being in a low-income household (less than £15,000 a year) and having low digital capability or access has the strongest association with reliance on cash.

[FCA policy statement: Access to Cash: Feedback to CP23/29 and final rules \(PS24/8\)](#)

[Research note: An empirical analysis of characteristics associated with cash reliance in the UK](#)

[Press release](#)

8 PAYMENT SYSTEMS REGULATOR

8.1 Extensions and exemptions to specific directions - PSR publishes policy statement - 24 July 2024 - The Payment Systems Regulator (PSR) has published a policy statement (PS24/4) providing firms with greater transparency around how it will make decisions on whether to grant exemptions or extensions to a specific direction or requirement. The PSR maintains that the bar for granting an exemption or extension is a high one.

[PSR policy statement: Securing compliance: Extensions and exemptions guidance \(PS24/4\)](#)

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SECURITIES AND MARKETS //

9 EUROPEAN SECURITIES AND MARKETS AUTHORITY

- 9.1 **MiFIR - ESMA publishes statement on transition to new regime for post-trade transparency of OTC-transactions - 22 July 2024** - The European Securities and Markets Authority (ESMA) has published a statement on the transition to the new regime for publication of over-the-counter transactions (OTC-transactions) for post-trade transparency purposes (the DPE regime), as introduced by the Markets in Financial Instruments Regulation ((EU) 600/2014) (MiFIR) review.

The statement provides practical guidance to market participants, setting out a two-step approach whereby: (i) first, ESMA starts publishing the DPE register on 29 September 2024, and (ii) second, the new DPE regime for post-trade transparency becomes fully operational on 3 February 2025.

[ESMA statement: The transition to the new regime for post-trade transparency of OTC-transactions \(ESMA74-2134169708-7345\)](#)

10 BANK OF ENGLAND

- 10.1 **UK Money Markets Code - Bank of England publishes update - 18 July 2024** - The Bank of England has published an updated version of its UK Money Markets Code which sets out standards and best practice expected from market participants in the deposit, repo and securities lending markets in the UK. Changes to the Code cover, among other things, the process for UK market participants in the event of unplanned bank holidays.

[The UK Money Markets Code - June 2024](#)

- 10.2 **CCP resolution - Bank of England publishes two consultation papers on powers under Schedule 11 of the Financial Services and Markets Act 2023 - 18 July 2024** - The Bank of England (the Bank) has published two consultation papers on its proposed approach to its powers under Schedule 11 of the Financial Services and Markets Act 2023 (Schedule 11), which establishes a new regime for resolving central counterparties (CCPs) that are deemed to be failing or likely to fail. These are:

- a consultation paper on the Bank's approach to determining commercially reasonable payments for contracts subject to a statutory tear up in CCP resolution, a stabilisation option established under Schedule 11 where clearing member contracts are terminated; and
- a consultation paper on the Bank's policy for exercising its power to direct CCPs to address impediments to the effective exercise of the stabilisation powers under Schedule 11.

The deadline for responses is 4 and 18 October 2024 respectively.

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[Bank of England consultation paper: The Bank of England's approach to determining commercially reasonable payments for contracts subject to a statutory tear up in CCP resolution](#)

[Bank of England consultation paper: The Bank of England's power to direct a central counterparty to address impediments to resolvability](#)

ASSET MANAGEMENT //

11 FINANCIAL CONDUCT AUTHORITY

- 11.1 [Overseas Funds Regime - FCA updates webpage announcing operational impact for operators of TMPR funds - 19 July 2024](#) - The FCA has updated its webpage on the overseas funds regime (OFR) with information on the operational impact for operators of funds in the temporary marketing permissions regime (TMPR). The FCA provides information regarding fund population data, changes of operator within the TMPR, addition of new sub-fund(s) and additions of sub-fund(s) not notified under the TMPR.

[Updated webpage](#)

INSURANCE //

12 EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

- 12.1 [AI systems in the insurance sector - EIOPA publishes factsheet on applicable regulatory framework - 25 July 2024](#) - The European Insurance and Occupational Pensions Authority (EIOPA) has published a factsheet which provides an overview of the regulatory framework that applies to artificial intelligence systems in the insurance sector. This includes a summary of additional requirements placed by the EU AI Act ((EU) 2024/1689) on providers or deployers of high-risk AI systems in insurance.

[EIOPA factsheet: Regulatory Framework Applicable to AI Systems in the Insurance Sector](#)

ENFORCEMENT //

13 FINANCIAL CONDUCT AUTHORITY

- 13.1 [BSPS - FCA publishes report on action from the FCA, FOS and FSCS - 24 July 2024](#) - The FCA has published a report outlining the joint action it has taken alongside the Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme (FSCS) in respect of offering redress to those who received unsuitable pension advice regarding the British Steel Pension Scheme (BSPS).

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Over £106 million in redress has now been offered to 1,870 former BSPS members to put them back in the position they would have been at retirement, and more than 6,500 former members have been supported by the FOS, FSCS or FCA through its redress scheme. The FCA has carried out around 30 enforcement investigations into BSPS transfer advice which has resulted (pending some appeals) in:

- 15 individuals being banned from working in financial services or holding a specific role; and
- firms or individuals being required to pay fines or make payments to the FSCS totalling £8.87 million.

The FCA notes that over 200 claims are still underway through the redress scheme.

[FCA report: British Steel Pension Scheme transfers: action from the FCA, FOS and FSCS](#)

[Press release](#)

- 13.2 FCA publishes Final Notice and imposes financial penalty on CB Payments Limited - 25 July 2024** - The FCA has published a Final Notice addressed to CB Payments Limited (CBPL), an authorised e-money institution that is part of Coinbase Group and which acts as a gateway for customers to trade cryptoassets via other group entities.

CBPL has been fined £3.5 million for repeated breaches of a voluntary requirement that prevented the firm from offering services to high-risk customers, following FCA concerns about the effectiveness of CBPL's financial crime control framework. CBPL agreed to resolve this matter and qualified for a 30% discount under the FCA's executive settlement procedure.

This marks the first time the FCA has taken enforcement action using powers under the Electronic Money Regulations 2011. Therese Chambers, joint executive Director of Enforcement and Market Oversight at the FCA said that *"the money laundering risks associated with crypto are obvious and firms must take them seriously."*

[Final Notice: CB Payments Limited](#)

[Press release](#)

14 COMPETITION AND MARKETS AUTHORITY

- 14.1 Retail Banking Market Investigation Order 2017 - CMA publishes letters to banks addressing rule breaches - 25 July 2024** - The Competition and Markets Authority (CMA) has published letters addressed to HSBC, Lloyds, TSB and Allied Irish Bank (AIB) for failure to comply with the Retail Banking Market Investigation Order 2017 (the Order).

The CMA states that all four banks failed to make available correct data about their products or services in breach of the Order, including up-to-date information relating to bank branches,

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annual rates for loans and overdrafts and maximum amounts charged for using unarranged overdrafts.

Lloyds, TSB and AIB have confirmed changes to their operations to prevent further breaches. In the case of HSBC, added measures are needed to prevent future breaches. To start the process, the CMA has issued HSBC with detailed directions which include an action plan to ensure full compliance in the future.

[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](#).

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