

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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periodical Insurance
Newsletter. If you
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GENERAL //

1 EUROPEAN COMMISSION

- 1.1 **DORA - European Commission adopts Delegated Regulation specifying the criteria for designation of ICT third-party service providers as critical for financial entities - 23 February 2024** - The European Commission (the Commission) has adopted a Delegated Regulation (C(2024)896) supplementing the Regulation on digital operational resilience for the financial sector ((EU) 2022/2554) (DORA) by specifying the criteria for the designation of ICT third-party service providers as critical for financial entities.

The Commission has retained a ‘two-step’ assessment approach to designation, as originally proposed by European Supervisory Authorities, which filters the population of ICT third-party service providers by both quantitative and qualitative sub-criteria. If neither the Council of the EU nor the European Parliament objects to the Delegated Regulation, it will be published in the Official Journal of the European Union.

[Commission Delegated Regulation \(EU\) supplementing Regulation \(EU\) 2022/2554 of the European Parliament and of the Council by specifying the criteria for the designation of ICT third-party service providers as critical for financial entities \(C\(2024\)896\)](#)

2 UK PARLIAMENT

- 2.1 **UK net zero transition and financial services - UK Parliament publishes government response to House of Commons Environmental Audit Committee report - 23 February 2024** - UK Parliament has published the government’s response to the House of Commons Environmental Audit Committee’s (EAC) November 2023 report, *The financial sector and the UK’s net zero transition*.

The government has confirmed that it will not introduce quarterly reporting on how it is meeting net zero targets while enhancing energy security when it rolls out new oil and gas licences in the North Sea, and declined to engage with the EAC on its recommendation for companies to have mandatory transition plans for net zero. The government confirmed that consultations on voluntary carbon markets and carbon border adjustment mechanisms are expected in early 2024.

In an accompanying press release, the EAC notes that with a General Election expected later in 2024, efforts to implement policy informed by the consultations could run out of time in the current Parliament.

[EAC: The financial sector and the UK’s net zero transition: Government Response to the Committee’s First Report](#)

[Press release](#)

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3 HOUSE OF COMMONS TREASURY COMMITTEE

3.1 Sexism in the City Inquiry - House of Commons Treasury Committee publishes correspondence with the FCA and HM Treasury following oral hearing - 27 February 2024 -

The House of Commons Treasury Committee (the Committee) has published correspondence with the FCA and HM Treasury elaborating on points raised during an oral hearing with the Committee on 17 January 2024.

Points of interest include:

- the government affirming its position that signatories to the Women in Finance Charter should not be required to report on the extent to which they have adopted elements of the Charter Blueprint;
- HM Treasury's view that the FCA already has the appropriate legal powers to deal with non-financial misconduct and that they do not require expansion; and
- that the FCA is not currently calling for the introduction of a statutory list of criminal offences entailing automatic prohibition from operating in financial services.

[FCA Letter](#)

[Treasury Letter](#)

BEYOND BREXIT //

4 UK PARLIAMENT

4.1 Draft Financial Services and Markets Act 2000 (Disapplication or Modification of Financial Regulator Rules in Individual Cases) Regulations 2024 published - 26 February 2024 - A draft version of the Financial Services and Markets Act 2000 (Disapplication or Modification of Financial Regulator Rules in Individual Cases) Regulations 2024 (the Regulations) has been published, alongside an explanatory memorandum.

The Regulations form part of the government's efforts to deliver a 'Smarter Regulatory Framework' and grant the PRA more flexibility to disapply or modify any rule that the PRA makes under the Financial Services and Markets Act 2000 (FSMA). This makes it easier for regulatory rules to be tailored in ways which can better reflect the different business models and circumstances of individual firms as appropriate. The Regulations also introduce certain procedural requirements that must be followed in relation to PRA decisions on disapplying or modifying PRA rules, and affected firms may challenge decisions by referring them to the Upper Tribunal (Tax and Chancery Chamber).

The Regulations, which have been laid before and approved by a resolution of each House of Parliament, 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](#)

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BANKING AND FINANCE //

5 BASEL COMMITTEE ON BANKING SUPERVISION

- 5.1 **Basel Core Principles - BCBS approves final revisions - 29 February 2024** - The Basel Committee on Banking Supervision (BCBS) has published a press release announcing that it has approved final revisions to its core principles for effective banking supervision (Basel Core Principles), which were last updated in 2012, following a period of consultation launched in July 2023. The BCBS also announced its decision to publish a consultation next month on potential measures aimed at reducing ‘window-dressing’ behaviour by some banks in the context of the framework for global systemically important banks.

[Press release](#)

6 COUNCIL OF THE EUROPEAN UNION

- 6.1 **Instant credit transfers in euro - Council of EU adopts Regulation - 26 February 2024** - The Council of the EU has published a press release announcing that it has adopted the proposed Regulation amending the Single Euro Payments Area Regulation (260/2012) and the Cross-Border Payments Regulation ((EU) 2021/1230) as regards instant credit transfers in euro (2022/0341(COD)). The proposal will enter into force on the 20th day after publication in the Official Journal of the European Union, and the new rules will come into force after a transition period that will be faster in the euro area and longer in the non-euro area.

[Council of the EU: Regulation of the European Parliament and of the Council amending Regulations \(EU\) No 260/2012 and \(EU\) 2021/1230 and Directives 98/26/EC and \(EU\) 2015/2366 as regards instant credit transfers in euro \(2022/0341 \(COD\)\) \(PE-CONS 76/23\)](#)

[Press release](#)

7 EUROPEAN PARLIAMENT

- 7.1 **MREL - European Parliament adopts proposed Directive on MREL reforms to BRRD and SRM - 27 February 2024** - The European Parliament has published the text of a proposed Directive (the amending Directive) that it has adopted at first reading which makes amendments to the Bank Recovery and Resolution Directive (BRRD) (2014/59/EU) and the Single Resolution Mechanism Regulation (SRM) (806/2014) in relation to certain aspects of the minimum requirement for own funds and eligible liabilities (MREL).

The Council of the EU now needs to formally adopt the amending Directive. Once it has entered into force, member states must adopt and publish the measures necessary to comply with the amending Directive within six months.

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[European Parliament legislative resolution of 27 February 2024 on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/59/EU and Regulation \(EU\) No 806/2014 as regards certain aspects of the minimum requirement for own funds and eligible liabilities](#)

8 HOUSE OF COMMONS TREASURY COMMITTEE

- 8.1 **De-Banking - House of Commons Treasury Committee publishes press release and correspondence regarding levels of SME accounts being closed by major banks - 27 February 2024** - The House of Commons Treasury Committee (the Committee) has published a press release and accompanying correspondence with a range of banks relating to forced small and medium-sized enterprise (SME) customer account closures, otherwise known as ‘de-banking’.

The Committee has published data showing that 2.7% of accounts held by small businesses have been closed by their banks in the last year (equating to more than 140,000 business accounts), and reasons given for the de-banking included risk appetite, financial crime concerns and lack of information-sharing.

[Press Release](#)

[Letters from Barclays, HSBC, TSB, Lloyds, Santander, NatWest, Metro, Handelsbanken and Paragon](#)

SECURITIES AND MARKETS //

9 FINANCIAL CONDUCT AUTHORITY

- 9.1 **Wholesale Data Market Study - FCA publishes report - 29 February 2024** - The FCA has published a report (MS23/1.5) containing its findings following its wholesale data market study, launched on 2 March 2023, which examined competition in the markets for credit ratings data, benchmarks and market data vendor services.

Overall, the FCA’s evidence suggests that firms buy the kind of data they need and, in most cases, the data they buy is of sufficient quality to meet their needs. However, across all three markets the FCA has identified areas where competition does not work well, and users may be paying higher prices for the data they buy than if competition was working more effectively.

The FCA has ruled out a significant intervention because of potential unintended consequences, such as on the availability and quality of data, in a market relied upon by investors worldwide. Instead, the FCA will take forward ideas to help support wholesale data being available on fair, reasonable and transparent terms as part of its work to ‘repeal and replace’ retained EU law.

[Wholesale Data Market Study Report \(MS23/1.5\)](#)

[Press release](#)

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- 9.2 **BMR - FCA publishes report on review of use of its Article 23D power for 3-month synthetic sterling LIBOR - 29 February 2024** - The FCA has published a report setting out the outcome of its review of its power under Article 23D(2) of the UK Benchmarks Regulation ((EU) 2016/1011) (UK BMR) to require ICE Benchmark Administration (IBA) to publish 3-month sterling LIBOR ('the LIBOR Version') under a changed, 'synthetic' methodology for the period between 1 January 2022 and 1 January 2024.

The report concludes that the way in which the FCA has exercised its power, under the UK BMR for the LIBOR Version, has advanced both the FCA's consumer protection and integrity objectives.

[FCA: Review of the use of our Article 23D power for 3-month synthetic sterling LIBOR](#)

[Webpage](#)

ASSET MANAGEMENT //

10 FINANCIAL STABILITY BOARD

- 10.1 **Money Market Fund Reforms - FSB publishes thematic review - 27 February 2024** - The Financial Stability Board (FSB) has published a thematic review on money market funds, taking stock of the measures adopted or planned by FSB member jurisdictions in response to its 2021 report, *Policy Proposals to Enhance MMF Resilience*. The FSB finds that progress in implementing these policy proposals has been uneven across FSB member jurisdictions, and concludes that further progress on implementing the FSB policy toolkit would be needed to enhance MMF resilience and limit the need for extraordinary central bank interventions during times of stress.

[Thematic Review on Money Market Fund Reforms](#)

11 COUNCIL OF THE EUROPEAN UNION

- 11.1 **AIFMD and UCITS Directive - Council of EU adopts amending Directive - 26 February 2024** - The Council of the EU has adopted the proposed Directive (sometimes referred to as AIFMD II) amending the Alternative Investment Fund Managers Directive (2011/61/EU) (AIFMD) and the Undertakings for Collective Investment in Transferable Securities Directive (2009/65/EC) (UCITS). The amendments concern delegation arrangements, liquidity risk management, supervisory reporting, provision of depositary and custody services and loan origination by alternative investment funds.

The Directive will enter into force 20 days after being published in the Official Journal. Member states will have 24 months after the Directive enters into force to transpose the rules into national legislation.

[AIFMD II \(2021/0376\(COD\)\)](#)

[Press Release](#)

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INSURANCE //

12 PRUDENTIAL REGULATION AUTHORITY

12.1 Adapting Solvency II to the UK insurance market - The PRA publishes its second policy statement (PS2/24) - 28 February 2024 - The PRA has published its second policy statement on adapting Solvency II to the UK insurance market (PS2/24) which sets out the PRA's final policy in relation to reforms proposed in its June 2023 consultation paper on the same subject (CP12/23).

Notably, the PRA confirms that its proposals in CP12/23 to introduce residual model limitation capital add-ons (CAOs) were not intended to be used as a mechanism to structurally increase capital held by firms.

The rules and policy materials contained in PS2/24 are near-final and subject to further changes resulting from the PRA's phased plan for consulting on Solvency II reforms, and the transfer of the remaining firm-facing Solvency II requirements from retained EU law into the PRA Rulebook and other policy materials. The implementation date for final rules and policy materials reflecting policy changes set out in PS2/24 is 31 December 2024.

In Q2 2024, the PRA intend to consult on transferring the remaining firm-facing Solvency II requirements from retained EU law into the PRA Rulebook and other policy materials, without significant policy reforms.

[Review of Solvency II: Adapting to the UK insurance market \(PS2/24\)](#)

12.2 Solvency II - PRA publishes policy statement setting out final reporting and disclosure policy (PS3/24) - 29 February 2024 - The PRA has published a policy statement (PS3/24) setting out its final reporting and disclosure policy in the form of near final rules and updated near final policy materials (subject to further changes resulting from the PRA's phased plan for consulting on Solvency II reforms, and the transfer of the remaining firm-facing Solvency II requirements from retained EU law into the PRA Rulebook and other policy materials).

This policy will come into effect on 31 December 2024 for triennial, annual, semi-annual and quarterly requirements with a reporting or disclosure reference date as of 31 December 2024 and onwards. By exception, the requirement to submit a regular supervisory report ceased on 31 December 2023 following the publication by HMT of the Insurance and Reinsurance Undertakings (Prudential Requirements) (Risk Margin) Regulations 2023. The PRA will align any existing reporting waivers or modifications by consent that remain in effect from 31 December 2024 with the equivalent references set out in the final rule instrument.

[PRA: PS3/24 - Review of Solvency II: Reporting and disclosure phase 2 near-final](#)

13 FINANCIAL CONDUCT AUTHORITY

13.1 Multi-occupancy buildings insurance - FCA publishes letter on progress - 29 February 2024 - The FCA has published a letter sent from Sheldon Mills, FCA Executive Director, Consumers and Competition, to RT Hon Michael Gove MP, Secretary of State for Levelling Up, Housing and

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Communities, with an update on the FCA's work over the past year on multi-occupancy buildings insurance, which has been a concern for leaseholders.

Mr Mills emphasises that the FCA will continue to scrutinise how firms are assessing and evidencing fair value, for customers and the leaseholders paying for buildings insurance. He adds that the FCA expects firms to improve the data they use to evidence compliance with the FCA's fair value rules, including better recording and analysis of loss ratios, remuneration levels and profitability, specifically for multi-occupancy buildings insurance and buildings with material fire safety issues.

[Letter](#)

14 ASSOCIATION OF BRITISH INSURERS

14.1 Responsible AI innovation - ABI publishes guide - 27 February 2024 - The Association of British Insurers (ABI) has published a guide to responsible artificial intelligence (AI) innovation, setting out how those working in the insurance and long-term savings industry can put the UK government's five principles of AI (launched in its March 2023 AI White Paper) into practice.

Among other things, the guide includes an AI risk taxonomy providing an overview of some key risks associated with the use of AI and steps that can be taken to mitigate these risks, and an overview of regulations and legislation with application to AI.

[ABI: AI Guide Practical ideas for getting started with responsible AI](#)

FINANCIAL CRIME //

15 COUNCIL OF THE EU AND EUROPEAN PARLIAMENT

15.1 AMLA - Frankfurt to host the EU's new AML authority - 23 February 2024 - The Council of the EU and the European Parliament have published press releases announcing that Frankfurt will be the seat of the EU's new Anti-Money Laundering Authority (AMLA) from mid-2025. AMLA will have direct and indirect supervisory powers over obliged entities, and the power to impose sanctions and measures.

The location of the seat will be included in the AMLA Regulation (2021/0240(COD)) (on which the Council of the EU and European Parliament reached a provisional agreement on 13 December 2023) and will be formally adopted as part of the text. Once adopted, the AMLA Regulation will apply from July 2025, and before then the European Commission is responsible for establishing AMLA and for its initial operations.

[Council of the EU Press Release](#)

16 HOUSE OF COMMONS TREASURY COMMITTEE

16.1 Russia sanctions regime - House of Commons Treasury Committee publishes Call for Evidence on effectiveness - 29 February 2024 - The House of Commons Treasury Committee (the

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Committee) has published a Call for Evidence inquiring into whether the UK's programme of economic sanctions levelled against Russia is having the desired effect, "*to hamper Putin's ability to fund Russia's armed forces*". In an accompanying press release, the Committee notes that it will be looking closely at the work of HM Treasury's Office of Financial Sanctions Implementation (OFSI), and that MPs will be seeking to understand the extent to which it is possible to seize frozen Russian assets, including the legal constraints of such action and the global context required to do so effectively.

MPs will also probe whether sanctions should be broadened to include any entities buying Russian oil and gas and how different UK economic sectors, such as maritime and insurance, are performing when it comes to the relevant sanctions.

[Call for Evidence](#)[Press release](#)

ENFORCEMENT //

17 FINANCIAL CONDUCT AUTHORITY

17.1 Enforcement Guide - FCA consults on a new approach to publicising enforcement investigations - 27 February 2024 - The FCA has published a consultation paper containing proposals on a new, more proactive approach to publicising its enforcement investigations. The FCA believes that under the status quo—where it rarely publishes information about investigations unless they result in outcomes such as censures or penalties—the reassurance, educational value and effectiveness of that information is significantly reduced, and the information is provided too late to encourage witnesses and whistle-blowers to inform the FCA's enforcement and supervisory work.

The FCA's proposals, which would take the form of amendments to the Enforcement Guide (EG) part of the FCA Handbook, involve publicly announcing that the FCA has opened an enforcement investigation (including the identity of the subject of the investigation) and publishing updates on the investigation, if the FCA considers that it is in the public interest to do so. A new public interest framework is proposed to inform this decision-making. The FCA's approach also recognises that there are specific legal considerations where it publishes information about individuals, particularly around the processing of personal data.

Finally, the consultation paper sets out a number of proposals to simplify EG in order to reduce duplication and make it more accessible. Comments to the consultation paper are requested by 16 April 2024.

[Consultation Paper CP24/2](#)[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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