Being better informed

FS regulatory bulletin

FS regulatory insights

April 2024

In this month's edition:

- FCA affirms priorities in Business Plan
- HM Treasury consults on new secondary market for private company shares
- PRA confirms solvent exit planning regime for non-systemic institutions
- HM Treasury proposes improvements to MLRs

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Executive summary

Welcome to this edition of 'Being better informed', our monthly FS regulatory bulletin, which aims to keep you up to speed with significant developments and their implications across all the financial services sectors.

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March ended the first quarter of 2024 with a number of significant updates from regulators, including the FCA's 2024/25 Business Plan, detailing its priorities and plans for the year ahead. The FCA is focused on delivering the third and final year of its current strategy, with limited new initiatives, acknowledging the breadth of change enabled by the Edinburgh Reforms, and ongoing work to repeal EU law under the Smarter Regulatory Framework. Nonetheless, firms should note the FCA's continued focus on areas such as financial crime, consumer outcomes and wholesale market reform. Please see our At a glance publication for further analysis.

Elsewhere, the FCA issued a Dear CEO letter to financial advice firms asking them to review their processes when providing retirement income advice, following the conclusion of a thematic review. Separately, the regulator issued a Dear CEO letter to mainstream consumer credit lenders, high-cost lenders and credit unions, setting out the key risks of harm in this sector and areas of supervisory focus over the next two years. Its priorities include: lending responsibly and sustainably, fair value, supporting customers in financial difficulty, complaints and redress, and mitigating financial crime risks.

In the insurance sector, the FCA published the findings of a review into insurers' claims-handling processes for valuing vehicles which have been stolen or written off. The FCA shares good practice as well as a number of areas for improvement, and reiterates its expectations that firms handle claims promptly and fairly, including by identifying a fair estimate of a vehicle's market value. While the FCA carried out its field work before the Consumer Duty came into force, it also provides commentary on where firms fell short under the Duty.

Elsewhere, the PRA confirmed solvent exit planning requirements for non-systemic banks and building societies, seeking to ease the way in which non-systemic firms can exit the market in an orderly way. The PRA expects non-systemic firms to integrate solvent exit planning into their recovery and resolution planning, aiming to remain solvent should they choose or need to wind down PRA-regulated activities. Firms will need to develop detailed solvent exit analysis integrated with recovery plans, establish clear exit indicators for timely decisions, and conduct assurance activities to ensure robust and compliant planning for an orderly market exit. Our At a glance briefing provides further details.

HM Treasury (HMT) progressed several initiatives, including a proposed framework for a new Private Intermittent Securities and Capital Exchange System (PISCES). PISCES - formerly known as the Intermittent Trading Venue - is intended to provide an intermediate step to public capital markets for private companies or public limited companies (PLCs) looking to scale up, as part of the Government's agenda to increase the competitiveness of the UK's capital markets. It will operate as a secondary market, allowing existing shares in private companies and PLCs not admitted to trading elsewhere to be traded in a controlled way, on an intermittent basis. See our At a glance publication for more information.

HMT also consulted on improving the effectiveness of the Money Laundering Regulations 2017 (MLRs). The consultation addresses specific issues regarding how the MLRs are implemented by regulated firms and supervisors, and seeks views on options to enhance the proportionality, clarity and coordination of the regime. The consultation is part of the Government's commitment to deliver the Economic Crime Plan 2023-26, and review the UK's anti-money laundering and counter-terrorist financing regulatory and supervisory regime. Our At a glance briefing provides further details.

Please read on to find out more about these and other developments. You can also visit our PwC webpage for further regulatory insights. These include our latest podcast episode on the incoming regulatory oversight regime for critical third parties, our blog on managing disclosure reform in asset management, and blog on meeting obligations under the Senior Managers Regime in how firms approach AI.

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Conduct

FCA affirms priorities in latest Business Plan

The FCA published its 2024/25 Business Plan on 19 March 2024, detailing its priorities and plans for the year ahead. This year, the FCA plans to focus on three priority commitments: (1) putting consumers' needs first, (2) reducing and preventing financial crime, and (3) strengthening the UK's position in global wholesale markets. This year's plan is characterised by continuity, as the FCA focuses on delivering the third and final year of its current strategy. Acknowledging the breadth of change enabled by the Edinburgh Reforms, and ongoing work to repeal EU law under the Smarter Regulatory Framework, there are limited new initiatives. Nonetheless, firms should note the FCA's continued focus on financial crime, consumer outcomes and wholesale market reform.

The regulator will continue its extensive supervisory work on Consumer Duty, through multi-firm work and market studies. As previously highlighted in insurance portfolio letters, it plans to look at fair value in unit-linked pensions and long-term savings products, and review how the insurance industry responds to claims.

The FCA's ongoing work on the Wholesale Markets Review and Edinburgh Reforms includes completing reforms to the Listing Regime, publishing proposals for the new Public Offer and Admission to Trading Regime, and finalising revised frameworks for commodity derivatives and non-equity transparency. Other areas of focus include supporting industry work on T+1 settlement changes and tokenisation.

On financial crime, the regulator will continue to proactively assess the anti money laundering systems and controls of firms deemed higher risk, and to strengthen its supervision of firms' sanctions systems and controls.

Please see our At a glance for more details.

FCA discusses approach to redress

Nikhil Rathi, FCA Chief Executive, gave a speech on 14 March 2024, covering redress, Consumer Duty, the FCA's review of historic motor finance commission arrangements, and supporting investment. He said the Consumer Duty should, in time, result in fewer detailed or reactive rules, and in reduced provisions for consumer redress.

On motor finance discretionary commission arrangements, Rathi said that as the regulator decides on next steps, it is mindful of the need to ensure consumers are treated fairly, and the need to maintain a functioning, accessible and competitive motor finance market. He said the FCA wants to clarify matters more quickly than for previous redress events such as PPI. But he noted the regulator's ability to do so will depend on firms 'cooperating fully and providing data comprehensively and promptly, as well as potentially the speed of any court processes'. Rathi added that while he cannot prejudge the findings of the FCA's review, he believes it is 'improbable' that the FCA will find nothing to report.

Rathi announced the FCA plans to consult on guidance later this year on how firms should deal with redress issues more quickly and effectively. He said that where the FCA has concerns and redress is possible, it will seek to make that public as soon as possible, in line with its approach to motor finance commission.

He also referenced the FCA's intention to consult on improved complaints reporting this year.

In addition, Rathi referenced cost pressures facing firms and the need to invest in infrastructure for the future. He said: 'Firms and their investors need honest conversations about the balance between short-term shareholder returns and long-term investment to ensure medium-term competitiveness.'

FCA sets out expectations for financial promotions on social media

The FCA issued final guidance on social media financial promotions on 26 March 2024. It clarifies its expectations for when firms and others, such as influencers, use social media to communicate financial promotions. The guidance does not create new rules, but indicates how firms might approach complying with their existing regulatory obligations.

Promotions must provide a balanced view of the benefits and risks, and clearly communicate information which will help consumers make effective, well-informed decisions. Firms should consider factors such as target audience, what recipients need to know, the decisions to be made by recipients, and where confusion could arise in determining how to support consumer understanding. Some promotions will require specific information, such as a risk warning with prescribed wording, to be displayed prominently.

Firms working with affiliate marketers, such as influencers, should take proactive responsibility for how their affiliates communicate financial promotions. This includes having appropriate monitoring and oversight systems to ensure that affiliates understand their responsibilities and do not communicate illegal or non-compliant financial promotions. Firms remain responsible for the compliance of every promotion they make or cause to be made.

Consumer Outcomes

FCA shares details of vulnerable customers review

The FCA shared some further details of its review into firms' treatment of customers in vulnerable circumstances, in an update on 15 March 2024. The review will look at how firms are acting to understand and respond to the needs of customers in vulnerable circumstances, particularly focusing on the skills and capabilities of firms' staff, product and service design, and communications and customer service. The regulator will also analyse the outcomes customers in vulnerable circumstances are receiving and whether they are as good as the outcomes of other customers. The FCA expects to share its findings from the review by the end of 2024.

FCA calls for debt collection improvements

The FCA issued a joint letter on 18 March 2024 alongside Ofgem, Ofwat and Ofcom, calling on firms to improve debt collection practices and reaffirming expectations on how firms should treat customers in financial difficulty.

In particular, the FCA reminds firms to make sure customers in debt do not receive excessive communications, and that firms use supportive language, clearly signpost free debt advice, and make it easy for debt advisers to contact the firm on behalf of their clients. The FCA notes that these expectations are already in place under the Consumer Duty and reiterates that firms must monitor and assess how they are meeting the needs of customers with characteristics of vulnerability, and make improvements where this is not happening. The FCA will continue to monitor how firms are supporting customers in financial difficulty alongside its broader review into firms' application of its vulnerable customers guidance. The FCA is expected to share its findings from the vulnerable customers review by the end of 2024.

Data

FCA explores synthetic data opportunities

The FCA's Synthetic Data Expert Group (SDEG) published its findings on the use of synthetic data in financial services in a report on 8 March 2024. The SDEG convenes 21 experts from a range of fields including financial services, the public sector, data and technology vendors, and consumer advocacy, with the goal of exploring synthetic data's applications in financial markets.

The report is structured around three themes related to the data lifecycle:

- the enhancement and bias mitigation of data
- the testing and validation of models
- the sharing of data both internally and externally for the purpose of improving fraud controls.

The report underscores the importance of considering regulatory, legal and ethical aspects when creating and deploying synthetic data. It stresses that the quality, accuracy and regulatory alignment of synthetic data are crucial for its effective and safe use in financial services.

The next phase of the SDEG is to further understand where synthetic data can be used to drive beneficial innovation in financial services, and how stakeholders can collaborate to overcome potential barriers.

Digital Assets

FCA updates on crypto cETNs

The FCA issued an update on cryptoasset Exchange Traded Notes (cETNs) for professional investors on 11 March 2024. The FCA will not object to the requests from Recognised Investment Exchanges (RIEs) to create a UK listed market segment for cryptoasset-backed cETNs. The products would be available for professional investors only. The ban on the sale of cETNs (and crypto derivatives) to retail consumers remains in place.

Financial crime

HMT proposes improvements to MLRs

HM Treasury (HMT) issued a consultation on improving the effectiveness of the Money Laundering Regulations 2017 (MLRs) on 11 March 2024.

The consultation addresses specific issues regarding how the MLRs are implemented by regulated firms and supervisors, and seeks views on options to enhance the proportionality, clarity and coordination of the regime.

The consultation is part of the Government's commitment to deliver the Economic Crime Plan 2023-26, and to review the UK's anti-money laundering and counter-terrorist financing (AML/CTF) regulatory and supervisory regime.

In parallel, HMT issued a survey on the cost of compliance with the MLRs.

The consultation covers four main themes:

- making customer due diligence more proportionate and effective
- strengthening system coordination
- providing clarity on the scope of the MLRs

- reforming registration requirements for the Trust Registration Service.

The consultation and survey will close on 9 June 2024. The Government will confirm next steps in due course, including draft legislation if appropriate.

For more information, please see our At a glance publication.

Pensions

FCA Chief discusses future of pensions

FCA Chief Executive Nikhil Rathi gave a speech on the future of pensions on 13 March 2024. He discussed the Government's focus on encouraging more investment in productive assets, to support economic growth.

He said it is not for regulators to direct how schemes invest, but the FCA will work with the PRA and The Pensions Regulator to remove inappropriate barriers, manage potential risks and support the development of a more positive ecosystem for UK investment. Rathi added that the industry needs to 'tackle questions about cost, scale, cultural barriers and risk appetite, and how different players in the market work together'.

He also discussed the Advice Guidance Boundary Review, saying the FCA wants to support the emergence of commercially viable, high-quality models of support for consumers, and is 'open-minded' on the role of digitalisation.

Rathi said: 'That means firms will have to manage risk rather than eliminate it. Firms must overcome their reticence to offer support for fear of being too close to the boundary or due to an overly cautious risk appetite.' In addition, he said the FCA is intervening where it sees poor practice in firms, such as pockets of poor practice in Self Invested Personal Pension markets.

FCA consults again on pensions dashboards services

The FCA published a further consultation (CP24/4) on the regulatory framework for pensions dashboard services firms on 27 March 2024. This consultation follows CP22/25 which was published in December 2022.

Operating a pensions dashboard is a new regulated activity. In CP24/4 the FCA consults on new guidance in its Perimeter Guidance Manual for firms undertaking this activity. The guidance is designed to help firms understand the scope of this activity, particularly when authorisation will be required.

Additionally, the FCA seeks feedback on two substantive changes to the regulatory framework proposals it set out in CP22/25. The first change is to require firms to present consumers with choices for their initial next steps after viewing their pensions data on a dashboard. The second change is to revise the data export proposals, creating a single route for consumers to share their dashboard data with an FCA regulated investment adviser. These changes are informed by feedback to CP22/25 and the FCA's engagement with consumers and industry representatives. Among other things, the FCA's proposed changes aim to put the consumer in control of the steps they take in and beyond their dashboard journey.

The consultation closes on 8 May 2024. The FCA expects to publish a policy statement and final handbook text in Q4 2024.

Reporting

Regulators update on data transformation next steps

The FCA and Bank of England (BoE) published a response to industry recommendations on phase two of its 'Transforming Data Collection (TDC)' programme on 28 March 2024, as well as sharing further detail on its future strategy.

Building on the learnings from the programme to date, the BoE and FCA are planning several projects over the next 18 months to improve data collection. These include ongoing work as part of the BoE's Banking Data Review, as well as projects to deliver effective and efficient internal processes for new data collections. The BoE and FCA will also undertake work with industry to deliver clear and consistent data definitions.

The TDC programme is a multi-year initiative focused on improvements to how the regulators collect data from the financial sector, ensuring they are able to get the data they need at the lowest possible cost to industry. The programme has focused on three key reforms: defining and adopting common data standards; modernising reporting instructions; and integrating reporting.

Supervision

FCA issues wind-down plan guidance

The FCA published a summary guidance on firms' wind-down plans on 1 March 2023. While the rules themselves are not new, the purpose of the guidance is to help firms to prepare a wind-down plan as part of their application for authorisation. The FCA expects firms to consider the scenarios leading to financial stress, explore recovery options and, as a last resort, wind-down. For payment firms, the FCA expects a significant focus on planning how to return any customer funds.

Sustainability

FRC launches market study on sustainability assurance

On 21 March 2024, the Financial Reporting Council (FRC) launched a market study to examine the UK market for sustainability assurance services.

With the market for sustainability assurance growing rapidly, the study is intended to explore issues including how the market functions and whether improvements could be made to benefit stakeholders.

The key topics the FRC will explore are:

- choice, quality and competition in the sustainability assurance market
- capacity constraints and barriers to entry or expansion
- potential impacts from changing international regulations
- any interplay between the sustainability assurance and statutory audit markets, including whether the crossover between firms that provide statutory audit and sustainability assurance services may have any implications for competition and resilience in the UK's statutory audit market.

Stakeholders are invited to submit comments by 13 June 2024.

FRC updates Factsheet on climate-related reporting

On 27 March 2024, the Financial Reporting Council (FRC) issued an update to its Factsheet on climate-related matters detailing what climate-related matters preparers of annual reports under FRS 102 may need to consider when preparing financial statements and associated narrative reporting. This includes reporting in Directors' Reports, Strategic Reports, Energy and Carbon Reports, and reporting by listed companies.

The Factsheet clarifies that climate-related matters should be considered in the same manner as any other matters that could have a material effect upon the financial statements. The Factsheet outlines:

- how the general requirements of FRS 102 should be applied to climate-related matters – in particular, in the context of risks, uncertainties, judgements and estimations
- how climate-related matters could affect the recognition and measurement of items in the financial statements
- how climate-related matters could affect the disclosures in the financial statements and what additional disclosures may be required.

The FRC notes that, based on its Climate Thematics, preparers should enhance consistency between narrative reporting and the financial statements. To help with this, the FRC encourages entities to consider disclosing whether, and why, any significant matters disclosed within narrative reporting have, or have not, had a material effect on the financial statements.

The Factsheet outlines future developments that may impact FRS 102 reporting, including the UK's commitments around implementing the International Sustainability Standards Board Standards as part of its UK Sustainability Disclosure Requirements regime and the Government's review of non-financial reporting requirements.

Wholesale markets

FCA publishes guidance on EMIR Refit reporting

On 1 March 2024 the FCA published draft guidance in the form of questions and answers (Q&As) on changes to UK European Market Infrastructure Regulation (UK EMIR) reporting. The changes, introduced under EMIR Refit, go live on 30 September 2024. The Q&As cover issues related to transitional arrangements, reconciliations, errors and omissions, derivative identifiers, and action and events.

The FCA will consult on additional Q&A guidance covering trading venues, exchange traded derivatives, margin and collateral, clearing, post trade risk reduction, position level reporting, and asset class and product specific issues, later in 2024.

HMT consults on new secondary market for private company shares

On 6 March 2024, HM Treasury (HMT) published a consultation on the framework for a new Private Intermittent Securities and Capital Exchange System (PISCES). Formerly known as the Intermittent Trading Venue, PISCES is intended to provide an intermediate step to public capital markets for private companies or public limited companies (PLCs) looking to scale up. It will operate as a secondary market, allowing existing shares in private companies and PLCs not admitted to trading elsewhere to be traded in a controlled way, on an intermittent basis.

HMT’s proposals were announced as part of the Edinburgh Reforms package in December 2022 and form part of the Government’s wider agenda to increase the competitiveness of the UK’s capital markets.

The Government aims for PISCES to combine elements from public markets with the greater discretion and more proportionate requirements of private markets.

HMT's consultation sets out the proposed framework for PISCES, including: the legal framework which will include a bespoke disclosure and market abuse regime; who will be eligible to participate in a PISCES platform; and the requirements on participant companies and platform operators. The regulatory framework for PISCES will be tested and developed through the Financial Market Infrastructure Sandbox, enabling the detailed requirements to be developed over time. The final regime may therefore differ from the proposals put forward in this consultation.

Please see our At a glance summary for further details.

FCA furthers Listing regime transformation

The FCA published the second tranche of the new draft UK Listing Rules (UKLR) on 7 March 2024, as it continues to progress sweeping changes to the UK Listing regime.

The new UKLR follow an FCA consultation (CP23/31) published in December 2023, which advanced the regulator's plans to establish a single listing category for equity shares in commercial companies accompanied by reduced eligibility and ongoing requirements and rules.

In order to expedite the consultation process, the FCA consulted on the first tranche of draft UKLR in December 2023. The latest publication includes a new version of the draft UKLR instrument containing the new tranche 2 provisions alongside the initial tranche 1 provisions. The new tranche 2 rules include updates to the drafting of rules for the 'commercial company' category as well as the new rules for the additional listing categories, including for closed-end investment funds and shell companies.

The consultation on tranche 1 provisions and wider CP23/31 consultation closed on 22 March 2024. Respondents have until 2 April 2024 to provide feedback on the tranche 2 additions.

ESMA sounds note of caution over EU T+1

The European Securities and Markets Authority (ESMA) published a feedback statement on 21 March 2024 to its call for evidence on shortening the EU settlement cycle. ESMA was mandated to review the appropriateness of shortening the settlement cycle standard, from the current two-day cycle (T+2) to T+1, as well as its potential costs and benefits.

ESMA’s report acknowledges that while T+1 is technically possible in the EU, mandating it would have considerable operational impacts for market participants, and could negatively affect the efficiency of settlement processes if not organised properly. ESMA states it will take on board any lessons learned from the US transition before reaching its final view, and that it is unlikely that EU markets could transition to T+1 any earlier than 32 months from the date the change is announced. ESMA will publish its full report later this year.

Read our Hot Topic publication for further information about ESMA’s findings, and those of the UK Accelerated Settlement Taskforce.

Banking and capital markets

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Conduct

FCA sets out consumer credit supervisory priorities

The FCA published a Dear CEO letter on 20 March 2024 to mainstream consumer credit lenders, high-cost lenders and credit unions, setting out the key risks of harm in this sector and areas of supervisory focus over the next two years. These include:

- Lending responsibly and sustainably - the FCA remains concerned about the use of sludge practices creating unreasonable barriers for consumers. It notes that more firms are using AI and open banking for lending decisions, and says they need to test the effectiveness of these models, to ensure lending practices are responsible.
- Fair value - the FCA says this is an area of focus, particularly given rising interest rates in credit card and personal loan markets.
- Supporting customers in financial difficulty - the regulator says firms must ensure operations and processes provide adequate consumer support, even where firms are under financial pressure.
- Complaints and redress - while the FCA acknowledges improvements in this area, it remains concerned and expects to see more widespread improvements in how firms handle complaints. It is currently progressing a multi-firm review of how high-cost lenders handle complaints.
- Mitigating financial crime risks - the FCA wants to see firms better identify signs of financial crime. It is also looking at how firms identify and treat the victims of domestic financial abuse.
- Governance - the FCA stresses the importance of good governance and senior manager oversight, stating that deficiencies in this area are prevalent, and are a root cause of many of the drivers of harm.

The FCA expects recipients of the letter to discuss it with their firm's board/governing body and be able to demonstrate the steps taken to address the risks covered in the letter.

Financial crime

FCA warns firms over AML failings

The FCA issued a Dear CEO letter to Annex 1 registered firms on 5 March 2024. The letter sets out the FCA's findings from its recent assessments of how firms are complying with money laundering regulations. Annex 1 firms include some lenders, safe custody providers, money brokers and financial leasing companies, registered and supervised by the FCA for the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs).

The common issues found include: discrepancies between firms' registered and actual activities, financial crime controls which had not kept pace with business growth, failure to risk assess their own or their customers' activities properly, and inadequate resourcing and oversight of financial crime issues and requirements.

The FCA expects all Annex 1 firms to assess their financial crime controls against the common weaknesses within the next six months and resolve any failings as soon as reasonably possible.

Please see our At a glance publication for more details.

Prudential

Basel Committee proposes changes to G-SIBs assessment framework

The Basel Committee on Banking Supervision published a consultation on 7 March 2024, proposing revisions to the assessment framework for global systemically important banks (G-SIBs). The committee considers the current framework is sensitive to year-end values reported by banks and is susceptible to window-dressing behaviour. The Committee additionally published its detailed findings which evidence window-dressing, that is, where banks take steps to temporarily lower the values of certain indicators at year-end, leading to an underestimate of the systemic importance of these banks.

To address this, the Committee is considering requiring banks to report and disclose G-SIB indicators based on an average of values over the reporting year, rather than year-end values. The Committee is seeking input on the averaging frequency as well as on which banks the revised requirements should apply to, and which G-SIB indicators. The Committee proposes an implementation date of 1 January 2027, with a transitional period starting on 1 January 2026

Recovery and resolution

PRA confirms solvent exit planning regime for non-systemic institutions

The PRA set out its requirements for solvent exit planning for non-systemic banks and building societies in policy statement PS5/24 on 12 March 2024.

The PRA's requirements seek to ease the way in which non-systemic firms can exit the market in an orderly way. The PRA expects non-systemic firms to integrate solvent exit planning into their recovery and resolution planning, aiming to remain solvent should they choose or need to wind down PRA-regulated activities.

The PRA requires firms to prepare a comprehensive solvent exit analysis, even if a solvent exit seems unlikely. This analysis must cover all necessary preparations and measures for a potential wind-down. This includes conducting assurance activities to test, validate and enhance the robustness and compliance of solvent exit planning.

The PRA also outlines specific steps that firms should follow once a solvent exit becomes a plausible scenario or upon request by the regulator. This ensures firms are well prepared for a structured and regulatory-compliant closure process.

Firms need to comply with Recovery Plans Chapter 7 and expectations from SS2/24 by 1 October 2025. The PRA will engage industry bodies on firms' readiness for the new rules. Supervisors will reach out to firms for their solvent exit analysis as needed. Our At a glance publication provides further details.

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Asset and wealth management

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Conduct

FCA calls for improvements in retirement income advice

The FCA wrote a Dear CEO letter to financial advice firms on 20 March 2024, asking them to review their processes when providing retirement income advice.

The letter outlines the findings from the FCA's thematic review into firms' retirement income advice. The review identified good practice in the market, including where firms had clearly detailed processes, specific training on decumulation, and the use of a range of tools to illustrate complex information. The FCA also calls out deficiencies in firms' approaches, including firms not considering a sustainable level of income to support retirement, failures to demonstrate advice suitability, and inaccurate or insufficient customer records held.

The FCA asks firms to address any gaps identified by the review and take steps to meet ongoing regulatory requirements, particularly those set by the Consumer Duty. It also directs firms to refer to a survey to identify what improvements could be made to management information to monitor customer outcomes and respond to regulatory information requests. To support firms, the FCA has published a Retirement Income Advice Assessment Tool to show how firms can assess if their advice is compliant with the FCA rules.

Digital assets

Investment Association issues second report on fund tokenisation

The Investment Association (IA) published a second report on fund tokenisation on 26 March 2024, setting out a vision for future opportunities. It follows the first report published in November 2023 which highlighted the benefits of fund tokenisation and compatibility with UK regulation. Both reports are endorsed by the FCA.

The report focuses on two use cases for fund tokenisation which firms will test with the UK authorities:

- fully on-chain investment markets, with tokenised funds investing in tokenised securities such as in the fixed income or other asset classes
- the use of tokenised money market fund units as collateral where eligible under the UK regime for non centrally cleared derivative contracts.

The industry now intends to move towards implementation, working collaboratively to realise the potential opportunities of tokenisation.

Supervision

FCA sets out asset management priorities

The FCA issued a Dear CEO letter to Asset Managers on 1 March 2024, updating its supervisory priorities for firms for the next year, in an interim update (following letters in August 2022 and February 2023). The FCA highlights seven areas: assessment of value (AoV) and Consumer Duty, change management, valuation practices for private assets, market integrity and disruption, supporting innovation, and promoting competition and positive change. The FCA underpins these areas with a strong message on the need for good governance, sufficient expertise and understanding of these risks.

The regulator says it will build on its previous AoV work and will assess, under the Consumer Duty, how asset managers have considered the price and value of products and services provided to unit-linked funds. It will undertake a joint multi-firm review with the life insurance portfolio, to understand price and value across the value chain.

In addition, the regulator says it will continue to assess firms' preparedness for the March 2025 operational resilience deadline, and plans further proactive engagement throughout this year. The FCA will also assess how firms' governance and resourcing of change programmes ensure that potential harms to investors and markets are being appropriately addressed. Elsewhere, the FCA plans to conduct a multi-firm review examining valuation practices for private assets, including examining the personal accountabilities for valuation practices in firms, governance of valuation committees, the information reported to boards about valuations and the oversight by relevant boards of those practices. This will build on its 2023 work on liquidity management.

Please see our At a glance publication for more details.

Insurance

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Diversity and inclusion

IAIS consults on diversity, equity and inclusion

The International Association of Insurance Supervisors (IAIS) published an application paper on the supervision of diversity, equity, and inclusion (DEI) on 14 March 2024. DEI is one of the IAIS' strategic themes; the IAIS considers that advancing DEI within insurance firms will support better prudential and consumer outcomes.

The paper emphasises the importance of DEI in improving insurers' governance, risk management, and corporate cultures. The IAIS proposes that National Competent Authorities (NCAs) should prioritise diversity among boards and senior management and assess equity and inclusion through surveys or qualitative analysis.

The IAIS identifies some risks to DEI that should act as warning signs for NCAs. These include a lack of challenge in board discussions and key decision-making, resistance to change, breaches that persist for a long time, and employee retention challenges coupled with poor recruitment outcomes. The IAIS also discusses specific warning signs linked to the poor embedding of DEI, these include a dismissive attitude to promoting DEI and limited diversity metrics. Positive signs include active support for DEI efforts, where for example, there is adequate budget and resources to support DEI activities.

Additionally, the IAIS provides some DEI supervision options for NCAs. These include taking an industry-wide or insurer specific approach, and incorporating DEI considerations into existing supervision methods. The consultation closes on 14 June 2024.

Retail products

FCA raises concerns about insurers' valuation of vehicles

The FCA published findings of its review on 27 March 2024 into insurers' claims-handling processes for valuing vehicles which have been stolen or written off. The review follows the FCA's earlier warning to firms not to undervalue vehicles or other insured items when settling claims.

The FCA sets out its expectations under ICOBS 8.1, which requires firms to handle claims promptly and fairly; this includes identifying a fair estimate of a vehicle's market value. While the FCA carried out its field work before the Consumer Duty came into force, the FCA also provides commentary on where firms fell short under the Duty.

Examples of good practice include offering settlement values closely aligned to retail guide prices and using retail transacted valuation from trade guides used by the Financial Ombudsman Service to determine vehicle values. Firms should clearly explain settlement offers to customers. Further, where customers reject a revaluation, treating these cases as complaints will aid a fair assessment.

The FCA also identified some improvement areas. Firms should provide initial settlement offers that reflect the insured vehicle's estimated market value, without expecting customers to challenge or complain for an increase. There should also be sufficient oversight arrangements over third-party providers, and conflicts of interest should be appropriately managed.

The FCA is engaging with the firms that took part in the review to ensure they address the findings. All other motor insurers should also consider the FCA's findings and take steps where necessary to ensure that their firm's processes are in line with regulatory expectations.

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