

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 EUROPEAN CENTRAL BANK AND EUROPEAN SYSTEMIC RISK BOARD

- 1.1 Managing climate-related financial stability risks - ECB and ESRB publish joint report - 18 December 2023** - The European Central Bank (ECB) and European Systemic Risk Board (ESRB) have published a joint report on the impact of climate risks on the EU financial system. Among other things, the report makes the case for extending the scope of the macro-prudential framework to other, broader areas of concern, such as biodiversity loss and nature degradation.

[ECB/ESRB report: Towards macroprudential frameworks for managing climate risk](#)

[Press release](#)

2 EUROPEAN CENTRAL BANK

- 2.1 Cyberattack resilience - ECB announces stress test - 3 January 2024** - The European Central Bank (ECB) has announced that it will carry out a cyber resilience stress test on 109 directly supervised banks in 2024, and 28 banks will undergo an enhanced assessment for which they will submit additional information on how they coped with the stress test.

The exercise will assess how banks respond to and recover from a cyberattack, rather than their ability to prevent it, and the supervisors will discuss the findings and lessons learned with each bank as part of the 2024 Supervisory Review and Evaluation Process. The main findings of the exercise will be communicated in the summer of 2024.

[Press release](#)

3 EUROPEAN COMMISSION

- 3.1 EU Taxonomy - European Commission publishes adopted guidance - 21 December 2023** - The European Commission has published a guidance document, which it has adopted, setting out additional guidance regarding the interpretation and implementation of certain legal provisions of the Disclosures Delegated Act ((EU) 2021/2178) under Article 8 of the Taxonomy Regulation ((EU) 2020/852) on the reporting of Taxonomy-eligible and Taxonomy-aligned economic activities and assets. The notice contains FAQs and complements previously issued guidance.

[Draft Commission notice - EU Taxonomy Regulation \(EU\) 2020/852 \(Taxonomy Regulation\)](#)

[Press release](#)

4 COUNCIL OF THE EUROPEAN UNION AND EUROPEAN PARLIAMENT

- 4.1 CSDDD - Provisional political agreement reached, including on financial sector inclusion - 14 December 2023** - The Council of the European Union (the Council) and the European Parliament have reached provisional political agreement on the proposed Directive on corporate sustainability due diligence (CSDDD). It has been agreed that the financial sector will be

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temporarily excluded from the scope of the CSDDD, although there will be a review clause for possible future inclusion. Financial sector firms will, however, be required to adopt a climate transition plan.

The CSDDD now needs to be formally adopted.

[Council of the European Union press release](#)

[European Parliament press release](#)

5 HM TREASURY AND DEPARTMENT FOR ENERGY SECURITY AND NET ZERO

- 5.1 **Transition Finance Market Review - Announced by HM Treasury and the Department for Energy Security and Net Zero - 18 December 2023** - HM Treasury and the Department for Energy Security and Net Zero have launched an independent review of the transition finance market. The review will consider what the UK financial and professional services ecosystem needs to do to become a leading hub for, and provider of, transition financial services. The review will run for six months and will report back to the government by July 2024, with the possibility of an extension.

[Independent report: Transition Finance Market Review: terms of reference](#)

[Webpage](#)

6 BANK OF ENGLAND, FINANCIAL CONDUCT AUTHORITY AND PRUDENTIAL REGULATION AUTHORITY

- 6.1 **2023 CBEST - Bank of England, FCA and PRA publish thematic findings - 19 December 2023** - The Bank of England, the FCA and the PRA have published the annual CBEST thematic report in collaboration with the National Cyber Security Centre. The report details the regulators' findings from the 2023 CBEST programme and has been published in full for the first time. Firms are expected to review the report and consider integrating the findings into their cyber strategies.

[Bank of England, FCA and PRA 2023 CBEST thematic 19 December 2023](#)

[FCA Press release](#)

7 FINANCIAL CONDUCT AUTHORITY

- 7.1 **The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) (No. 2) Order 2023 - 19 December 2023** - HM Treasury has published the final text of the Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) (No. 2) Order 2023 (SI 2023/1411) (the Regulations). Among other things, the Regulations amend exemptions from the restriction on communicating financial promotions under the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (SI 2005/1529) (FPO), including the exemption that enables financial promotions for unlisted companies to be made to high-net-worth individuals and self-certified sophisticated investors.

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The Regulations come into force on 31 January 2024.

[The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) \(No. 2\) Order 2023 \(SI 2023/1411\)](#)

[Explanatory memorandum](#)

[Webpage](#)

BEYOND BREXIT //

8 HM TREASURY

8.1 The Retained EU Law (Revocation and Reform) Act 2023 (Commencement No. 1) Regulations 2023 - 15 December 2023 - The Retained EU Law (Revocation and Reform) Act 2023 (Commencement No. 1) Regulations 2023 (SI 2023/1363) have been made and published by HM Treasury. They bring into force various provisions of the Retained EU Law (Revocation and Reform) Act 2023, including the revocation - or sunset - of certain retained EU law specified in Schedule 1. The Regulations also mark the end of the principle of the supremacy of EU law in the UK.

[The Retained EU Law \(Revocation and Reform\) Act 2023 \(Commencement No. 1\) Regulations 2023 \(SI 2023/1363\)](#)

[Webpage](#)

8.2 Mutual recognition in financial services - HM Treasury announces agreement between UK and Switzerland - 21 December 2023 - HM Treasury has announced that the UK and Swiss governments have signed an agreement on mutual recognition in financial services, the Berne Financial Services Agreement (the Agreement). The Agreement is described as “*a first of its kind pact on financial services cooperation*” and establishes a framework for increasing the “*deference-based*” supply of financial services between the two countries over time. Notably, this approach “*does away with line-by-line equivalence assessments*” and instead employs “*an outcomes-based system of mutual recognition*”.

The Agreement contains several commitments, including:

- professional client advisers acting on behalf of UK investment services firms will no longer need to register individually with Swiss registration bodies to provide their services whilst in Switzerland;
- the Agreement provides access for UK insurers and intermediaries providing wholesale services into the Swiss domestic insurance market, going beyond what Switzerland has offered to any other trading partner to date;
- the UK will be the sole trading partner exempted from new Swiss legislation which has required overseas insurance brokers to localise in Switzerland since 1 January 2024; and

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- both parties have deferred to one another's jurisdictional level rules regarding central counterparties (CCPs).

The Agreement is designed to be dynamic and “*living*”, with the potential for future expansion. The area of sustainable finance is already earmarked for inclusion within its scope. The Agreement further envisages that the central banks of the UK and Switzerland may draw up a Memorandum of Understanding (MoU) with regards to banking resolution arrangements.

[The Berne Financial Services Agreement](#)

[HM Treasury: The Berne Financial Services Agreement: Benefits for the UK](#)

[Press release](#)

9 EUROPEAN SECURITIES AND MARKETS AUTHORITY

- 9.1 **BMR - ESMA updates its statement on the impact of Brexit - 15 December 2023** - The European Securities and Markets Authority (ESMA) has updated its statement on the consequences of Brexit for the ESMA register for benchmark administrators and third country benchmarks under the Benchmarks Regulation ((EU) 2016/1011) (BMR). The statement outlines the EU's regulatory approach towards UK-based third-country benchmarks, as well as UK-endorsed and recognised benchmarks. It refers to the extension of the BMR transitional period to 31 December 2025, which allows third country UK-based benchmarks to be used (even if they are not included in the ESMA register). In the absence of equivalence decisions by the European Commission, UK-based administrators and third country benchmarks previously endorsed or recognised in the UK have until the end of the extended transitional period to apply for recognition or endorsement in the EU.

[ESMA Public Statement: Impact of Brexit on the BMR \(ESMA80-187-881\)](#)

[Webpage](#)

BANKING AND FINANCE //

10 EUROPEAN BANKING AUTHORITY

- 10.1 **CRR III and CRD VI - EBA publishes roadmap, consultations and discussion paper - 14 December 2023** - The European Banking Authority (EBA) has published a roadmap on its approach and timetable for delivering technical standards, guidelines, opinions and reports required under the Regulation and Directive amending the Capital Requirements Regulation (575/2013) and the CRD IV Directive (2013/36/EU) respectively (CRR III and CRD VI). The EBA has also published several consultation papers (open for comments until 14 March 2024) in accordance with the roadmap, including a consultation on a draft Delegated Regulation (EU) 2021/451 on the output floor, credit risk, market risk and leverage ratio (EBA/CP/2023/39). In addition, a Discussion Paper (EBA/DP/2023/01), which is open for responses until 24 March 2024, seeks feedback on the

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centralisation of prudential data through a single electronic access point on the EBA website under CRR III, referred to as the Pillar 3 Data Hub (P3DH). Full implementation of P3DH is expected in 2025.

A post on the provision of cross-border services in the new banking package has recently been published by Uría Menéndez on the European Financial Institutions Blog, which is run by Slaughter and May and other leading independent law firms in Europe (see [here](#)).

[EBA roadmap on strengthening the prudential framework: implementation timeline of EBA mandates under EU banking package \(CRD - CRR\)](#)

[Press release](#)

[Webpage](#)

[Press release](#)

[EBA Discussion Paper: Pillar 3 Data Hub Processes and Possible Practical Implications \(EBA/DP/2023/01\)](#)

[Press release](#)

11 EUROPEAN CENTRAL BANK

11.1 SSM - ECB updates its methodology for SREP - 19 December 2023 - The ECB has published an updated version of its methodology for the supervisory review and evaluation process (SREP) which is applied to significant institutions under the Single Supervisory Mechanism (SSM).

The methodology outlines the procedural details of how the ECB will carry out an SREP for a significant institution and sets out the four assessments on which the SREP is based.

[European Central Bank Supervisory methodology](#)

12 BANK OF ENGLAND

12.1 Approach to resolution - publication updated by the Bank of England - 15 December 2023 - The Bank of England (the Bank) has published an updated version of its approach to resolving a failing bank, building society or investment firm (or their group companies) under the Banking Act 2009, first published in October 2014 and previously updated in October 2017. This latest version includes a new, separate section on assessing resolvability.

[The Bank of England's approach to resolution](#)

13 JOINT REGULATORY OVERSIGHT COMMITTEE

13.1 Open Banking Update - Joint Regulatory Oversight Committee outlines actions enabling the next phase of progress - 19 December 2023 - The Joint Regulatory Oversight Committee (which

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is co-chaired by the FCA and the Payment Systems Regulator) has published a progress update on actions to enable the next phase of open banking in the UK. The update details the work completed since the Committee published its April 2023 roadmap, which identified twenty-nine actions to progress open banking in a three-phased delivery approach over the next two-and-a-half years. Phase 2 of the roadmap is expected to commence in the first quarter of 2024.

[Joint Regulatory Oversight Committee Statement on Progress Update 19 December 2023](#)

SECURITIES AND MARKETS //

14 COUNCIL OF THE EUROPEAN UNION

14.1 ESG rating activities - Council of the European Union agrees negotiating mandate on proposed Regulation - 20 December 2023 - The Council of the European Union (the Council) has announced that it has agreed its negotiating position with the European Parliament on a proposed Regulation on the transparency and integrity of ESG rating activities (2023/0177(COD)). In agreeing the mandate, the Council has clarified the circumstances under which ESG ratings fall within the scope of the proposed Regulation and provided further details on the applicable exemptions. ESG rating providers that wish to operate in the EU will need to comply with certain requirements, including obtaining an authorisation from ESMA or, in the case of ESG rating providers established outside the EU, an equivalence decision, an endorsement of their ESG ratings or a recognition.

[‘1’ Item Note \(2023/017\(COD\)\)](#)

[Press release](#)

15 EUROPEAN SECURITIES AND MARKETS AUTHORITY

15.1 EMIR - ESMA publishes final report on its guidelines on position calculation under EMIR Refit - 18 December 2023 - The European Securities and Markets Authority (ESMA) has published its final report on amendments to its guidelines on position calculations under Article 80(4) of the European Market Infrastructure Regulation (648/2012/EU), as amended by technical standards introduced under the EMIR Refit Regulation ((EU) 2019/834) (the Guidelines).

The Guidelines will apply from 28 October 2024 to trade repositories (TRs) that are registered or recognised by ESMA, in accordance with Articles 55 and 77 of EMIR respectively. The original version of the guidelines will be repealed on 29 April 2024, granting TRs a six-month transition period.

[Final Report - ESMA guidelines on position calculation under EMIR](#)

16 HM TREASURY

16.1 The Financial Services and Markets Act 2023 (Digital Securities Sandbox) Regulations 2023 - 18 December 2023 - The Financial Services and Markets Act 2023 (Digital Securities Sandbox)

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Regulations 2023 (SI 2023/1398) (the Regulations) have been published, along with an explanatory memorandum. The Regulations create the framework that will enable the Bank of England (BoE) and the FCA to operate the Digital Securities Sandbox (DSS), and allow firms and the regulators to test the use of developing technology (such as distributed ledger technology (DLT) or technology that facilitates digital assets). The activities that are within scope of the DSS are certain activities relating to a central securities depository (specifically, notary, settlement and maintenance activities) and the operation of a trading venue.

The Regulations came into force on 4 January 2024.

[The Financial Services and Markets Act 2023 \(Digital Securities Sandbox\) Regulations 2023 \(SI 2023/1398\)](#)

[Explanatory memorandum](#)

16.2 [The Financial Services and Markets Act 2023 \(Benchmarks and Capital Requirements\)](#)

(Amendment) Regulations 2023 - 19 December 2023 - HM Treasury has published the final text of the Financial Services and Markets Act 2023 (Benchmarks and Capital Requirements) (Amendment) Regulations 2023 (SI 2023/1409) (the Regulations) together with an explanatory memorandum and policy paper. The Regulations extend the transitional period for the third country benchmarks regime under the UK version of the Benchmarks Regulation ((EU) 2016/1011) (UK BMR) from 31 December 2025 to 31 December 2030. They also reintroduce a ‘discount factor’ which was unintentionally removed from the EU and UK Capital Requirements Regulation (CRR) in both the UK and the EU, and reduces the amount of capital small and medium-sized firms hold for their trading and derivative activities.

The Regulations came into force on 1 January 2024.

[The Financial Services and Markets Act 2023 \(Benchmarks and Capital Requirements\) \(Amendment\) Regulations 2023 \(SI 2023/1409\)](#)

[Explanatory Memorandum](#)

17 BANK OF ENGLAND

17.1 [FMI requirements powers - Bank of England launches consultation on approach to statutory notice decisions - 21 December 2023](#) - The Bank of England (the Bank) has published a Consultation Paper on its approach to statutory notice decisions in the use of its powers to make requirements in respect of financial market infrastructures (FMIs). From 1 January 2024, pursuant to the Financial Services and Markets Act 2000 as amended by the Financial Services and Markets Act 2023, the Bank will have the power to issue requirements to recognised UK central securities depositories, recognised UK central counterparties (CCPs) and systemic third-country CCPs, collectively referred to as FMI entities.

Specifically, the Bank is seeking feedback on how it will provide transparency on how decisions to use these new powers will be made and disclosed, how the Bank will engage with entities in

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respect of the decision and how the process for reference to the Upper Tribunal will work. The consultation will be open until 21 March 2024.

[Consultation Paper: The Bank of England's approach to statutory notice decisions for use of its requirements powers](#)

18 PRUDENTIAL REGULATION AUTHORITY AND FINANCIAL CONDUCT AUTHORITY

18.1 UK EMIR margin requirements for non-centrally cleared derivatives - PRA and FCA publish joint Policy Statement (PRA PS18/23 and FCA PS23/19) - 18 December 2023 - The PRA and the FCA have published a joint Policy Statement (PRA PS18/23 and FCA PS23/19) on changes to the UK bilateral margin requirements for non-centrally cleared derivatives under UK EMIR (648/2012) (PRA PS18/23 / FCA PS23/19). The PRA and FCA consulted on the proposals in July 2023 (PRA CP13/23 and FCA CP23/16).

The regulators have decided to maintain the policy as consulted on, so are extending the temporary exemption for single-stock equity options and index options from the UK bilateral margining requirements from 4 January 2024 until 4 January 2026. During the temporary exemption period, they will gather information on current market practices and risks posed by these types of products to create a permanent UK regime. The regulators have also decided to maintain the current framework for margin model reviews.

The PRA and the FCA have also published standards instruments that amend the relevant binding technical standards (BTS) in the UK onshored version of Commission Delegated Regulation (EU) 2016/2251, both of which came into force on 18 December 2023.

[PRA and FCA joint Policy Statement: Margin requirements for non-centrally cleared derivatives: Amendments to BTS 2016/2251 \(PRA CP13/23 and FCA CP23/16\)](#)

[PRA Standards Instrument: The Technical Standards \(Bilateral Margining\) Instrument 2023](#)

[FCA Standards Instrument: The Technical Standards \(Bilateral Margining\) Instrument 2023](#)

19 FINANCIAL CONDUCT AUTHORITY

19.1 UK listings and other market improvements - FCA consults on new listing regime, transparency for bond and derivative markets and issues policy on consolidated tape - 20 December 2023 - The FCA has published detailed proposals that are aimed at making the UK's listing regime more "accessible, effective, and competitive" in a consultation paper (CP23/31). The FCA has broadly maintained the approach set out in its May 2023 consultation CP23/10, with certain adjustments based on consultation feedback. In particular, it has retained the concept of a simplified listing regime with a single listing category, with streamlined eligibility and ongoing requirements. Further to the publication of CP23/31 and a first tranche of the initial draft UK Listing Rules (UKLR) sourcebook provisions contained within it, the FCA expects to publish a second tranche of draft rules in the first quarter of 2024.

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A consultation paper (CP23/32) on improving transparency for bond and derivative markets has also been issued. The proposals, which form part of the Wholesale Markets Review, include suggestions for defining the scope and calibration of the new framework for transparency, clarifying exemptions from post-trade transparency and refining the definition of a systematic internaliser for all financial instruments. CP23/32 closes to responses on 6 March 2024.

Finally, the FCA has also published a consultation paper (CP23/33) on payments to data providers and forms for data reporting services providers (DRSPs), including a policy statement and final rules for the framework for a UK consolidated tape (CT). The consultation closes on 9 February 2024. A competitive tender process will be run by the FCA to appoint a single CT provider for bonds in the second half of 2024, and the bond CT is expected to go live in the second half of 2025.

[Consultation paper \(CP 23/31\)](#)[Webpage](#)[Consultation paper \(CP 23/32\)](#)[Webpage](#)[Consultation paper \(CP 23/33\)](#)[Webpage](#)[Press release](#)**19.2 Notification and disclosure of net short positions - FCA updates webpage - 18 December 2023 -**

The FCA has updated its webpage on the notification and disclosure of net short positions to reflect changes to be made by the Short Selling (Notification Threshold) Regulations 2023 (SI 2023/1258) (the Regulations). The Regulations increase the notification threshold for the reporting of net short positions to the FCA from 0.1% to 0.2% of total issued share capital from 5 February 2024.

[Updated webpage](#)**19.3 Article 10 UK MAR, ESG stewardship and sponsor procedures - FCA publishes Primary Market**

Bulletin 46 - 19 December 2023 - The FCA has published edition 45 of its Primary Market Bulletin. This edition of the bulletin addresses questions in relation to Article 10 of the retained UK law version of the Market Abuse Regulation (596/2014/EU) (UK MAR), and market conduct issues more generally, in the context of shareholder co-operation regarding Environmental, Social and Governance (ESG) stewardship. It also outlines some initial observations on sponsors' procedures in the context of the requirements of the Task Force on Climate-Related Financial Disclosures (TCFD).

[Primary Market Bulletin 46](#)

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19.4 Ancillary activities exemption for commodity derivatives under MiFID II - FCA continues approach - 20 December 2023 - The FCA has published a further update on its approach to the market share test under the ancillary activities exemption for commodity derivatives, itself under the UK onshored version of Commission Delegated Regulation (EU) 2017/592. This confirms that, following HM Treasury's decision to put back the application of relevant changes to the ancillary activities test to 1 January 2025, the FCA will continue to apply its existing approach. This enables firms to continue using the ancillary activities exemption for 2024-2025 where they were able to rely on the exemption for 2022-2023, based on trading relating to the last published information (which relates to 2018 to 2020) on the overall size of the market. This also maintains the additional flexibility for firms to have regard to their daily trading activity of the previous three years (2021 to 2023) for the purposes of continuing to rely on the exemption.

[Further update to ancillary activities exemption for commodity derivatives](#)

ASSET MANAGEMENT //

20 EUROPEAN BANKING AUTHORITY

20.1 Diversity under CRD IV and IFD - EBA publishes final report on draft guidelines on benchmarking practices - 18 December 2023 - The EBA has published its final report (EBA/GL/2023/08) on guidelines on the benchmarking of diversity practices, including diversity policies and the gender pay gap, under the Capital Requirements Directive (2013/36/EU) and the Investment Firms Directive ((EU) 2019/2034) (IFD). The first data collection under the guidelines will be conducted in 2025.

[EBA Final Report: Guidelines on benchmarking of diversity practices, including diversity policies and gender pay gap, under CRD IV and IFD \(EBA/GL/2023/08\)](#)

[Press release](#)

21 FINANCIAL CONDUCT AUTHORITY

21.1 Selling client banks - FCA publishes statement - 19 December 2023 - The FCA has published a statement outlining its expectations of firms when selling 'client banks', defined as a list of clients or accounts maintained by someone who provides financial services.

In summary, the FCA acknowledges the legitimate reasons for disposing of a client bank as an asset, but notes that it has observed instances where the seller knew the client bank had redress liabilities or failed to detect them. The FCA details its approach to regulation and supervision in this area, reminds firms of their responsibilities and explains where enforcement action may be taken by the FCA. The FCA also reminds firms of its focus on so-called 'phoenixing' and advises firms to address any client bank arrangements to reduce the risk of facilitating this.

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INSURANCE //

22 EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

22.1 Value for money benchmarks - EIOPA launches consultation - 15 December 2023 - The European Insurance and Occupational Pensions Authority (EIOPA) has published a Consultation Paper outlining its proposed methodology for setting value for money (VFM) benchmarks. The consultation forms part of EIOPA's ongoing work to address concerns over unit-linked and hybrid insurance products, specifically regarding their high complexity or the mismatch between consumers' expected returns and the actual benefits received. It also builds on the EIOPA's methodology for assessing VFM in the unit-linked market, published in October 2022.

EIOPA proposes a three-step approach to creating the reference benchmarks, further outlined in the paper.

The consultation will be open until 15 March 2024.

[EIOPA Consultation Paper: Methodology on Value for Money Benchmarks](#)

[Press release](#)

22.2 Non-life underwriting risk in internal models - EIOPA publishes comparative study - 4 January 2024 - EIOPA has published a Europe-wide comparative study on non-life underwriting risk in internal models, seeking to evaluate the differences between internal models in order to ascertain whether and to what extent these capture similar risks in a consistent manner.

Undertakings identified as outliers further to the study have been notified and relevant national supervisors are currently conducting follow-up actions with EIOPA's support, with resulting changes in internal models already being observed.

[EIOPA: Non-life Underwriting Risk Comparative Study in Internal Models \(EIOPA-BoS-23/494\)](#)

[Press release](#)

23 HM TREASURY

23.1 The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2024 - 21 December 2023 - HM Treasury has published a draft version of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2024 (the Regulations) alongside an accompanying explanatory memorandum. The Regulations make operating a pension dashboard service which connects to the Money and Pensions Service dashboards digital architecture a regulated activity under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544). The Regulations are expected to come into force on 11 March 2024.

[The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2024](#)

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24 FINANCIAL CONDUCT AUTHORITY

24.1 IDD - Policy Statement with final rules published by FCA (PS23/18) - 15 December 2023 - The FCA has published a Policy Statement (PS23/18) on transferring the retained provisions of the Insurance Distribution Directive ((EU) 2016/97) (IDD) into the FCA Handbook. The FCA consulted on the proposals in CP23/19, published in October 2023. The rule changes, which are set out in the Insurance Distribution Directive Delegated Acts: Smarter Regulatory Framework Instrument 2023 (FCA 2023/45), come into force on 5 April 2024. They replicate the provisions in retained law with minimal change, without adding or removing current regulatory requirements on firms.

[FCA Policy Statement: Smarter Regulatory Framework: The Insurance Distribution Directive Feedback to CP23/19 and Final Rules \(PS23/18\)](#)

[Handbook Instruments: Insurance Distribution Directive delegated acts: Smarter regulatory framework instrument 2023 \(2023/45\)](#)

[Webpage](#)

ENFORCEMENT //

25 ALL-PARTY PARLIAMENTARY GROUP ON FAIR BUSINESS BANKING

25.1 IRHP further redress judicial review claim - reply to FCA grounds of defence published - 18 December 2023 - The All-Party Parliamentary Group (APPG) on Fair Business Banking has made available its reply to the FCA's detailed grounds of defence in *R (All-Party Parliamentary Group on Fair Business Banking) v FCA* (AC-2022-LON-001500), the judicial review claim brought by the APPG regarding the FCA's decision not to seek to use its powers to require any further redress to be paid to interest rate hedging product (IRHP) customers.

[APPG: Reply to Detailed Grounds of Defence - R \(All-Party Parliamentary Group on Fair Business Banking\) v FCA \(AC-2022-LON-001500\)](#)

26 OFFICE OF THE COMPLAINTS COMMISSIONER AND FINANCIAL CONDUCT AUTHORITY

26.1 Oversight of Premier FX - Final report and FCA response published - 18 December 2023 - The Office of the Commissioner (FRCC) has published its final report into the FCA's oversight of Premier FX Limited (PFX), a payment institution authorised under the Payment Services Regulations 2017 (SI 2017/752) (PSRs 2017) which collapsed in 2018.

A group of PFX customers had complained to the FCA in December 2020 about the way it had regulated PFX and escalated its complaint to the Complaints Commissioner for review.

The Complaints Commissioner found that the FCA could and should have had better oversight of PFX, but did not find that the FCA could and should have prevented the complainants' losses. The

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FCA accepts many of the recommendations made by the Complaints Commissioner, but does not believe it should pay compensation to PFX's customers beyond the payments it has made for delays in the handling of their complaints.

[The Complaints Commissioner's Final Report into the Financial Conduct Authority's Oversight of Premier FX Limited \(PFX\)](#)

[The FCA's response to the Complaints Commissioner's Final Report into our oversight of Premier FX Limited](#)

[Complaint's Commissioner's Letter](#)

[Press release](#)

- 26.2 Upheld complaint - Office of the Complaints Commissioner publishes final report and FCA publishes response - 4 January 2023** - The FRCC has published its final report into the FCA's handling of an ongoing complaint that had originated with the FCA's decision to apply an automatic email rule (the 'divert') to any emails the complainant sent to the FCA - a complaint which was escalated to the FRCC in January 2021 - and subsequently transmuted into a new complaint about the FCA's "*unprofessional behaviour*" in the course of its engagement over the original complaint.

The Complaints Commissioner has upheld the complaint, and while having no reason to doubt that the FCA made "*genuine mistakes*", the Commissioner was "*highly critical of the FCA both for incurring what [the Commissioner considers] were largely avoidable mistakes, and failing to acknowledge them...in an acceptable manner*". The Commissioner further notes their concern that "*the FCA continues to deflect [the] complaints rather than take an approach which is helpful and constructive*", and comments on the "*unattractive behaviours, poor judgement and maladministration which the FCA has displayed throughout the history of this complaint, and which fall below the standards I would expect of the regulator*". The Commissioner recommends that the FCA offers the complainant an ex-gratia payment of £500.

The FCA has also published a response to the final report, accepting its findings and recommendations.

[Final report by the Complaints Commissioner \(Complaint number: 202300510\)](#)

[FCA response](#)

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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.

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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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