

# 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 EUROPEAN PARLIAMENT

- 1.1 **Proposed Regulation on ESG rating activities and CSDDD - European Parliament votes to adopt legislation - 24 April 2024** - The European Parliament has voted to adopt a proposed Regulation on the transparency and integrity of Environmental, Social and Governance rating activities (2023/0177(COD)).

Separately, it has also voted to adopt a Directive on corporate sustainability due diligence (2022/0051(COD)) (CSDDD). The text was proposed by the Council of the EU in March 2024 following its failure to endorse the previous agreement reached in December 2023. The CSDDD will apply to a range of organisations, including financial undertakings that fall within the general scope criteria (with an exemption for AIFs and UCITS).

The proposed Regulation and the proposed Directive each require adoption by the Council of the EU before publication in the Official Journal of the EU.

**Texts adopted: Proposed Regulation on ESG rating activities (2023/0177(COD))**

[Webpage](#)

**Texts adopted: CSDDD (2022/0051(COD))**

[Webpage](#)

### 2 FINANCIAL CONDUCT AUTHORITY

- 2.1 **Navigating the UK's digital regulation landscape - FCA publishes speech and launches AI and Digital Hub - 22 April 2024** - The FCA has published a speech by Nikhil Rathi, FCA Chief Executive, on navigating the UK's digital regulation landscape, delivered at the Digital Regulation Co-operation Forum (DRCF).

In the speech, Mr Rathi notes that a priority for the DRCF (of which the FCA is a member and Mr Rathi is the current Chair) will be to lead “*a co-ordinated and effective effort to make the most of the opportunities of Big Tech - whilst mitigating the risks*”. He refers to the FCA's response to the call for input on the competition implications of Big Tech and data asymmetry, also covered in this Bulletin below. In particular, he notes that “*respondents believed that the data from Big Tech could have significant value but were unable to provide evidence given their lack of access to it*”.

Consideration of the cross-regulatory implications of AI is also identified as an important area. It will form a core part of the work of the DRCF's newly-launched AI and digital hub pilot, which will support innovators by providing informal advice on complex regulatory questions that cross more than one DRCF regulator's remit. Mr Rathi also refers to the FCA's response to the government's recent consultation on AI (also covered in this week's Bulletin below).

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## [Speech on navigating the UK's digital regulation landscape](#)

### [Press release](#)

- 2.2 Data asymmetry between Big Tech and financial services firms - FCA publishes feedback statement on impact on competition (FS24/1) - 22 April 2024** - The FCA has published a feedback statement (FS24/1) to its November 2023 call for input on data asymmetry between Big Tech firms and financial services firms.

In determining its next steps, the FCA has sought to balance its overall conclusion that no significant harm has arisen from data asymmetry to date, while starting to develop a regulatory framework that enables increased competition and innovation. The FCA will continue to monitor Big Tech firms' activities in financial services to assess whether policy changes are needed. It also plans to work with Big Tech firms to examine whether their data from core digital activities would be valuable in certain retail financial markets. Depending on these results, the FCA will develop proposals in the context of Open Finance and for consideration by the Competition and Markets Authority. Alongside these initiatives, the FCA and the PSR will work closely together to understand the risks and opportunities related to digital wallets.

### [FCA feedback statement: Potential competition impacts from the data asymmetry between Big Tech firms and firms in financial services \(FS24/1\)](#)

#### [Webpage](#)

- 2.3 Anti-greenwashing rule and extension of SDR and labelling regime - FCA publishes final guidance (FG24/3) and launches consultation (CP24/8) - 23 April 2024** - The FCA has published final guidance (FG24/3) on its new anti-greenwashing rule in the ESG sourcebook, which will come into force on 31 May 2024. The guidance is designed to help firms understand and implement the new rule, following requests for clarifications from respondents to the consultation paper (CP) on SDR and investment labels (CP22/20).

The anti-greenwashing rule forms part of a package of measures that the FCA will implement through its sustainability disclosure requirements (SDR) and investment labels regime. The FCA has also separately published a consultation paper (CP24/8) on the possibility of extending that regime to portfolio management. The proposals are aimed primarily at wealth management services for individuals and model portfolios for retail investors. Firms offering portfolio management services to professional clients will be able to opt into the labelling regime, but will not be subject to the naming and marketing requirements and associated disclosures.

CP24/8 closes to comments on 14 June 2024. The FCA intends to publish its final rules in the second half of 2024.

### [FCA Finalised non-handbook guidance on the Anti-Greenwashing Rule \(FG24/3\)](#)

#### [Webpage](#)

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### 3 BANK OF ENGLAND, PRUDENTIAL REGULATION AUTHORITY AND FINANCIAL CONDUCT AUTHORITY

- 3.1 **Approach to AI - Bank of England, PRA and FCA respond to government paper - 22 April 2024** - The FCA has published an update following the publication in February 2024 of the government's paper on a pro-innovation approach to AI regulation, which set out five general principles to guide the regulation of AI in the UK.

In the update, the FCA outlines at a high level how some of the key elements of its existing regulatory framework map to each of the five principles. It also sets out its plans in this space for the coming year, which will include re-running, with the Bank of England, the machine learning survey. As noted above, the FCA is also working within the Digital Regulation Co-operation Forum (DRCF) to deliver a pilot AI and digital hub.

The Bank of England and the PRA have also separately published a joint letter to Michelle Donelan, Secretary of State for Science, Innovation and Technology (DSIT), and Bim Afolami, Economic Secretary to the Treasury and City Minister, on their strategic approach to AI. The letter sets out details of the work they have undertaken to date relating to AI and machine learning and how this fits with their statutory objectives and remit.

The Bank and the PRA note that they are considering four potential areas where further clarification on their regulatory framework could be helpful: data management, model risk management, governance, and operational resilience and third-party risks.

[FCA AI update](#)[Joint letter](#)

## BEYOND BREXIT //

### 4 UK PARLIAMENT

- 4.1 **Financial Services and Markets Act 2000 (Disapplication or Modification of Financial Regulator Rules in Individual Cases) Regulations 2024 published - 19 April 2024** - The Financial Services and Markets Act 2000 (Disapplication or Modification of Financial Regulator Rules in Individual Cases) Regulations 2024 (SI 2024/539) have been published on legislation.gov.uk, with an explanatory memorandum. In short, these Regulations give the PRA more flexibility when considering requests for the disapplication or modification of regulator rules. They will come into force on 30 June 2024.

[Financial Services and Markets Act 2000 \(Disapplication or Modification of Financial Regulator Rules in Individual Cases\) Regulations 2024 \(SI 2024/539\)](#)

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## BANKING AND FINANCE //

### 5 EUROPEAN PARLIAMENT

- 5.1 PSR and PSD3 - European Parliament adopts proposed Regulation and Directive - 23 April 2024** - The European Parliament has adopted its position at first reading on the proposed Directive on payment services and electronic money services in the internal market (2023/0209(COD)) (PSD3) and the proposed Payment Services Regulation (2023/0210(COD)) (PSR).

Negotiations between Parliament and Council are expected to begin after the Parliamentary elections are held in June 2024.

[Press release](#)

- 5.2 CRD VI and CRR III - European Parliament votes to adopt amending Regulation and Directive - 24 April 2024** - The European Parliament has voted to adopt proposed amendments to the Capital Requirements Directive (2013/36/EU) (CRD VI) and the Capital Requirements Regulation (575/2012) (CRR III). The proposals require adoption by the Council of the EU before their publication in the Official Journal of the EU.

The CRR III Regulation will apply (with certain exceptions) from 1 January 2025, while member states are expected to apply measures implementing the CRD VI Directive 18 months and one day following its entry into force.

[Press release](#)

- 5.3 CMDI framework reforms - European Parliament votes to adopt legislative proposals - 24 April 2024** - The European Parliament has voted in plenary to adopt the following European Commission legislative proposals for amending the EU bank crisis management and deposit insurance (CMDI) framework:

- a proposed Directive amending the Bank Recovery and Resolution Directive (2014/59/EU) on early intervention measures, conditions for resolution and financing of resolution action (2023/0112(COD)) (BRRD3);
- a proposed Regulation amending the Single Resolution Mechanism Regulation (806/2014) on intervention measures, conditions for resolution and funding of resolution action (2023/0111(COD)) (SRM Regulation 3); and
- a proposed Directive amending the Deposit Guarantee Schemes Directive (2014/49/EU) as regards the scope of deposit protection, use of deposit guarantee schemes funds, cross-border co-operation and transparency (2023/0115(COD)) (DGSD2).

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The proposals require adoption by the Council of the EU before their publication in the Official Journal of the EU.

[Press release](#)

## 6 TREASURY SELECT COMMITTEE

- 6.1 Increase in debanking complaints - Treasury Select Committee publishes correspondence - 21 April 2024** - The Treasury Select Committee (the Committee) has published correspondence with the Financial Ombudsman Service (FOS) on the closure of customer bank accounts (referred to as 'debanking'). As part of its inquiry into SME finance, the Committee requested information (in a letter dated 22 March 2024) from the FOS on the number of debanking complaints received by it. This data shows that the number of complaints has increased by 69% since 2020/21 (including an 81% increase in complaints made by businesses). The FOS says these increases could be attributed to changes in banks' processes and behaviours or media interest.

[Treasury Select Committee letter \(22 March 2024\)](#)[FOS response \(5 April 2024\)](#)[Press release](#)

## 7 BANK OF ENGLAND

- 7.1 Financial stability risks posed by private equity - Bank of England publishes speech - 22 April 2024** - The Bank of England (the Bank) has published a speech given by Nathanaël Benjamin, Executive Director for Financial Stability Strategy and Risk, focusing on the macro-prudential implications of the growth of the private equity market. Mr Benjamin refers to some of the challenges facing the private equity sector, noting that these developments are set against a backdrop of opacity regarding the degree and kinds of leverage entering the financial system as well as growing interconnectedness in the ecosystem.

The Bank of England's Financial Policy Committee intends to publish an assessment of the risks from private equity and interconnected markets in its June 2024 financial stability report.

See also the item below on the PRA's Dear CRO letter on the PRA's thematic review of private equity-related financing activities and a speech on the findings.

[Bank of England speech: Not-so-private questions](#)

- 7.2 Wholesale cash distribution market oversight - Bank of England finalises codes of practice - 24 April 2024** - The Bank of England has published the final version of three codes of practice for wholesale cash distribution (WCD) market oversight.

The first of these Codes relates to information gathering and encompasses a final version of the WCD data catalogue, together with a template reporting form. A second Code on third-party

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arrangements requires firms to carry out a materiality assessment of all current and proposed arrangements with third-party providers of products, goods or services in respect of the firm's relevant WCD functions and activities. The third Code requires recognised firms to engage with the Bank at as early a stage as possible in the strategic planning of a material change, such as the closure of a cash centre or market exit.

[Codes of practice](#)

## 8 PRUDENTIAL REGULATION AUTHORITY

- 8.1 Private equity-related financing activities - PRA publishes Dear CRO letter and speech on thematic review - 23 April 2024** - The PRA has published a letter sent to bank chief risk officers (CROs) on the PRA's thematic review of private equity-related financing activities. It has also published a speech by Rebecca Jackson, Executive Director, Authorisations, Regulatory Technology and International Supervision, on the review's findings.

The thematic review was launched in August 2023 to assess the adequacy of banks' risk management frameworks given the increasing scale, breadth, complexity and interconnectedness of banks' private equity-related exposures. As explained more fully in the Dear CRO letter, the PRA's expectations in this context revolve around data aggregation, credit and counterparty risk interlinkages, stress testing and board-level reporting. Its findings are set out in more detail in the Annex. Firms are expected to identify any gaps between the PRA's expectations and their internal risk and governance frameworks and to share the output of that benchmarking exercise with their board risk committees. This analysis, together with detailed plans to remediate any gaps, should be provided to the relevant firms' PRA supervision team by 30 August 2024.

The letter and the speech follow on from the speech delivered by Nathanaël Benjamin, Executive Director for Financial Stability Strategy and Risk, focusing on the macro-prudential implications of the growth of the private equity market (see item above).

[PRA letter to Chief Risk Officers: Thematic review of private equity related financing activities](#)

[Webpage](#)

[Private equity financing - speech by Rebecca Johnson](#)

## 9 FINANCIAL CONDUCT AUTHORITY

- 9.1 ARs undertaking credit broking - FCA highlights good practice and improvement areas - 23 April 2024** - The FCA has published a webpage setting out good practice and areas for improvement for appointed representatives (ARs) and introducer appointed representatives (IARs) undertaking credit broking.

Some of the key areas for improvement include making enquiries with other principals where an AR has been (or is currently) appointed to another principal and being more proactive to identify

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harm caused by their ARs. In addition, the FCA found a potential conflict of interest between persons who were maintaining and developing commercial relationships with ARs, while also being responsible for a compliance function involving the ongoing monitoring of the ARs. Another concern was that some firms did not check an AR's website after termination to ensure it no longer stated that it was an AR of that firm.

The FCA looked at principal firms that introduce consumers to lenders or other brokers to provide finance but says that firms with ARs conducting other types of activity will also benefit from considering its findings.

[Principal firms who have Credit Broking permissions: Good practice and areas for improvements](#)

## 10 JOINT REGULATORY OVERSIGHT COMMITTEE

**10.1 Open Banking next phase - JROC publishes proposals for design of future entity - 19 April 2024** - The Joint Regulatory Oversight Committee (co-chaired by the FCA and the Payment Systems Regulator) (JROC) has published its proposals for the design of the future entity that will ultimately replace Open Banking Ltd. The JROC is asking firms to comment on that entity's structure, governance and funding.

The deadline for comments is 20 May 2024.

[JROC's proposals for the design of the Future Entity for UK open banking](#)

[Webpage](#)

[FCA call for input](#)

## 11 UK FINANCE

**11.1 Commercial variable recurring payments model clauses - UK Finance publishes report - 22 April 2024** - UK Finance has published a report on model clauses for commercial variable recurring payments (VRPs). VRPs are a form of payment instruction that allows customers to authorise registered payment service providers (PSP) to initiate payments from their bank account on an ongoing basis. The consent given to the PSP enables them to make recurring or subsequent payments, where the timing or the amount might vary, within agreed limits.

The report contains a set of voluntary model contractual terms that can be used in arrangements between account providers and PSPs who are building and developing these propositions.

[UK Finance report: Commercial Variable Recurring Payments Model Clauses](#)

[Press release](#)

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## 12 RECENT CASES

### 12.1 *Dexia v Single Resolution Board*, (Case T-411/22) EU:T:2024:216, 10 April 2024

*European General Court - Single Resolution Mechanism - Ex ante contributions*

The European General Court has considered the lawfulness under the Single Resolution Mechanism (SRM) Regulation (806/2014) (SRM Regulation) of a decision of the Single Resolution Board (SRB) concerning contributions payable to the Single Resolution Fund (SRF). The case revolved around the application of a requirement to calculate ex-ante contributions for individual banks to ensure that the contributions do not exceed 12.5% of the relevant target level. The court annulled the contested decision in so far as it concerned the bank in question, while provisionally maintaining its effect for no more than six months to allow the SRB time to implement the judgment.

[Dexia v Single Resolution Board, \(Case T-411/22\) EU:T:2024:216](#)

[Press release](#)

## SECURITIES AND MARKETS //

## 13 EUROPEAN PARLIAMENT

### 13.1 EMIR 3 - European Parliament votes to adopt amending Regulation and Directive - 24 April 2024 - The European Parliament has voted to adopt proposals for a Regulation and a Directive which amend the European Market Infrastructure Regulation (648/2012/EU) to mitigate excessive exposures to third-country central counterparties (CCPs) and improve the efficiency of EU clearing markets (referred to as EMIR 3) (2022/0403(COD) and 2022/0404(COD)).

The texts have not yet undergone full lawyer-linguist revision. In addition, the proposals require adoption by the Council of the EU before their publication in the Official Journal of the EU.

[Press release](#)

### 13.2 SME access to capital - European Parliament votes to adopt legislative proposals - 24 April 2024 - The European Parliament has voted in plenary to adopt the following legislative proposals that aim to improve access to funding by listing of companies of all sizes but, in particular, SMEs:

- a Regulation amending the EU Prospectus Regulation (EU) 2017/1129 (EU PR), the EU Market Abuse Regulation (596/2014/EU) (EU MAR) and the Markets in Financial Instruments Regulation (600/2014) (MiFIR) (2022/0411(COD));
- a Directive on multiple-vote share structures (2022/0405(COD)); and
- a Directive amending the second Markets in Financial Instruments Directive (MiFID II) and repealing Directive 2001/34/EC (the Listing Directive) (2022/0406(COD)).

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The proposals require adoption by the Council of the EU before their publication in the Official Journal of the EU.

[Press release](#)

## 14 EUROPEAN SECURITIES AND MARKETS AUTHORITY

- 14.1 Outcomes of global CCP fire drill - ESMA publishes report - 24 April 2024** - ESMA has published a report on the outcomes of the 2023 central counterparties (CCP) Global International Default Simulation (2023 CIDS), referred to as a global fire drill. The 2023 CIDS was undertaken in November 2023 and involved over 30 CCPs (including the majority of EU CCPs) simultaneously running a simulation of their default management processes to test responses to the default of a hypothetical major clearing member.

While no major operational bottlenecks were identified, ESMA notes that it intends to work with other regulators, CCPs and their stakeholders to ensure that the key takeaways from this exercise are taken into account.

[Follow-up Report: Global CCP fire drill 2023 - Main outcomes](#)

## 15 BANK OF ENGLAND

- 15.1 2024 CCP supervisory stress test - Key elements published by Bank of England - 19 April 2024** - The Bank of England (the Bank) has published a webpage setting out the key elements of its 2024 public supervisory stress test (SST) of UK central counterparties (CCPs) and market stress scenarios. This will be the Bank's third public CCP SST exercise and will focus on a credit stress test (to assess the sufficiency of CCPs' financial resources to absorb losses) and a credit reverse stress test (to assess CCPs' resilience to increasingly severe scenarios and assumptions to identify potential combinations that might deplete CCPs' prefunded and non-prefunded financial resources).

The clearing services of all three UK authorised CCPs (that is, ICE Clear Europe Ltd, LCH Ltd and LME Clear Ltd) will be in scope of the exercise. The Bank will analyse the results and intends to publish a report in Q4 2024.

[Webpage](#)

## 16 FINANCIAL MARKETS STANDARDS BOARD

- 16.1 Risk management and electronic trading algorithms - FMSB publishes statement of good practice - 22 April 2024** - The Financial Markets Standards Board (FMSB) has published a final statement of good practice for the application of a model risk management framework to electronic trading algorithms (algos). The statement, which was industry-developed, applies to participants in wholesale financial markets that operate algos involving the use of models and is

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designed to supplement existing broader supervisory guidance, such as the PRA's supervisory statement (SS1/23).

**FMSB: Statement of Good Practice for the application of a model risk management framework to electronic trading algorithms**

[Press release](#)

## INSURANCE //

### 17 EUROPEAN PARLIAMENT

**17.1 Solvency II and IRRD - European Parliament adopts proposed Directives - 23 April 2024** - The European Parliament has voted to adopt the proposed Directive (2021/0295(COD)) amending the Solvency II Directive (2009/138/EC) (Solvency II) and the proposed Insurance Recovery and Resolution Directive (2021/02396(COD)) (IRRD).

The Directives require formal adoption by the Council of the EU in order to be published in the Official Journal of the European Union and enter into force.

[Press release](#)

### 18 EUROPEAN SYSTEMIC RISK BOARD

**18.1 Prudential treatment of environmental and social risks - ESRB publishes advice to EIOPA - 23 April 2024** - The European Systemic Risk Board (ESRB) has published its advice to EIOPA on the prudential treatment of environmental and social risks.

The advice focuses on environmental risks that are also likely to become drivers of social risks and considers to what extent these risks can be tackled within the existing prudential framework. The ESRB recommends that, rather than establishing a dedicated prudential treatment for sustainability risks, EIOPA should - with relative urgency - use the tools and provisions already found in the revised Solvency II Directive (2009/138/EC). Moreover, it recommends the use of a Systemic Risk Buffer tailored to insurers as a complementary macro-prudential tool.

**[ESRB advice to EIOPA on the prudential treatment of environmental and social risks](#)**

### 19 PRUDENTIAL REGULATION AUTHORITY

**19.1 Restatement of assimilated law following Solvency II review - PRA consults (CP5/24) - 22 April 2024** - The PRA has published a consultation paper (CP5/24) on a restatement of assimilated law following the Solvency II review (CP5/24). This is the final PRA consultation needed to implement the conclusions of that review and to finalise PRA rules and other policy materials that will replace Solvency II assimilated law (which is being revoked by the government under its Smart Regulatory Framework (SRF) programme).

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The consultation proposes the restatement into PRA policy material of those parts of the Solvency II regime that have not already been subject to consultation. The assimilated law covered by the CP is summarised in Appendix 2 and includes, among others, provisions from Commission Delegated Regulation (EU) 2015/35, the Solvency 2 Regulations 2015 (SI 2015/575) and certain related technical standards. The PRA is also proposing a new time-limited transitional rule in the Own Funds Part of the PRA Rulebook. This will permit firms to continue, for a period of 25 years, to treat legacy paid-in preference shares issued before 18 January 2015 as not relevant when assessing the compliance of their ordinary shares with certain unrestricted T1 own funds requirements.

The deadline for responses is 22 July 2024. The implementation date for the changes will be 31 December 2024. A chart showing a timeline of reforms is set out in chapter 1.60 of the consultation.

[PRA consultation paper: Review of Solvency II: Restatement of assimilated law \(CP5/24\)](#)

## Appendices

**19.2 Regulatory developments for bulk purchase annuities sector - PRA publishes speech - 25 April 2024** - The PRA has published a speech given by Lisa Leaman, PRA Head of Division, London Markets, on regulatory developments for insurers in the bulk purchase annuities (BPA) sector.

Among other things, Ms Leaman refers to the practical challenges of implementing matching adjustment (MA) reforms by 30 June 2024. The relevant policy statement and final rules, expected in early June 2024, will confirm the date (or dates) on which the new requirements will take effect and whether early adoption will be possible on a voluntary basis.

Ms Leaman also comments on industry proposals for sandboxes, noting one suggestion to use a sandbox to obtain MA benefit for assets that a firm considers to be MA eligible, but for which the streamlined application process might be either too slow or too costly given the size of the exposure. The PRA has convened a new Subject Expert Group with a panel of insurers to explore this and other sandbox suggestions.

Ms Leaman also confirms that an approach document, guidelines and instructions for the 2025 Life Insurance Stress Test (known as LIST 2025) are due to be published in June 2024.

## Speech

## 20 FINANCIAL CONDUCT AUTHORITY

**20.1 BSPS consumer redress scheme - FCA publishes main decision letter - 22 April 2024** - The FCA has published a redacted version of the main decision letter it has sent to complainants in relation to the British Steel Pension Scheme (BSPS). It has also published a related press release.

The FCA states that it has taken the "unusual decision" to publish the decision letter given the public interest in this issue and to support the FCA's accountability to the public and to

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Parliament. The letter sets out the how the FCA has considered the concerns raised and its resulting actions. The FCA acknowledges that there are lessons for it to learn, which it outlines in the letter, but ultimately concludes that it took appropriate regulatory action based on the information available at the time. The FCA has therefore not upheld the complaints.

The FCA adds that it has accepted a number of the recommendations made following the significant public scrutiny and independent reviews into the BSPS, for example, by the National Audit Office.

[FCA decision letter \(redacted\)](#)

[Press release](#)

## 21 ASSOCIATION OF BRITISH INSURERS

**21.1 Affordability of motor premium finance - ABI publishes principles - 25 April 2024** - The Association of British Insurers (ABI) has agreed five principles relating to motor premium finance to help tackle motor insurance affordability. The principles underline “*what fair practice should look like*” in this context and revolve around five elements: transparency, affordability, fair value, proportionality and accountability. The ABI notes that it has also considered and discussed a voluntary industry-led cap on premium finance charges with the FCA.

[Press release](#)

# FINANCIAL CRIME //

## 22 EUROPEAN PARLIAMENT AND EUROPEAN COMMISSION

**22.1 AML Regulation, MLD 6 and AMLA Regulation - European Parliament and European Commission vote to adopt legislative package - 24 and 25 April 2024** - The European Parliament and European Commission have separately voted to adopt the following:

- a Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AML Regulation) (2021/0239(COD));
- a Regulation establishing the Anti-Money Laundering Authority (AMLA) (AMLA Regulation) (2021/0240(COD)); and
- a Directive on the mechanisms to be put in place by the member states for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 (Sixth Money Laundering Directive or MLD6) (2021/0250(COD)).

The proposals require adoption by the Council of the EU before their publication in the Official Journal of the EU.

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## ENFORCEMENT //

### 23 HOUSE OF LORDS FINANCIAL SERVICES REGULATION COMMITTEE

#### 23.1 FCA proposal to publicise enforcement investigations - Financial Services Regulation

**Committee criticises CP24/2 - 22 April 2024** - The House of Lords Financial Services Regulation Committee has published a letter (dated 18 April 2024) on the FCA's proposals to publicise the identity of firms under investigation, which were set out in a consultation paper on a new approach to publicising enforcement investigations (CP24/2) that is due to close for comments on 30 April 2024.

The Committee sets out its concerns about the proposals, including its view that they risk having a disproportionate effect on firms that are named where those firms are subsequently cleared of any wrongdoing. It also criticises the FCA for proposing the changes without an accompanying assessment of their likely impact. It requests a response from the FCA on several questions by 25 April 2024, which at the time of this Bulletin's writing, has not yet been published.

The Committee asks the FCA not to take further steps to implement the proposals until the Committee has had the opportunity to take evidence on it and reach a final conclusion.

[House of Lords Financial Services Regulation Committee letter: Consultation Paper CP24/2: Our Enforcement Guide and publicising enforcement investigations - a new approach](#)

### 24 FINANCIAL CONDUCT AUTHORITY

#### 24.1 Unauthorised investment management activities - FCA commences criminal proceedings

**against individual - 23 April 2024** - The FCA has commenced criminal proceedings against an individual for carrying out the regulated activity of managing investments without authorisation under the Financial Services and Markets Act 2000 (FSMA). The FCA alleges that, between March 2019 and January 2021, the individual operated an unauthorised investment scheme that involved trading contracts for differences in foreign exchange (FX). The FCA also alleges that the individual concealed significant losses from investors and defrauded investors by misrepresenting how the scheme was operated and over the handling of investor funds.

The case has been sent to Maidstone Crown Court for a plea and trial preparation hearing on 21 May 2024.

[Press release](#)

## Selected Headlines

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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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