

Being better informed

FS regulatory bulletin

FS regulatory insights

December 2023

In this month's edition:

- UK finalises UK SDR and labelling rules for asset managers
- PRA consults on expectations for funded reinsurance arrangements
- Regulators set out updated workplan in the Grid
- FCA warns wealth managers and stockbrokers



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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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The UK regulators published an updated version of the Grid at the end of November, setting out their work plan of upcoming regulatory initiatives over the next 24 months. While the Grid contains few new policy announcements, it provides important updates to the timing of a number of ongoing initiatives. These include confirmation that regulators will consult on reform of the Senior Managers & Certification Regime next year, and that the FCA will review its Vulnerable Customer guidance and publish a report by the end of 2024. Elsewhere, the FCA confirmed it will issue a Joint Paper with HM Treasury (HMT) on the review into the advice/guidance boundary, and consult on Money Market Fund reform by the end of this year. Also of note are the FCA and PSR's plans to consult in Q2 2024 on changes to support the next phase of open banking, and the PRA's intention to consult on the capital regime for Strong and Simple regime firms in Q2 2024, at the same time as a near-final policy statement on Basel 3.1.

The Chancellor also presented his Autumn Statement last month. Alongside the statement, the Government published a range of supporting documents relevant to financial services, including a number of policy announcements related to occupational pensions. HMT also set out plans to implement reforms to the UK short selling regime in a draft Statutory Instrument, and the Government confirmed it will repeal and replace the PRIIPs Regulation, as part of the Edinburgh Reforms. The Future of Payments Review report also made for interesting reading.

Elsewhere, the FCA issued several updates on sustainability disclosures, finalising its rules on UK Sustainability Disclosure Requirements (UK SDR) and investment labels. The rules include a sustainability labelling regime for investment products, disclosure requirements as part of the UK SDR regime, and a more widely applicable

'anti-greenwashing' rule. The FCA updated its proposed labels and introduced an additional label for products with mixed investment strategies. The FCA is introducing an anti-greenwashing rule applicable to all FCA-regulated firms, and consulting on supporting guidance. The anti-greenwashing rule comes into force on 31 May 2024, while the labelling and disclosure rules apply from as early as 31 July 2024. See our [At a glance](#) publication for further analysis.

Separately, the FCA published findings of a multi-firm review into how effectively UK Authorised Fund Managers have complied with existing expectations of how sustainability principles should be embedded into funds that are marketed as sustainable. Our [At a glance](#) publication provides further details.

Investment firms should also take note of the FCA's final observations from its thematic review into implementation of the Investment Firm Prudential Regime rules. This follows initial observations from the FCA's February 2023 review. The FCA particularly focuses on investment firm groups, the alignment of risk processes to the internal capital adequacy and risk assessment, wind-down planning, data quality and completeness, and senior management oversight. Please see our updated [At a glance](#) briefing for more information.

In the life insurance sector, the PRA published a consultation clarifying and expanding its expectations for life insurers' use of funded reinsurance (FundedRe) to support the writing of bulk purchase annuity business. The PRA proposes to set out expectations for insurers' risk management and structuring of FundedRe arrangements, and outlines its expectations on how these arrangements are modelled by insurers using an approved internal model to calculate their solvency capital requirements. The PRA

expects to seek assurance on firms' practices in relation to their risk management and use of FundedRe arrangements. Our [At a glance](#) publication provides more details.

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 Risk & Regulation Rundown [podcast episode](#), featuring UK Finance Managing Director Stephen Pegge and PwC Director Katy Bennett, who discuss the regulators' proposals for a new diversity and inclusion regime and how this will impact firms. Elsewhere, in our latest [Reflections](#) article, we discuss the evolving regulatory landscape that firms need to navigate whilst developing and deploying artificial intelligence.

I hope you enjoy reading this month's edition.

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Cross sector announcements

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Artificial intelligence

UK Government updates on AI Safety Summit

The UK Government provided a [summary](#) of the international AI Safety Summit (AIS) on 1-2 November 2023. The inaugural AIS, hosted by the UK, aimed to chart the course for safely developing advanced AI. It convened 28 countries, technology firms and civil society.

Participating countries reached a consensus with the [Bletchley Declaration](#) on AI Safety, acknowledging the dual aspects of opportunity and risk presented by AI, and the necessity of collaborative efforts in managing AI safety. Various countries and frontier AI developers also agreed to implement state-led testing of emerging AI models before their release, facilitating this through partnerships with AI safety institutes.

The Frontier AI Taskforce, announced in April 2023, will become the [UK AI Safety Institute](#). The initiative focuses on assessing advanced AI systems for safety and societal impact, fostering AI safety research, and promoting information sharing among national and international stakeholders.

Participants agreed to continue the dialogues in future summits. A mini virtual summit will be hosted by South Korea within six months. An in-person summit will be held in France in late 2024. Countries also supported the development of an independent and inclusive 'State of the Science' Report, led by the Turing Award-winning scientist Yoshua Bengio, set to be published six months ahead of the next summit.

Benchmarks

Government extends transitional period for third country benchmark providers

HM Treasury (HMT) [announced](#) it will extend the transitional period for third country benchmarks

under the UK Benchmark Regulation (UK BMR) to 31 December 2030, providing benchmark users in the UK with greater certainty over their availability in the coming years.

HMT's announcement, on 7 November 2023, means firms can continue to use overseas benchmarks, that are often referenced in longstanding contracts, until the end of 2030.

Under the current framework, UK firms would only be able to use benchmarks provided by third country administrators following the end of the transitional period if those benchmarks have been approved for use in the UK. The Government has already committed to reviewing the third country regime under the Benchmark Regulation to ensure an 'appropriate' regime is in place after that time.

The European Commission has also recently proposed to reduce the scope of benchmark administrators subject to the EU Benchmark Regulation. For more information, please see our [At a glance](#) publication.

Capital and liquidity

Authorities consult on control assessment changes

The PRA and FCA published a [consultation](#) on replacing the EU guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (the '3L3 guidelines') with a new PRA supervisory statement (SS), and new FCA guidance.

The new SS and guidance, published via the consultation on 23 November 2023, will apply to any authorised firm to which the Change in Control FSMA part applies.

The regulators intend to largely replicate the existing 3L3 Guidelines and make a number of consequential changes to other related areas of

existing PRA and FCA guidance. A number of key differences between the existing Guidelines and new approach are set out in the consultation document, however. For example, the FCA indicate that it may require additional information in relation to some authorised firms. It provides the examples of where an Investment Firm Group will be created as a result of the transaction, or where firms operating a cryptoasset business model submit applications.

The consultation closes on 23 February 2024.

Conduct

FCA warns wealth managers and stockbrokers

The FCA issued a [Dear CEO letter](#) on 8 November 2023 to wealth management and stockbroking firms setting out its assessment of key harms and supervisory priorities for the wide-ranging 'Consumer Investments' sector.

The letter focuses on financial crime and Consumer Duty compliance as significant areas of concern, and the FCA expects firms to invest time, energy and capital to manage these risks. The FCA notes that the root causes of harm in the sector often arise from ineffective and/or conflicted leadership and governance, and poor systems and controls, and it expects boards and senior management to maintain oversight and engagement to assess and address the harms identified in the letter.

The FCA found that many wealth managers and stockbrokers fail to deliver good consumer outcomes, flagging particular concerns with compliance with the product and services and price and value outcomes of the Consumer Duty. In particular, the FCA calls out issues with firms promoting too risky or too complex products or services to their clients, and where firms charge for services not delivered, overtrade to generate high transaction fees, and do not provide clear disclosures on fees and charges.

The FCA states that it will adopt a more assertive, intrusive, proactive and data-driven approach to supervision, including conducting more short notice and unannounced visits. The FCA plans to send a further data survey to firms in the sector

in December 2023. This will be tailored to the risks posed by a firm's business model.

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

FCA reiterates importance of strong culture and risk management

Sheree Howard, FCA Executive Director of Risk and Compliance Oversight, delivered a [speech](#) on 15 November 2023, reiterating the FCA's expectations on firms' culture and risk management frameworks.

Howard encouraged firms to ensure they maintain a business culture where employees feel empowered to challenge decision making and employers are compelled to listen. In particular, Howard pointed to the regulators' consultations on diversity and inclusion which are aimed at encouraging stronger governance, reducing group think and promoting prudent decision making and risk management.

Howard also reiterated the FCA's expectation that, despite a challenging economic environment, firms should not diminish risk and control standards nor change the behaviour or investment in lines of defence in order to prioritise commercial interests over regulatory obligations. She emphasised that second and third lines of defence should play an important role in assisting senior management with its oversight of business activities. Where the FCA finds inadequately robust internal audit functions, Howard states that the regulator will look to use other regulatory tools, including skilled person reviews.

Howard also noted the FCA's focus on concentration risk in firms and across markets, noting that examples of market disruption in the last 18 months have highlighted a lack of awareness from firms in the levels of concentration in and between their counterparties. Howard reiterated that the FCA expects firms to have updated their stress scenarios, noting that recent examples have evidenced how conduct, operational or reputational risk can transform swiftly into liquidity or solvency risk.

FCA highlights the power of conduct and culture

Emily Shepperd, FCA Chief Operating Officer and Executive Director of Authorisations, delivered a [speech](#) on 23 November 2023 outlining the importance of firms maintaining a healthy and inclusive culture to drive good consumer outcomes and generate value for their business.

Shepperd commented on the progress firms have made since the Consumer Duty entered into force in July 2023, and noted the importance of firms reflecting on how their culture supports the delivery of good customer outcomes. A key part of this is fostering an inclusive environment and Shepperd cited the recent diversity and inclusion consultation papers as a way the regulator is aiming to raise the bar in the sector.

Shepperd highlighted the role of second and third lines in supporting and holding senior management accountable for their organisation's culture, and noted how hiring and promotion practices and the setting of transparent targets and measurements also act to reinforce this.

The FCA discussed the lessons learnt from applying the SM&CR and operational resilience measures to its own organisation, in particular spotlighting the improvements made to its authorisation. Finally, Shepperd noted how the FCA is taking forward work to harness the opportunities that technology, including AI and machine learning, can bring to support its deliver of innovative and efficient regulation.

Consumer outcomes

FCA highlights next steps on Consumer Duty

Nisha Arora, FCA Director for Cross-Cutting Policy and Strategy, gave a [speech](#) on the next steps for firms and the regulator on the Consumer Duty, on 1 November 2023. Arora stressed that the Duty is not a 'once and done' exercise, stating that firms should be 'improving continuously', and be able to evidence this in their annual board report.

Arora highlighted good practice observed in firms, including:

- simplifying language and introducing more accessible formats in customers communications
- being more upfront about exclusions
- reviewing fees with fair value in mind
- reviewing reward and incentive structures and performance management frameworks to support the Duty.

Arora highlighted the importance of ongoing outcomes monitoring for different groups of customers, underpinned by the right data. She said that where firms are not meeting the FCA's expectations, it's often because they are 'just repackaging existing data'.

She set out the next steps for firms, urging them to review their implementation plan, to check whether they've made the changes and are delivering the outcomes they set out to, and to ask themselves whether these changes go far enough. Arora also encouraged firms to consider their annual board report, stressing this will 'take time to do well', and to prepare for the July 2024 closed book deadline.

Further, Arora detailed the FCA's focus areas, which include looking at firms' complaints data, to ensure they deal with complaints fairly and have robust mechanisms to learn from root causes. She added that the FCA plans to use the insights from its supervisory work to produce good and poor practice reports, as it did following a [review of fair value assessments](#) earlier this year.

HMT strengthens High Net Worth and sophisticated investor exemptions

HM Treasury confirmed [changes](#) to financial promotion exemptions for high net worth individuals (HNWI) and sophisticated investors on 7 November 2023. It focuses reform on reducing the risk that investors self certify, and increasing understanding of regulatory protections that HNWIs and sophisticated investors give up.

The changes follow a [consultation](#) issued in December 2021 that proposed reforms to specific Financial Promotion Order (FPO) exemptions in recognition of economic, social and technological change since the exemptions were last updated. The Government also noted concern about the misuse of exemptions, including some businesses using the exemptions to market products inappropriately to ordinary retail investors.

The changes brought forward to the FPO exemptions include:

- Increasing the financial thresholds to be eligible for the HNWI exemption in line with inflation. This increases the criteria of income from £100,000 to £170,000, and minimum net assets from £250,000 to £430,000.
- Amending the criteria to be eligible for the self-certified sophisticated investor exemption. This will remove the criterion of having made one or more investment in an unlisted company in the previous two years, and will increase the company turnover required to satisfy the 'company director' criterion from £1m to £1.6m.
- Requiring businesses to provide details of themselves in any communications made using the exemptions.
- Updating the HNWI and self-certified sophisticated investor statements to achieve greater investor engagement and awareness of regulatory protections.

The Government laid the statutory instrument implementing the changes on 6 November 2023, and intends to bring the changes into force on 31 January 2024.

Data

FCA updates on synthetic data working group

The FCA provided an update on the Synthetic Data Expert Group (SDEG) in a [communication](#) published on 1 November 2023. The FCA established the SDEG in March 2023 to further explore the use of synthetic data in financial markets. The group brings together 21 experts

from across financial services, public sector, data and technology vendors, and consumer groups.

The SDEG has held four meetings between May and October 2023 and is now seeking feedback on its progress which include:

- Producing a report on practical applications of synthetic data for practitioners and policymakers. This report will cover data augmentation for bias mitigation, system testing, model validation, and internal and external data sharing. It will provide insights into generation techniques, evaluation metrics, and stakeholder management, focusing on use cases such as fraud detection, credit scoring, anti-money laundering, and open banking.
- Developing a collaborative framework for public and private sector data sharing and privacy enhancing technologies. This framework, still in early development, will facilitate collaboration on synthetic data use cases, or example by using the [Digital Sandbox](#).

The SDEG emphasises the transformative power of data in financial services, including operational efficiencies, reduced compliance costs, and improved consumer outcomes. Interested stakeholders can provide feedback to the SDEG by [email](#).

Digital assets

FCA issues final guidance on crypto promotions

The FCA issued [non-handbook guidance on cryptoasset financial promotions](#) on 2 November 2023. The purpose of the guidance is to support crypto firms complying with the new marketing rules. It also details how authorised firms communicating or approving financial promotions should apply the Consumer Duty to their marketing. The report follows the FCA's [feedback on good and poor practice](#), published in September this year.

FCA sets proposals for regulated stablecoins

The FCA issued a discussion paper (DP23/4) on [Regulating cryptoassets Phase 1: Stablecoins](#) on 6 November 2023. The paper covers the proposed approach to regulating fiat-backed stablecoins, which may be used for payments.

Under the new regime, stablecoin issuers will need to seek authorisation from the FCA and comply with the Handbook rules before issuing fiat-backed stablecoins in or from the UK. This includes issuing stablecoins which are not marketed to UK consumers. Stablecoin issuers would need to hold backing assets which are sufficient to back all their issued stablecoins, stable in value, and sufficiently liquid. The assets would need to be identified, recorded, segregated, and protected in the event of insolvency.

The FCA proposes using existing custody provisions in the Client Assets Regime as a basis to design bespoke custody requirements. It proposes to apply the same or equivalent organisational requirements to regulated stablecoin issuers and custodians, as currently in place for traditional finance firms. The FCA also plans to issue a dedicated new prudential sourcebook for regulated stablecoin issuers and custodians, applied cumulatively with other activity-based prudential requirements.

In order to regulate the use of overseas stablecoins in UK payment chains, the new regime may give the FCA powers to authorise payment arrangers to assess overseas stablecoins against the FCA's standards. Payment arrangers would be regulated under the Payment Services Regulations and would have to be FCA authorised.

The discussion period ends on 6 February 2024. The FCA will finalise the rules for consultation in H2 2024, and the regime is due to be implemented in 2025. For more information, please see PwC's [Hot Topic](#).

Market infrastructure

BoE underlines commitment to CCP standards

In a [speech](#) on 7 November 2023, Sasha Mills, Executive Director for Financial Market Infrastructure at the Bank of England (BoE), reiterated the Bank's commitment to contributing to the stability of the global financial system.

At the ISDA Derivatives and Trading Forum, Mills highlighted the BoE's new responsibility, as set out in FSMA 2023. The BoE will consider the effect its use of resolution tools could have on the financial stability in other jurisdictions which UK-based central counterparties (CCP) operate in.

Mills highlighted the importance of cooperation between authorities across multiple jurisdictions. Where non-UK CCPs offer services in the UK, the BoE will place reliance on the supervision of home authorities. This is when the CCPs are well-regulated and supervised by an authority which has a cooperative relationship with the BoE.

Looking ahead to future potential rule changes for CCPs, the BoE has agreed with HM Treasury to prioritise the repeal and replacement of the European Market Infrastructure Regulation framework with more 'adaptable and dynamic' rules. The BoE is considering the introduction of a set of 'fundamental rules' which would underpin its expectations of CCPs and central securities depositories.

Pensions

HMT reviews clearing obligation for pension funds

HM Treasury (HMT) launched a [call for evidence](#) on the exemption from the clearing obligation for pension funds on 13 November 2023.

The call for evidence affects pension funds and firms established to compensate scheme members which are exempt from the requirement to centrally clear their derivatives trades if those contracts are directly related to the fund's solvency. The exemption, introduced when

the European Market Infrastructure Regulation (EMIR) came into force, has been extended several times. Most recently, the UK Government extended the exemption until 18 June 2025 and committed to a review to establish a longer-term policy approach.

The potential for market participants which have fixed liabilities to exacerbate market stress was brought into focus by the liability-driven investment (LDI) fund episode in 2022 which caused a widespread gilt sell-off. The Government's call for evidence aims to understand the potential impacts of removing the exemption, and the proportion of pension funds' hedging activity that is done via derivatives as opposed to other, non-cleared, instruments. The call for evidence runs until 5 January 2024.

FCA confirms spring 2024 value for money consultation

On 22 November 2023, the FCA [confirmed](#) plans to publish a consultation on 'value for money' in defined contribution (DC) workplace pensions in the spring of 2024. This announcement coincided with the Autumn Statement, in which the Chancellor noted the Government's continued support for improvements to value for money for DC savers. The FCA has previously issued joint a [discussion paper](#) with the Department for Work and Pensions and The Pensions Regulator on such a framework.

Supervision

Regulators publish latest Initiatives Grid

UK regulators published an updated version of the [Regulatory Initiatives Grid](#) on 30 November 2023, setting out their work plan for the next 24 months. Overall, the Grid contains few new announcements, with a significant amount of the policy agenda already set out in prior publications.

For the banking sector, the Grid confirms updates to the timings of expected publications. This includes confirming an FCA and PSR consultation in Q2 2024 on changes needed to support the next phase of Open Banking, and that the PRA will consider 'quick wins' from its Banking

Data Review in a consultation in H2 2024, as well as consult on the Strong and Simple capital regime in Q2 2024.

For the asset management sector, the Grid confirms the FCA will issue a Joint Paper with HMT on the review into advice/guidance boundary, as well as a consultation on Money Market Fund reform by the end of 2023. Additionally, timing on the Packaged Retail and Insurance based Investments Products (PRIIPs) reform consultation has been delayed from H2 2023 to later in 2024.

On insurance, the Grid confirms the timing of several expected policy statements, consultations and implementation dates relating to Solvency II over the course of 2024. The PRA's consultation on ease of exit has been delayed to H1 2024, and the General Insurance pricing intervention evaluation is now expected to be completed in 2025.

On ESG, the FCA confirms plans to publish a review of TCFD aligned disclosures in 2024, and a feedback statement in H1 to the governance, incentives and competence Discussion Paper published in May 2023. Authorities are also expected to publish a policy statement on Diversity & Inclusion in H2 2024, and a consultation paper on SM&CR reform during 2024.

Sustainability

UK TPT consults on Sector Deep Dives

The UK Transition Plan Taskforce (TPT) published seven [Sector Deep Dives](#) for consultation on 13 November 2023. These Deep Dives set out the guidance for Asset Managers, Asset Owners, Banks, Electric Utilities & Power Generators, Food & Beverage, Metals & Mining, and Oil & Gas industries.

The TPT was launched by HM Treasury in April 2022 to develop a gold standard for climate transition plans and make recommendations to inform the UK's regulatory requirements on transition plan disclosures. Following the finalisation of the Disclosure Framework in October 2023, the Sector Deep Dives are

intended to help preparers interpret the final Framework for their sector, building on the sector-neutral Implementation Guidance and sector-specific Sector Summary.

The TPT recommendations build on existing global standards, including the work of the Glasgow Financial Alliance for Net Zero and the Task Force for climate-related Financial Disclosures. The TPT recommendations are also aligned with the International Sustainability Standards Board (ISSB) Standards, which are expected to be widely adopted internationally, and could form the basis for regulatory requirements in countries that adopt the ISSB Standards.

In the UK, the FCA intends to consult on guidance aligned with the TPT Framework for listed companies when it consults on UK Sustainability Disclosure Requirements (SDR) rules in H1 2024. Meanwhile, the Government has committed to consulting on transition plan disclosure requirements for UK-registered companies in Q4 2023.

The consultations are open until 29 December 2023. Users and preparers can provide feedback via the relevant sector pages.

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

EU sets out activities related to Taxonomy objectives

The European Commission [published](#) the new Delegated Act on 21 November 2023. It sets out the economic activities substantially contributing to the objectives of sustainable use and protection of water and marine resources, transition to a circular economy, pollution and prevention control, as well as protection and restoration of biodiversity and ecosystems. The Act takes effect on 1 January 2024.

New EU Act clarifies economic activities for EU Taxonomy

A new [Delegated Act](#) entered the European Parliament Official Journal on 21 November 2023. It will add to the list of activities contributing to the

Climate Change Mitigation and Adaption objectives. The Act also clarifies the reporting obligations for additional activities in relation to both. The Act takes effect from 1 January 2024.

FCA finalises UK SDR and labelling rules for asset managers

The FCA finalised its rules on [UK Sustainability Disclosure Requirements \(UK SDR\) and investment labels](#), on 28 November 2023, as part of a package of new measures to tackle greenwashing. This follows an initial consultation launched in October 2022.

The final rules include a sustainability labelling regime for investment products, disclosure requirements as part of the UK SDR regime, and a general 'anti-greenwashing' rule. The FCA updated its proposed labels, including by changing the names from 'sustainable' to 'sustainability' to reflect that some assets will transition, and introducing an additional label for products with mixed investment strategies. The labelling regime will be supported by rules restricting the use of certain terms (e.g. 'social' and 'green') in product names and marketing to products that use a label or meet specified condition.

Under UK SDR, the FCA will require consumer-facing product-level disclosures in a standalone document for products that apply a label or use sustainability-related terms in their name or marketing and more detailed disclosures targeting a wider audience (e.g. institutional investors) in pre-contractual information, sustainability product reports and sustainability entity reports.

The FCA is also introducing an anti-greenwashing rule applicable to all FCA-regulated firms, and published a [consultation](#) alongside the Policy Statement on supporting guidance for that rule that is open for response by 26 January 2024.

The anti-greenwashing rules comes into force on 31 May 2024, while the labelling and disclosure rules apply from as early as 31 July 2024. Firms should review the relevant rules to determine what obligations and deadlines they will need to comply with.

See our [At a glance](#) publication for more information.

Technology

FCA consults on Big Tech competition

The FCA provided an update on its work on the impact of Big Tech in financial services in a [call for input](#) (Cfi) on 24 November 2023. The Cfi fits in the FCA's three-year strategy, initiated in April 2022, focusing on understanding the competitive impacts of Big Tech's increasing role in financial services. It is a next step from a [discussion paper](#) published in October 2022 and subsequent [feedback statement](#) published on 12 July 2023.

The Cfi aims to explore the data asymmetry issue in more detail. It focuses on how Big Tech's data, combined with financial data from sharing initiatives such as Open Banking, could lead to market power imbalances through AI and analytics technologies. It also seeks evidence on other factors that could lead to Big Tech gaining market power or becoming gatekeepers in financial services.

Based on the findings, the FCA's actions may include conducting market studies, enforcing actions under the Competition Act 1998, or referring issues to the Competition and Markets Authority (CMA) under the anticipated pro-competitive framework of the Digital Markets, Competition and Consumers Bill. The provisions in the bill are expected to enable the CMA to impose conduct requirements on firms designated with Strategic Market Status in respect of a digital activity, including where appropriate to regulate the use of data.

The FCA plans to report back on the Cfi in Q2 2024, which will set out the regulator's analysis of the evidence received, and any subsequent actions it may take. Firms can provide feedback until 22 January 2024.

Banking and capital markets

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Capital and liquidity

PRA confirms approach on non-performing loans

The PRA published a [policy statement](#) and final rules on 13 November 2023 confirming changes to remove the CET1 deduction requirement for non-performing loans (NPLs) in relation to any provisioning shortfall identified as 'the applicable amount of insufficient coverage for non-performing exposures (NPEs)'. The statement also confirmed some changes to associated reporting and disclosure instructions. The rule change came into effect on 14 November 2023.

Digital assets

PRA sets expectations on digital money

The PRA published a [Dear CEO letter](#) on innovations in the use of deposits, e-money and regulated stablecoins by deposit-takers on 6 November 2023.

The letter outlines the PRA's expectations of the steps deposit-takers should take to mitigate the risks to safety and soundness which innovations in digital money and money-like instruments present to retail customers. In particular, the letter focuses on the risks which may arise in relation to the availability of parallel deposits, e-money and regulated stablecoins to retail customers, including contagion risks and the difference in consumer protections available.

The PRA notes that contagion risk from e-money or regulated stablecoins to deposits may occur if attention is drawn to the difference in retail customer protections, or consumer confidence is lost. The PRA

states that this risk can be enhanced if deposit-takers were to offer multiple forms of digital money or money-like instruments, particularly if offered under the same branding.

To mitigate this risk, the PRA expects deposit-takers to ensure that deposit-taking entities only provide innovations in digital money to retail customers in the form of deposits. Firms which have issued e-money or regulated stablecoins to retail customers and seek a deposit-taking permission, should transition their UK customers to deposits at the new deposit-taking entity as soon as practicable. Deposit-takers which intend to innovate in the way they take deposits from retail customers (e.g. by taking tokenised deposits) are expected to meet PRA rules on eligibility for depositor protection under the FSCS and the single customer view and exclusions view requirements.

For more information, please see PwC's [Hot Topic](#).

BoE to supervise systemic stablecoins

The Bank of England (BoE) issued a [discussion paper](#) on regulating systemic payment systems using stablecoins and related service providers, and a [guide](#) on stablecoins on 6 November 2023. The paper outlines the proposed regime for systemic payment systems using stablecoins.

The BoE confirms that its regulatory regime will apply to sterling-denominated stablecoins which are for retail purposes. The regime will apply to systemic payment systems using stablecoins, systemic service providers to payment systems using stablecoins

(e.g. wallet providers), and related service providers.

The BoE expects the entirety of the stablecoin payment chain, and the entities that comprise it, to demonstrate robust financial resources, risk management (including managing risks from third parties), and governance. It proposes to require issuers to fully back stablecoins with deposits at the BoE to ensure that stablecoins are stable in value and to enhance confidence that they can be redeemed in full at any time. Systemic stablecoin issuers would therefore need to meet the operational and contractual requirements for access to a deposit account at the BoE. The BoE also proposes that no interest will be paid on central bank deposits, nor pay interest to coinholders, and that systemic payment stablecoins must be fully interchangeable with other forms of money.

The discussion period will end on 6 February 2024. The authorities will assess the responses and develop rules during H1 2024, and finalise the rules for consultation in H2 2024. The regimes will be implemented in 2025.

For more information, please see PwC's [Hot Topic](#).

Financial crime

FCA finds weaknesses in firms' APP fraud frameworks

The FCA [published](#) key findings from its review of how firms mitigate the risks of APP fraud, and fraud attacks more broadly, on 7 November 2023. The report includes examples of good practice and areas for improvement.

The FCA is disappointed to find several common weaknesses in key areas of banks and payments firms' fraud risk management frameworks and customer treatment. For instance, it found that many firms do not have sufficient focus on delivering good consumer outcomes. The management information and actions are often focused on commercial risk

appetite, rather than customer impact and treatment. Many firms also demonstrated poor complaint handling, including taking too long to respond to customer complaints.

The FCA is working with firms involved in the review to strengthen their approaches. It will continue to monitor how payment firms are meeting the expectations to slow the growth in APP fraud cases, as well as fraud more generally. The FCA expects firms to put the needs of customers first.

Retail products

FCA retains focus on Buy-Now-Pay-Later harm

The FCA published updated [data](#) on 1 November 2023, spotlighting the increase in consumers using Buy-Now-Pay-Later (BNPL) products. The FCA's research indicates that 27% of UK adults used BNPL at least once in the six months prior to January 2023; an increase from 17% in the preceding 12 months. The data also highlights that frequent users of BNPL are more likely to be in financial difficulty, noting that users were more likely to also have a high-cost credit product, to have increased the amount of debt on credit products in the previous year, or to have missed a payment/bill in three of the last six months.

Alongside this, the FCA announced it had reached an agreement with [PayPal](#) and [QVC](#) for them to amend their BNPL contractual terms to make continuous payment authority terms easier to understand and cancellation terms clearer and fairer. The FCA has indicated that it stands ready to regulate BNPL products once HM Treasury acts to bring BNPL within the regulatory perimeter. Legislation to bring BNPL inside the perimeter has been delayed, but is expected to be brought forward in 2024.

Stress testing

BoE publishes stress scenario for SWES

The Bank of England (BoE) [published](#) details of the next phase of its System-wide Exploratory Scenario (SWES) exercise on 10 November 2023.

The BoE has developed a stress scenario designed to identify how firms would be affected by a hypothetical geopolitical shock which significantly impacts economic conditions. The BoE has also published the list of participating firms alongside details of the stress scenario. In-scope firms will need to submit their responses to the BoE in January 2024.

Asset management

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Capital and liquidity

FCA identifies further IFPR failings

The FCA published final [observations](#) from its thematic review into investment firms' implementation of the Investment Firm Prudential Regime (IFPR) rules on 27 November 2023. This followed initial [observations](#) from its thematic review on 27 February 2023.

The FCA found firms had made good progress in understanding the requirements of the new regime. However, the FCA also found further areas of improvement. The FCA found some firms gave improper consideration to cashflows and liquidity stresses, which led to inadequate assessments of liquid asset requirements. The FCA states these firms could run out of cash in stressed conditions, resulting in firm failure.

The FCA found most firms did not have early warning indicators and triggers for intervention to take timely action to mitigate harm. The FCA reminds firms that internal points of intervention and action based on stress testing, and the maintenance of a resource buffer, are prudent practices in managing financial resources.

The FCA states some firms did not adequately consider the impact of membership in a group when completing wind-down assessments. Individual firms within groups may not have adequately planned for potential failure. The FCA also states that firms in a group should consider preparing a group wind-down plan to, among other things, identify critical dependencies across firms in the group.

The regulator found many firms assessed operational risk capital using approaches that did not lead to adequate assessments of own funds,

resulting in firms having insufficient resources to manage their own risks.

The FCA expects all investment firms to consider its findings to strengthen their processes.

Our [At a glance](#) publication provides further details.

FCA revises prudential rules for personal investment firms

The FCA consulted on [capital deductions for redress for personal investment firms \(PIFs\) CP23/24](#) on 28 November 2023.

The proposals echo elements of the more sophisticated Investment Firms Prudential Regime which is already in place for MiFID investment firms.

The FCA is conscious that a small number of PIFs result in substantial claims on the Financial Services Compensation Scheme. To reduce this, firms will have to adopt a more sophisticated and proactive approach to quantifying potential mis-selling redress liabilities, setting aside capital resources through a new capital deduction, and potentially complying with an asset retention requirement.

The consultation closes on 20 March 2024.

Sustainability

FCA identifies improvements needed in ESG funds

On 16 November 2023, the FCA [published findings of a multi-firm review](#) of how effectively UK Authorised Fund Managers (AFMs) have complied with [existing expectations](#) of how sustainability principles should be embedded into funds that are marketed as sustainable.

The review found that:

- products were often not aligned with their sustainability goals, even where this was referenced in the fund name.
- some fund holdings were not consistent with the fund's sustainability objectives, and this was not explained.
- key sustainability information was often missing, or not explained fully, in disclosures to investors.
- stewardship activities were often not aligned with the fund's wider objectives, and there was often no evidence of whether progress was being made.

However, the review also highlights examples of good practice, including the development of suitable ESG scoring systems, and due diligence conducted on third party data providers.

The review links the poor practices identified with the expectations of the incoming SDR rules and the existing Consumer Duty rules.

See our [At a glance](#) publication for more information.

Insurance

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Capital and liquidity

PRA consults on expectations for funded reinsurance arrangements

The PRA [published](#) a consultation paper (CP24/23) on 16 November 2023, clarifying its expectations on the use of funded reinsurance (FundedRe) by life insurers to support the writing of bulk purchase annuity (BPA) business.

The PRA notes that FundedRe is being used in large volumes in the BPA market and is concerned by ineffective risk management practices and imprudent investment allocation. The PRA sets out its expectations for insurers' risk management and structuring of FundedRe arrangements, and how these arrangements should be modelled by insurers using an approved internal model to calculate their solvency capital requirements (SCR). For example, the PRA proposes that insurers should set limits to their exposures to FundedRe counterparties, using an 'immediate recapture metric'. The PRA further reminds insurers using the standard formula (SF) of its expectations around the assessment of SF appropriateness.

On collateral policy, the PRA expects insurers to consider the nature and size of collateral that they may inherit in a recapture event, to understand whether it is sufficient to cover the technical provisions and risks recaptured.

On recapture plans, the PRA states insurers should have board-approved recapture plans which should include a detailed process for recapturing all assets and liabilities from counterparties. The PRA makes further proposals with regards to modelling of SCR and structuring.

The PRA confirms it will monitor this area, and may commission Skilled Person reviews. The consultation closes on 16 February 2024. The PRA proposes to implement the changes in this CP in Q2 2024. Our [At a glance](#) publication provides further details.

Compensation schemes

PRA considers increasing FSCS protection for GI policies

The PRA published a discussion paper ([DP2/23](#)) on 2 November 2023, exploring potential options to increase FSCS protection for GI claims from 90% to 100%.

Currently FSCS protection covers 100% of the claim for all long-term insurance policies and for limited GI policies (such as professional indemnity and buildings guarantees insurance). All other GI policies are covered at 90% of the claim. The PRA conducted 'life circumstances impact' (LCI) assessments to understand where the current 90% may be insufficient. The PRA considers that this percentage may be inappropriate where an appreciable portion of policyholders would face a LCI, that is, a material negative impact on their quality of life including their financial and social circumstances. Using its LCI assessments, the PRA identifies the following GI policies where there may be inappropriate FSCS protection: insurance backed guarantees, home (buildings and contents), motor, private health, travel, and public liability insurance.

The PRA discusses the pros and cons of several options to address inappropriate FSCS protection. Options include 100% coverage for all GI policies, targeted additional coverage, and introducing an FSCS excess for each GI claim paid out. DP2/23 closes on 24 January 2024. The PRA states it may publish a consultation paper with draft rules in 2024.

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Wholesale markets

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