

Being better informed

FS regulatory bulletin

FS regulatory insights

September 2023

In this month's edition:

- HM Treasury and FCA update on access to cash policy
- FCA kicks off review of firms' treatment of PEPs
- Govt confirms plans to introduce Insurer Resolution Regime
- FCA reviews authorised fund managers' assessments of value



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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August brought a number of notable developments, despite the summer break. In the banking sector, HM Treasury (HMT) published a policy statement detailing how it expects the FCA to take forward requirements around 'reasonable provision' of cash access services in the UK for personal and business users. The requirements will apply to the largest banks, building societies and potentially coordination vehicles used for cash provision. HMT's policy is that coverage for businesses and consumers should be broadly maintained at current levels and that the FCA should monitor coverage, including through additional reporting by firms. The FCA published a statement setting out its approach, including plans to consult on new rules this autumn. For further analysis, see our [At a glance](#) publication.

Elsewhere, the FCA commenced its review of firms' treatment of Politically Exposed Persons (PEPs), publishing terms of reference for the review, and inviting UK PEPs to share their experiences. The FCA will assess how firms are applying anti-money laundering (AML) obligations under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations and FCA guidance (FG17/6) on PEPs. The review was initiated by an amendment to the Financial Services and Markets Act 2023, prompted by concerns that firms may not be applying the rules and guidance in an appropriate and proportionate way, meaning PEPs and their relatives/close associates may be unfairly restricted from accessing financial products and services. The review will be informed by information collected from firms, and risk-based supervisory reviews of firms. If the FCA finds significant problems in the way a firm treats PEPs, it will take action before the review is due to complete in June 2024. See our [At a glance](#) briefing for more information.

In a separate exercise, the FCA asked banks and building societies to submit data on bank account closures due to expressions of political or other

opinions. The regulator is due to report its initial findings from the data request in mid-September.

The Payment Systems Regulator (PSR) published two consultations on authorised push payment (APP) fraud. The first covers the excess and maximum reimbursement level for Faster Payments and retail CHAPS, and the second sets out proposals for a consumer standard of caution. It comes after the regulator confirmed in June 2023 that it will require payment service providers to reimburse APP fraud losses in all but exceptional cases. The PSR will publish its final policy positions in Q4 2023, and intends to implement the new requirements in April 2024. See our [At a glance](#) publication for further information.

Insurers should take note of the Government's response to its January 2023 consultation on introducing an Insurer Resolution Regime. The Government confirms its intention to introduce a regime which provides the Bank of England with new powers and greater flexibility to resolve a systemic insurer in the event of its failure. It states that respondents were generally supportive of its proposals for a regime which is aligned to international standards and guidance. With regards to next steps, the Government plans to legislate when parliamentary time allows.

In asset management, the FCA published the results of its second thematic review into how authorised fund managers (AFMs) conduct their assessment of value (AoV) requirements for authorised funds. The FCA observed significant improvements in the quality of AoV since the first review results in July 2021, but notes there is still room for improvement. It says firms which operate a stand-alone annual AoV process have more difficulty demonstrating a strong assessment of value than those firms which fully integrate AoV into their BAU processes for product development and fund governance. For authorised funds, the AoV rules act in place of the price and value

outcome rules of the Consumer Duty, which came into force on 31 July 2023. See this [At a glance](#) briefing for more information.

Finally, the FCA shared an update on its plans to introduce requirements for listed companies as part of the UK Sustainability Disclosure Requirements regime implementing the first two International Sustainability Standards Board standards and Transition Plan Taskforce outputs. The FCA confirmed that it intends to consult on Listing Rules that reference the UK Sustainability Disclosure Standards once available. As part of that consultation, the FCA will consult on guidance setting out its expectations for listed companies' transition plan disclosures. The FCA expects to consult in the first half of 2024, with the aim of finalising policy by the end of 2024, and bringing new requirements into force for accounting periods beginning on or after 1 January 2025.

Read on to find out more about these and other developments. You can also visit our PwC [webpage](#) for further regulatory insights, including our latest Risk & Regulation Rundown [podcast episode](#), which explores the evolving regulatory landscape in the United States and UK, and areas of alignment and divergence; our [blog](#) which shines a light on the need for firms to continually evolve their approach to regulatory rules, following the FCA's fund manager AoV thematic review; and our [Reflections](#) article on how firms can prepare for the upcoming Sustainability Disclosure Requirements regime.

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Review the Table of Contents and the relevant Sector sections to identify the news of interest. We recommend you go directly to the topic/article of interest by clicking in the [active links](#) within the table of contents.

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Conduct

FCA updates on DB pension transfer expectations

The FCA published an [update](#) on 30 August 2023 for firms on how they should support defined benefit (DB) consumers with characteristics of vulnerability when providing pension transfer advice. The FCA provides examples of good and poor outcomes it has observed.

In the update, the FCA sets out examples of circumstances which may cause a consumer to seek financial advice (e.g. consumers who may be facing financial difficulty due to the cost of living or concerned about the solvency of their DB pension scheme). It identifies warning signs that indicate consumers may be more vulnerable to scams or fraud activity (e.g. the consumer may appear in a hurry or agitated about arranging the pension transfer or they may appear overconfident in their decision making despite a low knowledge of pensions or investments). The regulator reminds firms of its expectations under the Consumer Duty, and sets out its observations around the harms which can arise where there are inadequate systems and controls to support vulnerable consumers, and how firms can mitigate the risk of harm to such consumers.

The FCA adds that firms should assess their approach to vulnerability for pension transfer customers and sets out steps firms should take in doing so. For example, tailoring communications to retail customers based on the characteristics of those customers (including vulnerability characteristics).

Cryptoassets

FCA outlines Travel Rule compliance for cryptoasset firms

The FCA set out its expectations for cryptoasset businesses that need to comply with a change in money laundering legislation legislated by the Government in July 2022, in a [statement](#) published on 17 August 2023.

Starting from 1 September 2023, UK cryptoasset businesses must adhere to the 'Travel Rule', which mandates the collection, verification, and sharing of cryptoasset transfer details. To support cryptoasset firms, the FCA has been working with industry, the Joint Money Laundering Steering Group and HM Treasury, on [guidance](#) to help firms comply with the Travel Rule.

The regulator's expectations include:

- taking all reasonable steps and exercising all due diligence to comply with the Travel Rule
- remaining responsible for achieving compliance with the Travel Rule, even when using third-party suppliers
- complying with the Travel Rule when sending or receiving a cryptoasset transfer to a firm that is in the UK, or any jurisdiction that has implemented the Travel Rule
- reviewing regularly the implementation status of the Travel Rule in other jurisdictions and adapt business processes as appropriate.

The regulator will keep its expectations under regular review as global adoption of the Travel Rule develops, and will keep engaging with industry on the implementation of the rules and supporting guidance.

Financial crime

FCA kicks off review of firms' treatment of PEPs

The FCA commenced its review of firms' treatment of Politically Exposed Persons (PEPs) on 15 August 2023 as it published its [letter](#) inviting UK PEPs to share their experiences of dealing with financial services firms.

The letter was sent to parliamentarians, chairs of political parties, and other UK PEPs, requesting their insight on the details of any negative experiences with financial services firms. Feedback will be used to inform the FCA's review into how regulated firms are complying with their legal and regulatory obligations regarding risk management and treatment of PEPs, their relatives and known close associates, and their application of the FCA's guidance in this area.

The FCA's review was initiated following an introduction of an amendment into the Financial Services and Markets Act 2023 that required the FCA to assess how firms are applying current FCA guidance on PEPs. This follows concerns that PEPs and their relatives/close associates are increasingly restricted from accessing financial products and services. The FCA is due to publish a Terms of Reference for its review in September and is due to publish its findings by June 2024. This review is distinct from the FCA's [data exercise](#) and [scrutiny](#) on bank account closures due to expressions of political or other opinions.

For more information, please read our [At a glance](#) publication.

Reporting

Authorities take forward data standards initiatives

The Bank of England and the FCA set out a programme of work to take forward data standards initiatives, in an [update](#) published on 1 August 2023. These initiatives form part of the joint transformation programme (JTP) between the regulators and industry.

In response to a number of [recommendations](#) from the Data Standards Committee, the supervisory authorities laid out a series of actions they plan to take forward including:

- establishing a new formal Industry Data Standards Committee to advise on the use of data standards for reporting to UK financial authorities
- creating a new taxonomy to help classify and describe the standards currently used in regulatory and other data collection by the authorities
- developing key performance metrics to measure the costs and benefits arising from the development and adoption of data standards and to measure the extent of adoption
- publishing a roadmap to simplify and standardise regulatory and other data collection by the supervisory authorities.

Greater standardisation of data reporting can bring benefits to both regulators and industry, such as enhanced data management, improved efficiency, and clearer reporting requirements. It may also enable better technology integration, allowing for increased automation and use of artificial intelligence. However, transitioning to these industry-wide standards may require new investment for firms and may present challenges, especially if firms do not have the data or technology ready for the digital transformation required.

Before making any commitments on timelines, the authorities will consider how this work will be funded and resourced. An update on the scope and timelines will be provided in the next phase of the JTP in Q1 2024.

Sustainability

FCA updates on UK Sustainability Disclosure Requirements

On 10 August 2023, the FCA published an [update](#) on its plans to introduce requirements as part of the UK Sustainability Disclosure Requirements (SDR) regime implementing the first two International Sustainability Standards Board (ISSB) standards and Transition Plan Taskforce (TPT) outputs.

The FCA confirms its intention to consult on rules for listed companies that reference the UK Sustainability Disclosure Standards (UK SDS), once available. The FCA notes that the Government will publish a framework document setting out the roles and responsibilities of the Policy and Implementation Committee (PIC) and the Technical Advisory Committee set up to advise on UK policy and implementation of the UK SDS in due course, and that the FCA will feed into the PIC.

As part of that consultation, the FCA will also consult on guidance setting out its expectations for listed companies' transition plan disclosures. The current FCA framework encourages listed companies to consider the TCFD Guidance on Metrics, Targets and Transition Plans in developing and disclosing transition plans. The FCA will develop its strengthened guidance with reference to the final outputs from the TPT and the UK SDS.

In the update, the FCA notes that its supervisory approach will evolve as it implements the UK SDS and enhanced expectations on transition plan disclosures. The FCA commits to providing more information on its supervisory approach as part of its consultation on SDR.

The FCA expects to consult in the first half of 2024 with the aim of finalising its policy position by the end of 2024 and bringing new requirements into force for accounting periods beginning on or after 1 January 2025.

For more information on how firms can prepare for the UK SDR, please see our [Reflections](#) article.

GTAG publishes advice on applying the UK Green Taxonomy

The Green Technical Advisory Group (GTAG) published [advice](#) to the Government on applying the UK Green Taxonomy to wider policies on 15 August 2023. The advice makes recommendations on how the UK Taxonomy could be applied to other policy areas, including UK Sustainability Disclosure Requirements (SDR), transition planning disclosure and public finance.

The recommendations are divided by policy area, with recommendations relating to UK Taxonomy interactions with Government Policy, Tracking Progress, Consumer Protection, Public Finance, Local Public Finance, Private Sector and Foreign Investment. In relation to Government Policy, the GTAG recommends that corporate disclosure of Taxonomy alignment and eligibility be required as part of the UK SDR regime, and that Taxonomy alignment and eligibility should be made a key component in the transition plan framework being developed by the UK Transition Plan Taskforce (TPT). The GTAG also recommends the Government ensures that public investments are consistent with the environmental objectives of the Taxonomy. In relation to consumer protection, the GTAG recommends that the FCA makes Taxonomy alignment a key metric in its labelling regime.

The GTAG recommends that the Government should assign an independent 'institutional home' for the UK Taxonomy to avoid politicisation of the technical content while enabling it to support the policy areas identified by the GTAG. The GTAG has committed to setting out further detail on potential approaches to this institutional home in a separate paper.

The Government is expected to respond to this advice in its consultation on UK Taxonomy proposals, expected in autumn 2023.

For more information, please read our [At a glance](#) publication.

Wholesale markets

FCA finds competition concerns in wholesale data market

The FCA issued a [report](#) on 31 August 2023 updating on the findings from its ongoing wholesale data market study. The report highlights emerging issues identified in the benchmarks, credit ratings data, and market data vendor markets. It also outlines the regulator's view of commercial practices in these markets that could increase complexity and reduce transparency.

The FCA notes that it does not propose to refer any of the three markets covered by the study to the Competition and Markets Authority, adding that it considers it is best placed to address any harm identified. The report invites views from the sector on the FCA's provisional decision and the emerging themes and issues identified. These include:

- **Benchmark administrators:** The FCA finds a high concentration around three major providers with competition dynamics shaped by network effects, strong brand awareness, and high barriers to entry. The FCA indicates this may lead to high costs for benchmark users, for example, complex and non-standard licensing terms and bundled products.
- **Credit ratings data:** The FCA notes that the market is highly concentrated around the 'Big Three' Credit Rating Agencies and their data affiliates. Data users noted a lack of transparency in how prices were set for credit ratings data and many larger firms indicated regulatory and end investor requirements meant ratings from challenger CRAs were not viewed as viable.

- **Market Data Vendor services:** Many demand-side firms reported limited bargaining power when negotiating with the largest vendors and high switching costs and frictions.

The FCA launched the study in March 2023 and will continue to develop its analysis ahead of publishing the full report by 1 March 2024.

Banking and capital markets

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Consumer issues

HMT and FCA set out access to cash policy

HMT issued a [policy statement](#) on 18 August 2023 setting out how it expects the FCA to take forward requirements around 'reasonable provision' of cash access services for personal and business users. The FCA published a [statement](#) outlining its approach to implementing the policy statement and its proposed position on rules that will apply to designated firms.

HMT sets minimum expectations on banks and building societies to protect cash withdrawal and deposit services through its definition of 'reasonable provision' of cash access services. The definition seeks to maintain current cash access coverage in the UK, specifying that users should have to travel no more than one mile in urban areas or three miles in rural areas from where they live to access cash deposit and withdrawal services without charge.

The FCA states that the rules will need to be flexible to the cash needs of different users in different areas. HMT notes the FCA should 'have regard' for local deficiencies, for example, opening hours, need for personal assistance, and demographic factors, including the number of users with characteristics of vulnerability.

The FCA adds that it expects the proposed rules to require designated firms to conduct assessments of the reasonableness of cash provision when proposing significant changes in local access. If the assessment concludes there is a significant impact on cash provision, the FCA expects designated firms to fill the gap and/or pause closures until a replacement service is in place.

The FCA will consult on proposed rules in autumn 2023 and expects the new rules to take effect by

summer 2024. The Government will designate which firms will be in scope of the new rules. For more details, see our [At a glance](#).

PSR consults on APP fraud rules

The Payment Systems Regulator (PSR) issued two further consultations on authorised push payment (APP) fraud on 15 August 2023.

The first consultation proposes a new [consumer standard of caution](#) which payment service providers (PSPs) can expect consumers to meet to be eligible for reimbursements. The second consultation seeks views on [excess and maximum reimbursement levels](#) for APP fraud reimbursements.

The consultations follow the PSR's [policy statement](#) issued on 7 June 2023, confirming it will mandate all PSPs to reimburse APP fraud losses in all but exceptional cases. The PSR proposes three requirements for a standard of care which PSPs can expect consumers to meet to be eligible for reimbursements: a requirement to have regard to warnings, a prompt reporting requirement, and an information sharing requirement. Where a PSP can demonstrate that a consumer has, through gross negligence, not met the requirements, it is not obliged to reimburse the consumer. The consumer standard of caution would not apply to vulnerable consumers.

On claims excess and maximum level consultation, the PSR is seeking views on three identified excess level options: fixed excess, percentage excess and percentage excess with a cap. The PSR proposes to cap the maximum reimbursement level for claims at £415,000, in line with the Financial Ombudsman Service limit.

The consultations close on 12 September 2023. The PSR will publish its final policy positions in

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Q4 2023. For more information, see our [At a glance](#) publication.

Asset management

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Conduct

FCA publishes second Assessment of Value thematic review

The FCA published on 10 August 2023 the [findings](#) from its second thematic review into how authorised fund managers (AFMs) conduct their assessment of value (AoV) requirements for their authorised funds. This is the second time the regulator has looked at AFMs' AoV since the requirement was introduced in 2019 following the FCA's Asset Management Market Study in 2017. Since its last review in 2020/21, the FCA found improvements in the quality of AoVs and in AFMs' understanding of the rules.

The FCA also identified a number of areas where further improvements are required, including embedding into governance and business as usual processes, independent challenge, and processes for assessing quality of service. While some firms have continued to evolve and develop more sophisticated and integrated approaches, those firms that have stood still are now outliers and potentially underperforming.

For authorised funds, the AoV rules and guidance act in place of the price and value outcome rules of the Consumer Duty, which came into force on 31 July 2023. The good and poor practice examples highlighted by the FCA in this review will provide useful insights for firms in other sectors, in complying with the Duty's price and value rules.

The FCA says it will identify outliers and take necessary action to ensure AoVs are conducted in line with its rules and expectations.

Please see our [At a glance](#) publication for more details.

Insurance

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Recovery and resolution

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The Government [issued](#) a response to its consultation on introducing a Insurer Resolution Regime, on 2 August 2023. The Government confirms its intention to introduce a regime which provides the Bank of England with new powers to resolve a systemic insurer where it fails. Among other things, the regime aims to reduce disruption to policyholders where there is systemic insurer failure.

The Government will legislate when parliamentary time allows and will publish details on plans in due course.

Recovery and resolution
Government responds to Insurer
Resolution Regime consultation

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