

# 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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## GENERAL //

### 1 EUROPEAN COMMISSION

- 1.1 **MiCA - European Commission adopts Delegated Regulations on classification of ARTs and EMTs, product intervention powers, supervisory fines and fees - 22 February 2024** - The European Commission has adopted Delegated Regulations supplementing the Regulation on markets in cryptoassets ((EU) 2023/1114) (referred to as MiCA). The Delegated Regulations specify certain criteria for classifying asset-referenced tokens and e-money tokens as significant, product intervention powers, supervisory fines, and fees. The Council of the EU and the European Parliament will now scrutinise the Delegated Regulations. If neither objects, they will be published in the Official Journal of the European Union.

[Commission Delegated Regulation \(EU\) supplementing Regulation \(EU\) 2023/1114 by specifying certain criteria for classifying asset-referenced tokens and e-money tokens as significant \(C\(2024\)906\)](#)

[Commission Delegated Regulation \(EU\) supplementing Regulation \(EU\) 2023/1114 by specifying the criteria and factors to be taken into account by the European Securities Markets Authority, the European Banking Authority and competent authorities in relation to their intervention powers \(C\(2024\)907\)](#)

### 2 UK GOVERNMENT

- 2.1 **Strategic approach to AI - Information request sent to FCA and Bank of England - 15 February 2024** - The Secretary of State for Science, Innovation and Technology, Michelle Donelan, and the Economic Secretary to the Treasury and City Minister, Bim Afolami, have requested information from the FCA and the Bank of England on their plans for artificial intelligence (AI). In letters addressed to the FCA and Bank of England respectively, they ask the regulators to set out details on their strategic approach to AI and the steps they are taking in line with the government's AI White Paper published last year. Among other things, they have been asked to set out their current assessments of how AI applies within the scope of their regulatory responsibilities.

[Letter to FCA on approach to AI](#)

[Letter to Bank of England on approach to AI](#)

### 3 HM TREASURY

- 3.1 **Operating a pensions dashboard service - new regulated activity - 19 February 2024** - The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2024 (SI 2024/169) has been published, together with an explanatory memorandum. The Order inserts a new regulated activity into the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544): namely, 'operating a pensions dashboard service' that connects to the Money and Pensions Service (MaPS) dashboards digital architecture.

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In short, this Order means that commercial providers of dashboards will need to be authorised by the FCA. Notably, operating a dashboard may include taking regulatory responsibility for any third parties involved in connecting to the MaPS digital architecture on their behalf.

The Order will come into force on 11 March 2024.

**[The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2024 No.169](#)**[Webpage](#)[Explanatory memorandum](#)

## 4 PRUDENTIAL REGULATION AUTHORITY

**4.1 Review of PRA rules - Policy statement published - 22 February 2024** - The PRA has published a policy statement (PS4/24) on its approach to reviewing its rules, and the final version of its statement on the review of rules. The PRA's framework for reviewing its rules and supervisory statements comprises the following four key activities:

- **Monitoring.** The PRA regularly screens for indications that suggest a rule, or a set of rules, may warrant review;
- **Selection of rules to review.** The PRA will consider the rules that have been identified for potential review to determine whether they meet the conditions for a rule review and prioritise reviews based on specified criteria;
- **Choice of methods.** When a rule has been selected, the PRA will select the method(s) it will use to review the rule; and
- **Execution and decision on follow-up actions.** The review will conclude with the PRA deciding whether to propose any changes to the rule in question. It will consult publicly on any changes to its rules arising from a rule review in the usual way.

The statement also considers how stakeholders (including the PRA's statutory panels) can engage with the PRA on rule reviews, how the PRA will communicate its rule review work to the public and how the PRA intends to co-ordinate with other public bodies on rule reviews covering areas of shared responsibility.

[Policy statement on the review of rules \(PS4/24\)](#)[Final statement on the review of rules](#)

## 5 FINANCIAL CONDUCT AUTHORITY

**5.1 Consumer duty implementation and closed products - FCA publishes review findings and speech - 20 February 2024** - The FCA has published on a new webpage its findings following a review of firms' implementation of the consumer duty. It has also published the results of a second survey of firms carried out in November 2023, together with a summary of the key

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information it found. Broadly, the FCA welcomes the improvements made by many firms to deliver better outcomes for their retail customers since the duty came into force in July 2023, but it notes that some firms have fallen behind.

The FCA sets out examples of good practice and highlights areas for improvement. In particular, firms are required to ensure that the focus on good customer outcomes is understood at all levels, and in their strategies, leadership and people policies. Firms must also be able to show that their products offer fair value to customers (with the FCA noting that some firms have relied solely on an assessment of similar product offerings in a market, which alone does not prove that the customer is getting a good deal). The FCA is also seeing statements being made about value without any underlying qualitative reasoning.

The FCA has also separately published a speech by Sheldon Mills, the FCA's Executive Director, Consumers and Competition, in which he refers to these FCA findings. In the speech, Mr Mills encourages firms to take action in respect of less engaged and "gone away" customers, including an assessment of the support offered and whether these customers understand the products they hold.

The consumer duty comes into force for closed products and services on 31 July 2024. The FCA intends to issue further communications relating to closed products in due course.

[FCA webpage on implementation](#)

[Survey results](#)

[Summary of survey](#)

[FCA speech: Consumer Duty: The art of the possible in a year](#)

## 6 LAW COMMISSION

- 6.1 **Digital assets and personal property rights - Law Commission consults - 22 February 2024** - The Law Commission has launched a consultation on a draft Bill, comprising two short clauses, to confirm that digital assets (such as crypto-tokens) are capable of being recognised by the law as property. This follows the Law Commission's report on digital assets published in June 2023 which broadly concluded that certain types of digital assets are capable of being things to which personal property rights can relate, even though they do not easily fit within the traditional categories of personal property, and are better regarded as belonging to a separate category.

The deadline for responses is 22 March 2024.

[Press release](#)

[Webpage](#)

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## BANKING AND FINANCE //

### 7 EUROPEAN BANKING AUTHORITY

- 7.1 CRR III - EBA consults on amendments to operational risk supervisory reporting requirements and business indicator - 20 February 2024** - The European Banking Authority (EBA) has launched two consultations in respect of the implementation of CRR III.

The first consultation (EBA/CP/2024/05) concerns two draft regulatory technical standards (RTS) and draft implementing technical standards (ITS) that aim to clarify the composition of the new business indicator (BI) component of the own funds requirement for operational risk under the Capital Requirements Regulation (575/2013) (CRR), reflecting reforms introduced by the CRR III Regulation (2021/0341(COD)). These are intended to clarify the composition of the new business indicator, which is central to the operational risk capital requirements calculation. The consultation is open until 21 May 2024.

The second consultation (EBA/CP/2024/06) concerns two sets of draft Implementing Technical Standards (ITS) amending Commission Implementing Regulation (EU) 2021/637 on public disclosures of the information on operational risk under Article 446 of the Capital Requirements Regulation (575/2013) (CRR). The purpose of these ITS is to implement requirements under the CRR III Regulation, bringing together the reporting and disclosure requirements for operational risk together with the broader Pillar 3 disclosures and supervisory reporting changes into one document. The consultation is open until 30 April 2024.

[Consultation paper \(EBA/CP/2024/05\)](#)

[Press release](#)

[Consultation paper \(EBA/CP/2024/06\)](#)

[Press release](#)

### 8 EUROPEAN CENTRAL BANK

- 8.1 ECB internal models under SSM - Final guide published - 19 February 2024** - The European Central Bank (ECB) has published its final revised guide to internal models under the Single Supervisory Mechanism (SSM) following a consultation on the proposed changes in June 2023. Among other things, the revised guide contains clarifications on the inclusion of material on climate-related and environmental risks in banks' models. It also outlines how banks can revert to the standardised approach for calculating risk-weighted assets and explains how to measure default risk in trading book positions in the chapter on market risk.

The ECB has published a feedback statement, providing an overview of the comments received during the consultation and its assessment of them; it has also republished its related FAQs.

[ECB guide to internal models](#)

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- 8.2 Supervision of third-country banks in EU - ECB publishes memorandum of cooperation - 19 February 2024** - The ECB has published a memorandum of co-operation that it has entered with certain EU national competent authorities (NCAs) that aims to improve the way in which third-country banks operating in the EU are supervised. In short, the memorandum seeks to ensure that the authorities work together to strengthen the supervisory framework established by the CRD IV Directive (2013/36/EU) and the Capital Requirements Regulation (575/2013) (CRR) that applies to third-country groups in the EU, prevent the circumvention of the requirements applicable to such groups and prevent any detrimental impact to the financial stability of the EU.

[Memorandum of Cooperation between competent authorities for the performance of their supervisory tasks in relation to the supervision of Third-Country Groups and Third-Country Branches](#)

## 9 FINANCIAL CONDUCT AUTHORITY

- 9.1 Interest-only mortgages - FCA launches industry working group - 21 February 2024** - The FCA has published a webpage on a newly established FCA and industry working group on interest-only mortgages. It has also published the terms of reference for the working group, the primary purpose of which is to support and inform the FCA's review of its existing guidance on the fair treatment of interest-only borrowers (FG13/7), published in August 2013. In August 2023, and as previously reported in this bulletin, the FCA announced that it would review FG13/7 to ensure it is in line with the higher standards set by the consumer duty.

The working group will consist of the FCA, as chair and secretariat, and 12 mortgage lenders and administrators. Among other things, it will map the current guidance as it is currently applied, including options and support offered to borrowers who are not able to repay at maturity.

[FCA webpage on interest-only mortgages](#)

[Terms of reference for the working group](#)

## 10 ALL-PARTY PARLIAMENTARY GROUP

- 10.1 Fair business banking - APPG publishes report on de-banking - 21 February 2024** - The All-Party Parliamentary Group (APPG) on fair business banking (a cross-party group with members from the House of Commons and the House of Lords) has published a report on de-banking. In the report, the APPG considers the three main factors that go into a bank's decision-making process as regards de-banking its customers (namely, cost, reputation and potential exposure to financial crime) and makes recommendations relating to each of these. It also refers to the review



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published by the FCA in September 2023 and HM Treasury's proposed change to the rules around payment service contract terminations, noting its view that neither initiative goes far enough.

[APPG for Fair Business Banking: De-Banking Report](#)

## SECURITIES AND MARKETS //

### 11 COUNCIL OF THE EUROPEAN UNION

**11.1 MiFID II market data access and transparency - Council of EU adopts proposed Directive and Regulation - 20 February 2024** - The Council of the European Union has adopted the proposed amendments to the Markets in Financial Instruments Regulation (600/2014) (MiFIR) (2021/0385 (COD)) and the second Markets in Financial Instruments Directive (MiFID II) (2014/65/EU) (2021/0384 (COD)) which were introduced primarily to improve access to market data and trade transparency.

Notably, the amendments establish EU-level 'consolidated tapes' that bring together market data provided by platforms on which financial instruments are traded in the EU and will aim to publish the information as close as possible to real time. The amendments also impose a general ban on 'payment for order flow' and introduce new rules on commodity derivatives.

The proposed legislation will enter into force 20 days after publication in the Official Journal of the European Union.

#### [Press release](#)

#### [Directive amending Directive 2014/65/EU on markets in financial instruments](#)

[Regulation amending Regulation \(EU\) No 600/2014 as regards enhancing data transparency, removing obstacles to the emergence of consolidated tapes, optimising the trading obligations and prohibiting receiving payment for order flow](#)

### 12 BANK OF ENGLAND

**12.1 Approach to discretionary payments by CCPs - Bank of England publishes policy statement - 16 February 2024** - The Bank of England has published a policy statement on its approach to the power to temporarily prohibit or restrict discretionary payments by central counterparties (CCPs) to ensure the continuity of critical clearing services.

Schedule 11 to the Financial Services and Markets Act 2023 (FSMA 2023) provides for a special resolution regime (SRR) for CCPs and grants the Bank of England additional powers that support its financial stability objective, including new powers relating to CCPs that enable the Bank to act before the SRR is triggered. The policy statement relates to the use of the power to temporarily restrict or prohibit discretionary payments to specified shareholders or employees of CCPs in severe circumstances. The final policy clarifies the factors that the Bank of England may consider in assessing the statutory conditions for the use of this power, the circumstances that

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could lead to those conditions being deemed to be met, and the process for giving any direction under the power.

[Bank of England policy statement](#)

## ASSET MANAGEMENT //

### 13 COUNCIL OF THE EUROPEAN UNION

**13.1 Proposed Directive amending AIFMD and UCITS Directive - Council of EU publishes text - 15 February 2024** - The Council of the EU has published the text (PE-CONS 67/23) of the proposed Directive amending the Alternative Investment Fund Managers Directive (2011/61/EU) (AIFMD) and the UCITS Directive (2009/65/EC) relating to delegation arrangements, liquidity risk management, supervisory reporting, provision of depositary and custody services, and loan origination by alternative investment funds (AIFs) (2021/0376/COD).

The European Parliament adopted the proposed Directive at first reading on 7 February 2024 after the Council of the EU and Parliament reached political agreement on it in July 2023.

[Text \(PE-CONS 67/23\) of the proposed Directive](#)

## FINANCIAL CRIME //

### 14 COUNCIL OF THE EUROPEAN UNION

**14.1 Proposed AMLA Regulation - Council of EU publishes text of political agreement - 20 February 2024** - The Council of the EU has published the final compromise text reflecting the political agreement it reached with the European Parliament, in December 2023, on the proposed Regulation establishing the Anti-Money Laundering Authority (AMLA) (AMLA Regulation) (2021/0240(COD)).

The provisional political agreement is subject to approval by the Council and the Parliament before going through the formal adoption procedure.

[Regulation of the European Parliament and of the Council establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations \(EU\) No 1093/2010, \(EU\) 1094/2010, \(EU\) 1095/2010](#)

## ENFORCEMENT //

### 15 FINANCIAL CONDUCT AUTHORITY

**15.1 Insider dealing and fraud - Investment analyst found guilty - 15 February 2024** - The FCA has announced that a former analyst at Goldman Sachs International has been found guilty of six offences of insider dealing and three offences of fraud. Between 15 July 2016 and 4 December 2018, the individual dealt in six shareholdings using the inside information, making a profit of



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£140,486. The trading was partially funded by three fraudulently obtained loans totalling £95,000.

The individual has been sentenced to 22 months in prison. The FCA has commenced confiscation proceedings against them, with a hearing listed for 27 September 2024.

[FCA press release on conviction](#)

[FCA press release on sentencing](#)

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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 most recent issues of this Bulletin and our briefing papers and client publications appear on the Slaughter and May website [here](#).

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