

# 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 HM TREASURY

- 1.1 The Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2025 - 9 January 2025** - The Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2025 (SI 2025/17) (the Order) has been published, alongside an explanatory memorandum. The Order clarifies that arrangements for qualifying cryptoasset staking do not amount to a collective investment scheme for the purposes of section 235 of the Financial Services and Markets Act 2000.

In the explanatory memorandum, the Government explains that existing UK rules for collective investment schemes may not provide appropriate regulation of staking arrangements. Further, the Government believes that an appropriate level of consumer protection is currently being delivered, by communications on staking arrangements being provided in compliance with the requirements of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 and relevant FCA rules and guidance. The Order will come into force on 31 January 2025.

[Statutory instrument](#)

[Explanatory memorandum](#)

### 2 BANK OF ENGLAND, PRUDENTIAL REGULATION AUTHORITY, FINANCIAL CONDUCT AUTHORITY

- 2.1 2024 CBEST thematic - Bank of England, PRA and FCA publish joint report - 19 December 2024** - The Bank of England, PRA and FCA have published a joint report providing their thematic analysis of the findings of the latest cycle of CBEST threat-led penetration testing assessments. The report highlights the continued gaps in firms and financial market infrastructure (FMI) foundational cyber defences. Identified weaknesses included firms and FMI operators not maintaining strong credential hygiene practices, having weak controls around privileged access management, and displaying a lack of communication channels during incident responses. In the report, the regulators signal their intention to consult on expectations around the management of information and communication technology and cyber resilience risks in H2 2025.

[2024 CBEST thematic](#)

### 3 COMPETITION AND MARKETS AUTHORITY

- 3.1 DMCC Act - CMA publishes memoranda of understanding with Bank of England, PRA and FCA and review of competition concurrency arrangements - 19 December 2024** - The Competition and Markets Authority (CMA) has published memoranda of understanding with the Bank of England and the PRA and separately, with the FCA, for regulatory coordination under the digital markets competition regime established by Part 1 of the Digital Markets, Competition and Consumer Act 2024 (DMCC Act). This regime, which took effect from 1 January 2025, grants new

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responsibilities to the CMA to promote competition in digital markets, including the power to designate firms as having ‘strategic market status’ in respect of a digital activity.

Separately, the CMA has published the findings from its review into competition concurrency arrangements: the technical means by which the CMA and other sectoral regulators (including the FCA and the Payment Systems Regulator) share competition powers. Overall, the CMA concludes that sharing powers under concurrency arrangements has some key advantages, including that it likely leads to more enforcement action, but that there is room for improvement. The CMA is particularly concerned about too artificial a separation between competition concurrency and how responsibility for consumer protection is shared with sector regulators, as there is “*a critical interdependence between effective consumer protection and effective competition*”. In light of the reforms in the DMCC Act, the CMA believes there to be merit in a more in-depth review of the effectiveness of existing consumer concurrency arrangements.

[Memorandum of understanding between the CMA, the Bank of England and the PRA](#)

[Memorandum of understanding between the CMA and the FCA](#)

[CMA review of the competition concurrency arrangements](#)

## BANKING AND FINANCE //

### 4 EUROPEAN BANKING AUTHORITY

- 4.1 **CRR and the calculation and aggregation of cryptoasset exposure values - EBA publishes consultation paper on draft RTS - 8 January 2025** - The European Banking Authority (EBA) has published a consultation paper containing draft regulatory technical standards (RTS) on the prudential treatment of cryptoasset exposures under the Capital Requirements Regulation ((EU) 575/2013). The deadline for comments is 8 April 2025.

[Press release](#)

- 4.2 **Guidelines on the management of ESG risks - EBA publishes final report - 9 January 2025** - The European Banking Authority (EBA) has published its final guidelines outlining the internal processes and ESG risk management arrangements that institutions should have in place pursuant to the Capital Requirements Directive (2013/36/EU) (CRD6). The guidelines will start to apply to most financial institutions from 11 January 2026. However, small and non-complex institutions have until 11 January 2027 to comply.

[EBA final report: Guidelines on the management of environmental, social and governance \(ESG\) risks \(EBA/GL/2025/01\)](#)

[Press release](#)

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## 5 EUROPEAN CENTRAL BANK

- 5.1 O-SII buffer methodology - ECB issues statement on update - 20 December 2024** - The Governing Council of the European Central Bank (ECB) has issued a statement confirming that it will enhance the floor methodology used to assess capital buffers for “other systemically important institutions” (O-SIIs), so that it also takes into account the systemic importance of O-SIIs for the banking union as a whole. The ECB believes that this will lead to a more consistent treatment of O-SIIs across member states participating in the banking union, and contribute to greater financial integration by reducing the current disparity between capital requirements for domestic and cross-border activities.

The ECB will begin to use the enhanced floor methodology to assess O-SII buffers notified by national regulators from 1 January 2025. The enhanced methodology will be fully phased in with effect from 1 January 2028.

[ECB Statement](#)

## 6 UK PARLIAMENT

- 6.1 Motor finance - Letter published from House of Lords (Financial Services Regulation Committee) to FCA - 20 December 2024** - Lord Forysth of Drumlean PC KT, Chairman of the Financial Services Regulation Committee of the House of Lords (the Committee) has written to Nikhil Rathi, Chief Executive of the FCA in relation to its ongoing motor finance commission investigation.

The letter responds to Rathi’s letter of 13 November 2024, and notes that the implication of Rathi’s letter is that the recent decision of the Court of Appeal in *Hopcraft, Johnson and Wrench* (reported at [2024] EWCA 1282) - whilst concerned with the common law rather than FCA rules or principles - is in conflict with or is in material respects different from the relevant FCA rules and/or principles. Accordingly, the Committee requests from the FCA:

- the relevant FCA rules and principles concerning both discretionary and fixed commissions, and confirmation as to whether the FCA took legal advice in connection with these; and
- confirmation as to whether the FCA took legal advice in connection with its decision to ban discretionary commission arrangements in 2021; and
- evidence of any advice in full.

[Letter to Nikhil Rathi, Chief Executive of the FCA](#)

## 7 PRUDENTIAL REGULATION AUTHORITY

- 7.1 Resolution assessment reporting and disclosure dates - PRA publishes policy statement - 7 January 2025** - The PRA has published a policy statement (PS1/25), relevant to UK banks and building societies to which the Resolution Assessment Part of the PRA Rulebook applies, which provides greater flexibility over the timing of resolution assessment report submissions and disclosures. The assessment process is moving from fixed two-year cycles to a periodic basis,

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with effect from 10 January 2025. PS1/25 also describes respondents' supportive feedback to the PRA's prior consultation on this subject.

Separately, the PRA has published a webpage setting out its expectations for dates of reports under Resolution Assessment 3.1 and disclosures under Resolution Assessment 4.1 of the PRA Rulebook.

[PRA PS1/25 - Resolution assessments: Amendments to reporting and disclosure dates](#)[Webpage](#)

## 8 FINANCIAL CONDUCT AUTHORITY

**8.1 Motor finance - FCA publishes policy statement on further temporary changes to complaint handling rules - 19 December 2024** - The FCA has published a policy statement (PS24/18) containing further temporary changes to its rules for how firms handle motor finance commission complaints where they do not involve a discretionary commission arrangement (DCA). The changes broadly mirror existing rules for motor finance DCA commission complaints that were introduced in January 2024. Specifically, the changes will:

- extend the time firms have to provide a final response to such complaints until after 4 December 2025; and
- give consumers more time to refer their complaint to the Financial Ombudsman Service, following the receipt of a final response.

The rules came into force on 20 December 2024. The rules mean firms do not have to provide final responses to motor finance non-DCA commission complaints received on or after 26 October 2024 until after 4 December 2025. The FCA has also published a webpage to assist firms communicating with motor finance customers about commission.

[FCA PS24/18: Further temporary changes to handling rules for motor finance complaints](#)[FCA webpage: Communicating with motor finance customers about commission](#)

## 9 SUPREME COURT

**9.1 Motor finance - Supreme Court schedules hearing date for appeal in Johnson vs FirstRand Bank - 19 December 2024** - The Supreme Court has updated the webpages for *Wrench v FirstRand Bank* (UKSC 2024/0159), *Johnson v FirstRand Bank* (UKSC 2024/0158) and *Hopcraft & Another v Close Brothers* (UKSC 2024/0157), which the Court of Appeal heard together in *Johnson v FirstRand Bank Ltd* [2024] EWCA Civ 1282, to confirm that the appeal is scheduled for 1-3 April 2025.

[Wrench \(Respondent\) v FirstRand Bank Limited \(London Branch\) t/a MotoNovo Finance \(Appellant\)](#)

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[Johnson \(Respondent\) v FirstRand Bank Limited \(London Branch\) t/a MotoNovo Finance \(Appellant\)](#)

[Hopcraft and another \(Respondents\) v Close Brothers Limited \(Appellant\)](#)

## SECURITIES AND MARKETS //

### 10 EUROPEAN SECURITIES AND MARKETS AUTHORITY

**10.1 MiCA - ESMA publishes statement on transitional measures - 19 December 2024** - The European Securities and Markets Authority (ESMA) has published a statement regarding the transitional regime under Article 143(3) of the Markets in Crypto Assets Regulation (MiCA) for cryptoasset services providers (CASPs) that offered their services prior to 30 December 2024. Article 143(3) gives individual member states discretion as to whether to apply this transitional regime or reduce its duration, resulting in different approaches among member states.

ESMA flags that, as a result, CASPs will face different transitional periods depending on the member state(s) in which they are active, and should make all possible efforts to remain in compliance and avoid detriment to their clients during this potentially disruptive period. ESMA has also published a list of grandfathering periods decided by member states under MiCA.

[ESMA statement](#)

[List of grandfathering periods decided by member states under MiCA](#)

### 11 BANK OF ENGLAND

**11.1 CCP resolution regime - Bank of England publishes final statements of policy - 19 December 2024** - The Bank of England has, following a period of consultation launched in July 2024, published two final statements of policy (the SoPs) concerning its powers under Schedule 11 of the Financial Services and Markets Act 2023 (Schedule 11). Schedule 11 establishes a new regime for resolving central counterparties (CCPs) that are deemed to be failing or likely to fail. The SoPs comprise:

- a statement of policy describing the Bank's approach to exercising its power to direct a CCP to address impediments to resolvability under Schedule 11; and
- a statement of policy concerning 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.

Separately, the Bank has also published policy statements containing respondents' (generally supportive) feedback to the SoPs as originally consulted on. The SoPs came into effect from 19 December 2024.

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

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

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

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

## ASSET MANAGEMENT //

### 12 FINANCIAL CONDUCT AUTHORITY

**12.1 Consumer Composite Investments - FCA publishes consultation paper on new product information framework - 19 December 2024** - The FCA has published a consultation paper (CP24/30) on a new product information framework for 'Consumer Composite Investments', an investment where returns are dependent on the performance of, or changes in, the value of indirect investments (CCIs). The proposed rules clarify this general definition of CCI, and also set out a number of explicit inclusions.

Seeking to empower firms to help consumers make timely, well-informed and effective investment decisions, the proposals would replace current rules stemming from European Union legislation under the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation ((EU) 1286/2014) and the Undertakings for Collective Investment in Transferable Securities (UCITS) Directive (2009/65/EC) with a domestic regime.

This new outcomes-focused and flexible regime would apply to any firm that manufactures or distributes a CCI to retail investors in the UK, and makes significant changes to the requirements for the way product information is presented. Standardisation would only be mandated where needed, so consumers can effectively compare the costs and charges, risk and performance of different products, and the FCA wishes to move away from a rigid template format. Feedback on the draft rules is welcomed by 20 March 2025.

[FCA CP24/30: A new product information framework for Consumer Composite Investments](#)

## INSURANCE //

### 13 EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

**13.1 DORA - EIOPA revokes previous guidelines to avoid duplication - 19 December 2024** - The European Insurance and Occupational Pensions Authority (EIOPA) has announced that it will withdraw several documents which relate to the use of information communication technology

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(ICT) by undertakings, including its guidelines on outsourcing to cloud service providers, issued in the context of Solvency II, with effect from 17 January 2025. EIOPA makes these withdrawals with the aim of reducing duplication and overlap with requirements stemming from the EU Digital Operational Resilience Act (DORA), which comes into effect from 17 January 2025.

[Press release](#)

## 14 PRUDENTIAL REGULATION AUTHORITY

**14.1 Solvency II - PRA publishes correction to standard formula mass lapse life underwriting risk rule in PS15/24 - 20 December 2024** - The PRA has issued a statement correcting a mistake identified in rule 3B6.6(1) in the Solvency Capital Requirement - Standard Formula (SCR-SF) Part of the PRA Rulebook published in its November 2024 policy statement: *Review of Solvency II: Restatement of assimilated law* (PS15/24). The statement provides an overview of the error and the PRA's approach to rectifying the mistake. The change is most relevant to UK Solvency II firms that carry on linked long-term business and use the standard formula to calculate their capital requirements for life underwriting risk. The PRA instrument correcting this error took effect on 31 December 2024.

[PRA statement](#)

**14.2 2025 Insurance Supervision - PRA publishes letter communicating priorities - 9 January 2025** - The PRA has published a letter sent to Chief Executive Officers of PRA-regulated insurance firms communicating its 2025 priorities for the UK insurance sector. The thematic priorities covered include Solvency II implementation, liquidity resilience, and the financial risks arising from climate change. The letter, in conjunction with firms' feedback from their most recent periodic summary meeting, is intended to convey a sense of the PRA's planned work for 2025.

[Letter](#)

## ENFORCEMENT //

### 15 FINANCIAL CONDUCT AUTHORITY

**15.1 *Financial Conduct Authority v Seiler and another*, [2024] EWCA Civ 852 - Supreme Court refuses application for permission to appeal - 6 January 2025** - The Supreme Court has refused (on 29 November) an application for permission to appeal against the Court of Appeal decision in *Financial Conduct Authority v Seiler and another* [2024] EWCA Civ 852 (UKSC 2024/0125) on the ground that the appeal does not raise an arguable point of law. Please refer to previous editions of this bulletin for more information on the Court of Appeal's judgment and the underlying Upper Tribunal decision.

[Refusal for permission to appeal](#)

**15.2 *R (Chong and others) v Financial Services Compensation Scheme Ltd*, [2024] EWHC 3374 (Admin), 31 December 2024**



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The High Court has dismissed claims for judicial review of decisions taken by the Financial Services Compensation Scheme (FSCS) concerning compensation for pensions mis-selling. The claimants lost money after being advised by an unregulated adviser to transfer funds from their occupational pension schemes into a self-invested personal pension (SIPP) provided by a firm that subsequently failed. The FSCS paid compensation to the claimants on a monies-in monies-out basis. The claimants lodged appeals against their compensation awards, arguing that they were entitled to greater compensation following the judgment in *Adams v Options UK Personal Pensions LLP* [2021] EWCA Civ 474.

In dismissing the claims, the court held that there were no legitimate expectations concerning compensation in the light of the decision in *Adams*, among other things.

**[R \(Chong and others\) v Financial Services Compensation Scheme Ltd \[2024\] EWHC 3374 \(Admin\) \(31 December 2024\)](#)**

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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](#).

If you would like to find out more about our Financial Regulation Group or require advice on a financial regulation matter, please contact one of the following or your usual Slaughter and May contact:

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