

Being better informed

FS regulatory bulletin

FS regulatory insights

October 2023

In this month's edition:

- FCA sets out insurance and wholesale banking strategies
- FCA and PRA unveil D&I proposals for FS firms
- PRA consults on Matching Adjustment reforms
- FCA outlines follow-up work in account closure review



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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September kicked off autumn in earnest, with a number of significant developments as regulators strived to meet both their end of Q3 deadlines, and the busy 2023 regulatory agenda.

The FCA and PRA consulted on a new regulatory framework for Diversity & Inclusion (D&I) in financial services. The wide-ranging proposals span data monitoring, reporting and public disclosure, target setting, D&I strategies, governance and accountability, risk management, and non-financial misconduct. The proposals apply differently to firms according to their number of employees, type of firm, categorisation under the Senior Managers and Certification Regime, and whether they are dual-regulated. The regulators intend to issue policy statements in 2024, with the rules coming into force 12 months later. Please see our [At a glance](#) briefing for further details.

In the insurance sector, the PRA issued its second major Solvency II review consultation, focusing on reform to the matching adjustment (MA). The PRA's proposals operate within the constraints of the Government's anticipated MA regulations. The regulator aims to: improve business flexibility by widening the range of eligible assets in MA portfolios; be more responsive to the level of risk, for example by making the regulatory treatment of breaches of MA conditions more proportionate; and enhance firms' responsibility for risk management, for instance by introducing an attestation for the level of MA claimed. The PRA plans to publish final rules on the MA in Q2 2024, with an effective date of 30 June 2023. See our [Hot topic](#) for a detailed analysis of the proposals.

The FCA set out its insurance supervisory priorities over the next two years in three portfolio letters (personal and commercial lines, wholesale, and life insurance), with four common priorities across each portfolio: embedding the Consumer Duty, governance and culture, operational

resilience and increasing reliance on third parties, and improving oversight of Appointed Representatives. With respect to the Consumer Duty, the FCA continues to see weaknesses in MI, examples of insurers and intermediaries not sharing information, and distribution chains that are longer than necessary. Our [At a glance](#) publication provides further details. Alongside the letters, the FCA published general insurance value measures data for 2022. The regulator is concerned the data suggests some firms are not providing fair value, particularly in GAP insurance. It has written to GAP insurers giving them a month to propose how to address its concerns.

The FCA also issued a Dear CEO letter to wholesale banks, outlining its view of risks in the sector and where it will focus supervisory attention over the next two years. The FCA identifies weaknesses in banks' risk management capabilities, for example in understanding client concentration risks. The FCA also shares concerns regarding firms' control frameworks, and plans to accelerate its testing programme and in-person supervisory visits, focusing on conflict of interest management. Banks should expect supervisory attention across a range of other topics, including: operational resilience, delivery of ESG commitments, deployment of artificial intelligence, D&I, and non-financial misconduct. The regulator expects boards to have discussed the contents of the letter and agreed any actions within two months. Please see our [At a glance](#) publication for more details.

Retail banks, building societies and payments firms will be interested to read the FCA's initial findings of work to investigate concerns regarding the closure of bank accounts. The regulator says the data does not suggest that accounts have been closed because of political beliefs lawfully expressed by account holders. However, it stresses the data requires further investigation, and has identified a number of potential concerns and issues for follow-up work. This will include:

further analysis to test the accuracy of the data reported by firms, focusing on outliers, and analysis of how firms reach decisions for reasons of 'reputational risk'. The FCA reminds firms of the importance of having adequate systems and controls, including management information, to monitor account closures and measure consumer outcomes in line with the Consumer Duty. See our [At a glance](#) publication for more information. The findings are separate but related to the FCA's ongoing review into the treatment of Politically Exposed Persons, which is due to conclude by June 2024. The FCA published terms of reference for this review last month; our [At a glance](#) briefing provides further details.

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](#) on Consumer Duty, which looks at where the FCA is focusing its supervisory attention and how firms can evolve their approaches in a 'Day two' world. Elsewhere, our latest [blog](#) sets out the steps firms can take to build an effective anti-greenwashing framework, in order to comply with the FCA's upcoming anti-greenwashing rule.

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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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Cross sector announcements

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Artificial intelligence

CMA explores impact of foundation models

The Competition and Markets Authority (CMA) published a [report](#) following a review of foundation models (FMs) on 18 September 2023. The report includes a series of principles which aim to ensure consumer protection and healthy competition are at the heart of responsible development and use of FMs.

The proposed guiding principles are:

- **accountability:** FM developers and deployers are accountable for outputs provided to consumers
- **access:** ongoing ready access to key inputs, without unnecessary restrictions
- **diversity:** sustained diversity of business models, including both open-source and closed-source models
- **choice:** sufficient choice for businesses so they can decide how to use FMs
- **flexibility:** having the flexibility to switch and/or use multiple FMs according to need
- **fair dealing:** no anti-competitive conduct including anti-competitive self-preferencing, tying or bundling
- **transparency:** consumers and businesses are given information about the risks and limitations of FM-generated content so they can make informed choices.

The CMA also refers to existing rules which firms, even those which use a FM developed by a third party, must comply with. These include the Consumer Rights Act and the Consumer Protection from Unfair Trading Regulations.

The CMA will publish an update on its thinking on the principles, and how they have been received and adopted, in early 2024. The update will also reflect on further developments in the market.

Government shares further details on AI summit

The Government provided more information on the scope of the international summit on AI safety it's due to host on 1-2 November 2023, in an [update](#) on 25 September 2023. The summit will focus on certain types of AI systems based on the risks they may pose.

The Government aims to address the risks from advanced general-purpose AI and certain narrow AI with potentially dangerous capabilities. The summit will focus on two categories of risk:

- **misuse risks:** for example, where a bad actor is aided by new AI capabilities in biological or cyber-attacks, development of dangerous technologies, or critical system interference
- **loss of control risks:** risks that could emerge from advanced systems.

The summit will be limited to around 100 participants, but the Government has developed a programme of engagement with industry and the public through workshops and Q&A sessions.

Conduct

FCA sets new rules to approve financial promotions

The FCA [published](#) a policy statement on 12 September 2023, confirming a new gateway for firms which approve financial promotions for unauthorised persons. This follows concerns from the FCA about too many non-compliant promotions being approved and communicated by unauthorised persons to consumers, causing harm.

Firms will be able to submit applications for permission to approve financial promotions from 6 November 2023, before the initial application window closes on 6 February 2024. The new legislation will come fully into force on 7 February 2024 and firms which have not applied to the gateway will not be able to approve financial promotions. Existing authorised persons will be able to continue approving financial promotions while the FCA considers their application. The transitional period will begin on 7 February 2024 and will end on a firm-by-firm basis, following the regulator's assessment of a firm's application. Where the FCA does not grant the permission, either fully or for certain types of products, the firm will need to cease the relevant approval activity.

An approver will be required to submit a notification to the FCA within seven days, if approving a promotion for a qualifying cryptoasset or product subject to a retail mass marketing ban. Firms will also be required to report to the FCA biannually on approval details, including types of products being promoted, any 'marketing restriction' categories which may apply to the promoted products, the total number of approvals and consumer complaints for approved promotions, the revenue from the approval activity, as well as total revenue, regulated and unregulated.

For more information, please see PwC's [At a glance](#) publication.

FCA confirms Handbook changes

The FCA published [Handbook Notice No 112](#) on 29 September 2023. It sets out changes to the Handbook made by the FCA Board, including relating to the Investment Firms Prudential Regime (Amendment) Instrument 2023, and the Technical Standards (Markets in Financial Instruments Transparency) (No 2) Instrument 2023 (following consultation in CP23/14). The FCA publishes feedback on these two instruments within the Notice, rather than in separate policy statements.

Consumer issues

FCA CEO issues call to action on financial inclusion

FCA Chief Executive, Nikhil Rathi, delivered a [speech](#) at PwC's Glasgow office on 29 September 2023 calling on industry, consumers, Government and the regulator to drive innovative change to improve financial inclusion.

Rathi outlined the scale of the financial inclusion challenge in the UK, noting an estimated 1.1 million adults are unbanked in the UK. Rathi also added that the proportions of unbanked individuals in groups of customers with certain characteristics can be worse, for example, people aged between 18-24, those without work, or that have poor financial numeracy.

Rathi noted the FCA's commitment to addressing these challenges, but highlighted the regulator does not hold all the necessary tools to do so, and therefore a high degree of public-private cooperation is needed to tackle these issues. In particular, Rathi highlighted the significant opportunity for firms to harness technology to drive solutions, for example, through the use of AI, data analytics and machine learning, to lower costs and enable inclusion.

Rathi welcomed the opportunity for firms to put forward creative and evidence-based solutions to support financial inclusion, and stated that the FCA will be holding a tech sprint later in early 2024 dedicated to supporting solutions to financial inclusion challenges. The FCA also plans to undertake more work to understand what barriers remain for the unbanked population, and will assess whether the process for accessing basic bank accounts is working as intended.

For further insights on this topic, please read our [blog](#).

Cryptoassets

IOSCO sets out recommendations to mitigate DeFi risks

The International Organization of Securities Commissions (IOSCO) issued nine policy recommendations to address market integrity and investor protection concerns arising from decentralised finance (DeFi), in a [consultation](#) published on 7 September 2023.

The recommendations are principles-based, outcomes-focused, and cover a broad range of areas including: risk management, disclosure requirements, international cooperation, standards and regulatory outcomes.

IOSCO aims to achieve further international collaboration and that the approach leads to regulatory outcomes for investor protection and market integrity that are comparable to traditional financial markets.

The proposed guidelines provide a framework for standardising DeFi operations across all IOSCO members' jurisdictions and are designed to complement the crypto and digital assets recommendations published in May 2023 by IOSCO. The consultation closes on 19 October 2023. IOSCO will issue the final guidance by the end of 2023, in line with its [Crypto-Asset Roadmap](#) published in July 2022.

FCA extends crypto financial promotion rules

The FCA informed crypto firms registered under the Money Laundering Regulations, and those otherwise authorised by the FCA, that they can seek a three-month extension for the 'back end' Direct Offer Financial Promotion (DOFP) rules, in a [letter](#) published on 7 September 2023.

This modification pertains to rules related to personalised risk warnings, 24-hour cooling-off periods, client categorisation, and appropriateness assessments. Firms granted this extension will have the DOFP rules take effect on 8 January 2024.

The FCA highlighted that the crypto industry's struggles with these 'back end' rules are intensified by challenges in implementing the 'Travel Rule', introduced on 1 September 2023.

The regulator called for firms to review the detailed [feedback](#) published on good and poor practices. It also noted a lack of engagement from overseas, unregistered cryptoasset firms and reaffirmed its commitment to take robust action against firms illegally promoting to UK consumers.

All other financial promotion rules will apply from 8 October 2023. This includes rules related to risk summaries, the ban on incentives to invest and the requirement that financial promotions must be fair, clear and not misleading.

FCA issues final warning to crypto firms on new promotion regime

The FCA issued a final warning for cryptoasset firms marketing to UK consumers and those supporting them to get ready for the financial promotion regime, in a [letter](#) published on 21 September 2023.

The UK Government has introduced legislation to include certain cryptoassets within the financial promotion regime. Starting from 8 October 2023, all firms, including those based overseas, that market cryptoassets to UK consumers must adhere to this regime.

To assist firms in this transition, the FCA has published guidelines highlighting [good and poor practices](#). It also made a modification for FCA registered and authorised firms, allowing them more time to comply with rules that require greater technical development.

The FCA has expressed concerns over the lack of engagement from many unregistered cryptoasset firms, especially those based overseas that serve UK customers. Non-compliance after the rule change could result in stringent actions by the FCA, including enforcement action.

The FCA has urged entities supporting these unregistered firms, such as social media platforms, search engines, and payment firms,

to reassess their roles and responsibilities, including under the Proceeds of Crime Act 2002.

D&I

FCA and PRA unveil D&I proposals for FS firms

The FCA and PRA issued consultation papers on 25 September 2023 proposing a new regulatory framework for Diversity & Inclusion (D&I) in financial services: [CP23/20](#) and [CP18/23](#), respectively. The wide-ranging proposals cover a number of areas, including data monitoring, reporting and public disclosure, target setting, D&I strategies, governance and accountability, risk management, and non-financial misconduct.

The proposals would require larger firms (those with over 251 employees in the UK) to report annually on employee demographic characteristics and inclusion metrics and targets. There are proposed mandatory and voluntary metrics, and reporting would be required at board level, senior leadership level, and for all employees. Where firms identify under-representation, they would need to set diversity targets (for at least women and ethnicity under the proposed PRA rules, and for at least one group under the proposed FCA rules).

The FCA proposes to explicitly include non-financial misconduct within its Conduct Rules, fit and proper assessments, and suitability guidance on the Threshold Conditions. The PRA proposes that firms with a Prescribed Responsibility (PR) for culture should include D&I within this function. For PRA-regulated firms not in the scope of PRs, at least one Senior Manager Function should have responsibility for implementing the firm's D&I strategy. The FCA does not propose to require an individual in each firm to be assigned responsibility for D&I.

Both consultations close on 18 December 2023. The regulators intend to issue Policy Statements in 2024, with the rules coming into force 12 months later. Our [At a glance](#) briefing provides further analysis of the proposals.

Financial crime

FCA reveals terms of reference for review of firms' treatment of PEPs

The FCA published the [terms of reference](#) for its review of firms' treatment of Politically Exposed Persons (PEPs) on 5 September 2023. The review was initiated by an amendment to the Financial Services and Markets Act 2023, requiring the FCA to 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 (MLRs) and [FCA guidance](#) (FG17/6) on PEPs. The amendment was prompted by concerns that firms may not be applying the rules and guidance appropriately and proportionately, meaning PEPs and their relatives/close associates may be unfairly restricted from accessing financial products and services. The FCA details the issues the review will focus on, many of which centre on its expectation that treatment of PEPs should be differentiated and risk based.

The review will be informed by: feedback from UK PEPs; information collected from firms and other stakeholders such as the Financial Ombudsman Service; and risk-based supervisory reviews of firms. The FCA will prioritise reviewing firms where it has intelligence that there are concerns around their treatment of PEPs. If the FCA finds significant problems, it will take action before completion of the review.

The FCA is due to publish its findings by June 2024. This review is distinct from, but linked to, the FCA's [review](#) of bank account closures due to expressions of political or other opinions.

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

FCA warns firms on inadequate sanctions systems and controls

The FCA [published](#) the findings of its assessments of sanctions systems and controls in financial services firms on 6 September 2023. On the same day, Sarah Pritchard, the FCA's Executive Director

of Markets and International, gave a [speech](#) reiterating the findings.

Due to the increased number of sanctions since Russia's invasion of Ukraine, the FCA assessed the sanctions systems and controls in over 90 financial services firms.

The assessment uncovered a number of weaknesses in areas including governance and oversight, global sanctions policies, third party reliance, contingency planning, skills and resources, screening capabilities, Customer Due Diligence, Know your Customer and breach reporting to the FCA.

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

PSR proposes implementation date for APP fraud reimbursement rules

The Payment Systems Regulator (PSR) published on 28 September 2023 a [consultation on a proposed specific direction](#), which will require firms to follow new rules and reimburse victims of authorised push payment (APP) fraud. It also confirmed a new proposed implementation date for the rules, of 7 October 2024 (previously, the rules were proposed to be implemented in April 2024). This date will be finalised in December 2023.

The new direction is one of three legal means the PSR will use to implement mandatory reimbursement. It consulted on the other two in July 2023. The new direction focuses on all payment firms that use the Faster Payments System. It sets out measures including the reimbursement requirement and its scope, and the obligation on firms to follow the reimbursement rules. The consultation closes on 19 October 2023.

The Bank of England has also announced its intention that similar reimbursement requirements should apply to Clearing House Automated Payment System (CHAPS). The PSR is therefore looking at directing CHAPS participants, and expects to consult on this by the end of Q1 2024.

Regulatory framework

PRA outlines approach to embedding new secondary objective

PRA Executive Director for Prudential Policy, Victoria Saporta, delivered a [speech](#) on 19 September 2023 outlining how the regulator intends to advance its new secondary objective for international competitiveness and growth.

Saporta outlined the PRA's view that embedding the new secondary objective will require strengthening three foundations: maintaining trust in the PRA and the UK prudential framework; adopting effective regulatory processes and engagement; and adopting a responsive approach to UK risk and opportunities.

To deliver this, Saporta outlined a series of measures to be taken forward by the PRA. Regarding trust, Saporta explained the PRA is in the process of establishing a new Cost-Benefit Analysis (CBA) panel that the regulator will report to annually on its activities. The PRA will publicly consult on its approach to CBA in due course.

On processes and efficiency, Saporta highlighted that improving the efficiency of regulatory transactions (e.g. speed of authorisations), and developing the accessibility of the rule book are two key areas of the PRA's focus. Finally, regarding the regulator's responsiveness, Saporta explained the PRA's desire to establish stakeholder engagement (for example, through working groups), to discuss what more the PRA can do to foster safe innovation. It will also pilot a roundtable on innovation in regulation in 2024.

The Financial Services and Markets Act 2023 grants regulators the new secondary objective for international competitiveness and growth. The FCA and PRA are required to report on an annual basis how they have embedded the new objective into their operations, processes and decision making. The PRA is expected to consult on its approach to prudential policy later in 2023.

Supervision

FCA Chair reiterates case for international collaboration

FCA Chair, Ashley Alder, delivered a [speech](#) at the Eurofi conference on 13 September 2023 outlining the FCA's perspective on the benefits of international collaboration to develop common regulatory standards and avoid unnecessary and costly regulatory fragmentation. Alder outlined a number of areas of the global regulatory agenda where the FCA is playing an important role in driving collaboration at multilateral fora, in particular on climate regulation, crypto, and non-bank financial intermediation (NBFi).

On climate, Alder welcomed IOSCO's endorsement of the climate reporting standards issued by the International Sustainability Standards Board (ISSB) and explained that the FCA will be issuing its consultation on climate transition disclosures in October 2023. Alder also recognised the importance of collaboration on crypto regulation, and noted the FCA's role in leading the crypto and digital asset working group within IOSCO's Fintech Taskforce. On NBFi, Alder added that recent market disruption events have reinforced the FCA's view that risks in wholesale markets can only be properly managed through close cooperation and data sharing among regulators and market participants.

Alder also addressed the FCA's pipeline of regulatory reform to UK markets. He reiterated the FCA's position that it will not pursue 'change for change's sake', and that it is conscious of the associated costs that reforms may have on globally active firms.

Sustainability

GTAG publishes UK Taxonomy scope and reporting advice

In August 2023, the UK Green Technical Advisory Group (GTAG) [published guidance](#) on the initial scope of the UK Green Taxonomy (Taxonomy) as well as the coverage and approach to reporting, to better reflect the needs of the UK Economy. The advice covers three main areas:

Expanded transition taxonomy: GTAG does not recommend implementing a transitional taxonomy, but does recommend that reviews should ensure that the Taxonomy remains aligned with the UK's transition pathway to Net Zero.

Expanded coverage: GTAG recommends that more economic activities should be added to the Taxonomy and prioritised based on the contribution to the UK gross value added (e.g. wholesale and retail trade, manufacturing, agriculture and possibly financial and advisory services); the sectoral coverage of the EU taxonomy is a good fit for the UK's emissions profile and therefore the climate mitigation objective.

Scope: GTAG recommends that the scope of taxonomy reporting should align to that of mandatory TCFD reporting (with appropriate phasing in and sequencing of reporting requirements), given that both will form part of the Sustainability Disclosure Requirements (SDR) framework.

Approach to taxonomy reporting: GTAG recommends that the SDR framework should consider existing industry feedback on the EU Taxonomy Key Performance Indicators (KPIs) and that the UK Government should reassess the approach taken by the EU Taxonomy (e.g. make opex optional for non-financial institutions without requiring a materiality assessment). KPIs for financial institutions should be developed by expert regulatory bodies, such as the FCA, with input from industry.

GTAG advises on UK Taxonomy KPIs

The UK Green Technical Advisory Group (GTAG) [reported](#) in August 2023 on the KPIs that should be used in taxonomy reporting by financial and non-financial institutions. KPIs include turnover, capex and opex relative to the taxonomy for non-financial companies and the green asset ratio (GAR) for credit institutions. There are 10 GTAG recommendations broken down into three main categories (non-financial companies, credit institutions, and investors) that aim to support a best-in-class reporting regime.

GTAG addresses the challenges posed by the EU Taxonomy, by making opex fully optional for corporates without requiring a materiality assessment, providing clear and consistent (accounting) definitions for turnover, capex and opex KPIs, reassessing the approach to the GAR for credit institutions, or - for investors - requiring reporting at the fund level, instead of the Green Investment Ratio at the entity level.

GTAG also recommends the UK Government consider setting up a working group focused on developing Technical Screening Criteria for financial services (e.g. on incentive schemes promoting green behaviour, insurance premium discounts, adaptation measures and financing activities for climate change mitigation or adaptation).

EFRAG and GRI publish joint statement of interoperability

On 4 September 2023, the European Financial Reporting Advisory Group (EFRAG) and the Global Reporting Initiative (GRI) published [a joint statement](#) on the high level of interoperability between the European Sustainability Reporting Standards (ESRS) and the GRI Standards regarding impact reporting. The ESRS have adopted the same definition for impact materiality as GRI, which means that the definitions, concepts and disclosures regarding impacts are either fully aligned or, where not possible given the mandate of the Corporate Sustainability Reporting Directive, closely aligned.

As per the ESRS delegated act (adopted on 31 July 2023), EFRAG and GRI will create and publish the list of ESRS disclosure requirements and data points that correspond to GRI. EFRAG and GRI are also considering how to enhance their technical cooperation in future, particularly regarding reporting processes and digital taxonomies.

GTAG publishes guidance on data and proxies in UK taxonomy

The Green Technical Advisory Group (GTAG), on 7 September 2023, [published recommendations](#) on how the UK taxonomy

should handle data gaps and the use of proxies. The report highlighted the challenges that may arise as a result of data gaps for organisations trying to report and assess their impact.

Its recommendations include:

- That the sequencing of mandatory disclosures should require non-financial companies to report before financial companies, to avoid the sequencing issues experienced in other reporting requirements.
- The final data requirements should consider the particular challenges faced by companies with global operations.
- The implementation of enhancements to usability, to encourage more voluntary reporting, and therefore data availability. This should include the streamlining of the 'Do No Significant Harm' criteria. It also recommends the Government publishes sufficient guidance to support adopters.
- The Government should provide a forum for stakeholders to engage on data issues.
- The framework should support the use of estimates when data availability is limited. This should include clear instructions for use, and encourage transparency on methodologies.
- Finally, GTAG recommends the Government develops a reporting template to encourage consistent reporting during the reporting period.

The GTAG is due to issue a further report on the taxonomy later this autumn. The Government is also expected to launch a consultation on the taxonomy this autumn.

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

GTAG issues advice on UK Taxonomy and financial products

The Green Technical Advisory Group (GTAG), on 7 September 2023, [published recommendations](#) on how a future UK 'green' taxonomy should handle future and existing financial products. The report focuses on how the rules should treat products already marketed as sustainable at the point the taxonomy comes into effect, and how this may change as the taxonomy evolves.

Its recommendations include:

- Prior to the implementation of the taxonomy, the Government must provide clarity on the treatment of existing products that are marketed as sustainable, but are not taxonomy aligned. Consideration should also be given to those products that would be aligned at the point of assessment, but would no longer be as the taxonomy criteria evolves.
- To address some of these challenges, GTAG recommends the use of a time restricted 'grandfathering' clause for equity and debt, which should reduce the 'lock in' risk associated with long term investments.
- Where existing green debt is refinanced, the group recommends that it should be assessed for alignment according to the taxonomy criteria at the time.
- The report recommends the Government and FCA work together to ensure a consistent approach to green and sustainable bonds.
- Finally, the group notes its support for the Government publishing detailed guidance on how to assess complex green investments and projects under the taxonomy.

The report is one of a number issued by the GTAG, and one further report is expected from the group this autumn. The Government is also expected to launch a consultation on the taxonomy this autumn.

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

FCA responds to ISSB on future work priorities

The FCA published on 7 September 2023 its [consultation response letter](#) to the International Sustainability Standards Board's (ISSB's) [consultation on future work priorities](#), which ran from 4 May-1 September 2023. With regards to the ISSB's work over the next two years, the FCA states that the ISSB should:

- focus the strategic direction on embedding the first two sustainability standards (IFRS S1 and IFRS S2)
- begin to build out thematic sustainability disclosure standards beyond climate, starting with nature in the short term, and social issues (e.g. human capital and human rights) in the medium term
- leverage existing work to develop thematic standards, such as using the work of the Taskforce on Nature-related Financial Disclosures framework to develop the thematic standard on nature
- prepare for the consolidation of existing Sustainability Accounting Standards Board standards
- pursue targeted enhancements to the disclosure standards, starting with guidance on transition plan disclosures.

The ISSB is expected to provide feedback on its consultation in Q4 2023.

EFRAG publishes information on financial statements project

On 14 September 2023, the European Financial Reporting Advisory Group [published a briefing summary](#) on the International Accounting Standards Board (IASB) project on climate related risks in financial statements.

The summary is based on EFRAG's outreach work, and a review of concerns flagged in other publications. The summary notes that:

- though there has been an improvement in the reporting of climate risk in financial

statements, there are still several areas of concern, including the disconnect between the information inside and outside of financial statements

- the causes of this include a perceived lack of compliance with existing accounting standards, and the challenges of quantifying climate related risk.
- stakeholders have suggested the IASB could provide illustrative examples, application guidance on challenging areas of reporting, enhancement of educational materials, and limited amendments to accounting standards.

The IASB project commenced in March 2023. No timeframes for the completion of the work have been decided.

EC consults on changes to SFDR

The European Commission (EC) published on 14 September 2023 [a targeted consultation](#) to gather stakeholder views on the implementation of the Sustainable Finance Disclosures Regulation (SFDR). This includes how the regulation is working in practice, implementation challenges and potential options for improvements, such as a fund labelling regime. Rather than setting out proposed policy changes, respondents are predominantly asked the extent to which they agree to statements. There are four main sections in the consultation: (i) SFDR's current requirements; (ii) how SFDR interacts with other EU legislation; (iii) potential changes to disclosure requirements for financial market participants; and (iv) potential creation of a categorisation system for financial products.

The consultation will form part of a comprehensive review of the SFDR framework, [announced](#) in December 2022 and which will focus on "ensuring legal certainty", usability, and SFDR's role in mitigating greenwashing. The consultation ends on 15 December 2023. The EC will seek further stakeholder views through workshops and roundtables.

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

TNFD releases final framework for nature reporting

On 19 September 2023, the Taskforce for Nature Related Financial Disclosures (TNFD) released [final recommendations](#) for a nature reporting framework. The framework includes 14 disclosure recommendations, as well as guidance, and seeks to encourage organisations to report and address their impact on nature, including within their supply chains.

The final recommendations continue to follow the four key pillars set out in earlier versions: governance; strategy; risk and impact management; and metrics and targets. Key updates to the final version include a new disclosure recommendation on human rights policies and management, and the removal of a disclosure point relating to stakeholder engagement.

The TNFD framework is not mandatory in any jurisdiction at the moment, though the UK Government is a funder of the work, and stated in last year's [Green Finance Strategy](#) that it would consider how to incorporate the final framework into UK policy and legislative architecture. The framework is also referenced within the Corporate Sustainability Reporting Directive.

ICMA updates Sustainability-Linked Bond Q&As

The International Capital Market Association (ICMA) published on 26 September 2023 a set of [updated Q&As on its Sustainability-Linked Bond Principles](#) (SLBP). The Q&As provide additional guidance on key considerations for issuers, and aim to strengthen the credibility of the Sustainability-Linked Bond (SLB) market. The Q&As cover requirements for labelling bonds issued in alignment with the Principles e.g. Green Bonds, Social Bonds, and Sustainability Bonds (GSS) and Use of Proceeds (UoP) Bonds (GSS). The Q&As for this section cover: UoP, the process for project selection and evaluation, management of proceeds and reporting. The Q&As also cover Sustainability-Linked Bonds, including: the selection of key performance indicators, calibration of Sustainability

Performance Targets, bond characteristics, reporting and verification.

These Q&As will be included in a new Chapter of ICMA's [Guidance Handbook](#).

ESAs report on voluntary PAI disclosures under SFDR

The European Supervisory Authorities (ESAs) - the European Banking Authority (EBA), European Securities and Markets Authority (ESMA), and the European Insurance and Occupational Pensions Authority (EIOPA) - [published a joint report](#) on 28 September 2023. This is the second joint report the ESAs have published that looks at voluntary disclosures made under the Sustainable Finance Disclosure Regulation (SFDR) of principal adverse impacts (PAI). The [first report](#) was published in July 2022. For this report, the ESAs surveyed National Competent Authorities (NCAs) to gather feedback on the current state of voluntary PAI disclosures at entity level and also for financial products. The report includes:

- lessons learned from the second year of implementation of the voluntary disclosures
- an overview of good and bad practices
- recommendations to the European Commission (EC) and NCAs.

The ESAs found significant variation regarding compliance with the disclosure requirements across financial market participants and jurisdictions, but there were overall improvements in the application of voluntary disclosures. It was also easier to locate disclosures on websites. The ESAs argue that further improvements are needed, such as regarding explanations of where PAIs are not considered, or the voluntary disclosures of PAI consideration by financial products.

The findings of this report may inform the EC's comprehensive assessment of the SFDR framework.

FCA announces winners of greenwashing TechSprint

The FCA hosted its first Global Financial Innovation Network (GFIN) TechSprint on Greenwashing on 20 September 2023. On 29 September 2023, the regulator [published](#) the list of seven winners. The purpose of the TechSprint was to showcase potential solutions that could help tackle the risk of greenwashing in financial services. The FCA says that the participating firms and regulators will continue collaborating on their solutions.

Banking and capital markets

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Bank structures

HM Treasury consults on UK ring-fencing regime reform

HM Treasury [published](#) a Consultation Paper (CP) on 28 September 2023, setting out proposals for the reform of the UK ring-fencing regime. The Treasury CP was informed by the [recommendations](#) of the Skeoch Review, which proposed alterations to the regime to reduce the operational burden on the banking sector, without undermining financial stability. The deadline for CP responses is 26 November 2023.

The Treasury's proposals are aligned with the Government's [Edinburgh Reforms](#), which were announced in December 2022, with an additional set of proposals included to facilitate investment by ring-fenced banks (RFBs) in SMEs (including direct/indirect equity investment). On the application of ring-fencing thresholds, the Treasury is proposing to increase the ring-fencing deposit threshold from £25bn to £35bn of 'core deposits'; exempt from the ring-fencing regime retail-focused banks with trading assets of less than 10% of Tier 1 capital (except where the bank is part of a Global Systemically Important Bank); and allow RFBs to incur an exposure of up to £100,000 to a single Relevant Financial Institution (RFI) at any one time.

On the relaxation of geographic restrictions, the Treasury is proposing to allow RFBs to establish operations outside of the UK or European Economic Area, as well as introducing a four-year transition period for complying with the ring-fencing regime for ring-fenced banking groups that acquire a bank not subject to the ring-fencing regime. The CP also includes proposals to update the definition of a RFI to remove barriers that may prevent some small businesses from accessing financial services, in addition to technical

amendments to improve the functioning of the UK ring-fencing regime.

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

PRA consults on ring-fencing for third country branches and subsidiaries

The PRA [published](#) a Consultation Paper (CP) on 28 September 2023, containing proposals to update the treatment of third country branches and subsidiaries within UK ring-fenced body (RFB) sub-consolidation groups. The PRA CP has been published in parallel to the HM Treasury [consultation](#) on the reform of the UK ring-fencing regime, which contains proposals to allow RFBs to establish entities in third countries. The PRA is aiming to ensure that the benefits of the Treasury's proposals can be achieved while maintaining the PRA's primary objective of supporting the safety and soundness of regulated firms. The deadline for CP responses is 27 November 2023.

The PRA states that the rationale for its proposals centres on the potential for third country branches and subsidiaries to create material risks to the provision of core services provided in the UK by RFBs. Hence the PRA's proposals would require that the establishment of third country branches or subsidiaries within a RFB sub-consolidation group does not present material risks to the provision of core services in the UK by the RFB. The PRA's proposals would be implemented through a rule change to the RFB Part of the PRA Rulebook and to Supervisory Statement SS8/16.

The PRA states that it would refer to a range of areas in order to assess material risks posed to an RFB. These would include PRA supervisory expectations around firms' disclosures in their Individual Capital Adequacy Assessment Process for non-UK entities above a certain size; whether

supervisory regimes in jurisdictions where non-UK entities were established would present risks to an RFB; and the impact of non-UK entities on resolvability.

Conduct

FCA intervenes in later life mortgage market

The FCA published findings of its [review](#) into the later life mortgage market on 14 September 2023. The review looked at the financial promotions and the suitability of advice in the equity release market. The FCA notes this market consists of complex products that are more likely to be sold to customers in vulnerable circumstances.

The FCA's review covers firms responsible for around half of all lifetime mortgage sales in the UK and finds that firms fell below its expectations. There were many examples of firms: using inaccurate or misleading promotions; inadequately balancing risks with benefits; and improperly using the FCA regulatory status in a promotional manner, because of which almost 400 promotions were removed or amended by firms.

With respect to the suitability of advice, the FCA found many examples of brokers: poorly considering borrowers' income and expenditure; minimising discussions around alternative products; incentivising sales potentially at the expense of quality advice and good customer outcomes; and steering outcomes in favour of lifetime mortgage products. As a result of the FCA's work in this area, all firms that were a part of the review made changes to their sales and advice processes. Most firms also changed how they incentivise advisers. The FCA expects other firms operating in the market that were not part of the review to pay close attention to the findings and act immediately where needed.

The FCA also reminds firms to adhere to the new Consumer Duty rules, as well as the detailed rules for lifetime mortgage advisers outlined in the FCA Handbook. The regulator states it will consider the findings in conjunction with those of its ongoing retirement income advice [review](#).

FCA outlines follow-up work in account closure review

The FCA published a [report](#) on 19 September 2023, detailing initial findings of its work to investigate concerns regarding the closure of bank accounts. Alongside this, it published a [letter](#) from FCA CEO Nikhil Rathi to the Chancellor, and a [research note](#) on international approaches to de-risking.

The report is based on data requested from 34 credit institutions and payment firms. The regulator says the data does not suggest that accounts have been closed because of political beliefs lawfully expressed by account holders. The FCA states that the most common reported reasons for personal and business account applications being declined, suspended or terminated are financial crime suspicions, due diligence concerns, and inactive accounts.

However, it stresses the data was supplied quickly and requires further investigation, and has identified a number of potential concerns and issues for follow-up work. This includes:

- Further analysis to test the accuracy of the data reported by firms, focusing on outliers.
- Further work to understand the high range of account declines for personal basic bank accounts, and whether this indicates conduct concerns.
- Analysis of how firms reach decisions for reasons of 'reputational risk'. The FCA says while reputational risks may be legitimately considered, it wants to verify whether this criteria is interpreted too broadly.

The FCA highlights the limitations to its powers to address the causes and impacts of account declines and closures. It suggests areas for further consideration by Government, including whether a right to have a bank account should exist, and how to take forward innovative solutions such as digital identity verification.

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

Prudential

PRA proposes update to capital treatment of FX exposures

The PRA [published](#) a Consultation Paper (CP) on 27 September 2023, setting out its proposed updates to the treatment of foreign exchange (FX) exposures under the market risk capital framework. The PRA has also set out its permission process for excluding Structural Foreign Exchange (SFX) positions from the capital calculation for foreign exchange exposures. The deadline for CP responses is 31 January 2024.

The PRA states that the rationale for the proposed updates is to ensure that the PRA's proposed market risk framework as [outlined](#) in PRA CP16/22 (based on the Basel standard) addresses outstanding ambiguities regarding the treatment of positions eligible for the SFX exemption. It therefore proposes to set minimum standards on the treatment of positions held at historical FX rate and the segregation of SFX positions from other trading activity.

The PRA is proposing changes to Article 325 (Approaches for calculating the Own Funds Requirements for Market Risk) in the General Provisions (CRR) Part of the PRA Rulebook. The PRA is also proposing to update Supervisory Statement (SS) 13/13 to revise PRA existing expectations on the calculations of associated market risk positions, as well as updating the CRR Permission 352(2) supplementary application form.

PRA updates Basel 3.1 implementation deadline

The PRA [published](#) a press release on 27 September 2023, updating its implementation deadline for the Basel 3.1 reform package from 1 January 2025 to 1 July 2025, and reducing the transitional period from five to four and a half years. The PRA also proposes to publish the first part of its near-final rule set in Q4 2023, focusing on market and operational risk elements, with the second part scheduled for Q2 2024,

focusing on the credit risk, output floor, and reporting and disclosure elements.

Supervision

FCA sets out wholesale banking supervisory strategy

The FCA issued a [Dear CEO letter](#) to all wholesale banks active in the UK on 8 September 2023, setting out its view of risks in the sector and supervisory work plan for the next two years.

The FCA identifies the recent market environment as continuing to frame its supervision of the sector. The FCA notes concerns over weaknesses in risk management capabilities, including firms' underappreciation and understanding of client concentration within and across firms and markets. Banks' boards and senior management will be asked, as part of its supervisory engagement, to evidence how improvements have been made to risk management and oversight across the business, and how this is underpinned by a strong culture. The FCA will carry out supervisory testing on firms' embeddedness of risk management capabilities.

The FCA also raises concerns that banks' ability to manage conduct risks has been diminished due to a lack of investment in control frameworks, and notes a continued issue with the blurring of first and second line responsibilities. The FCA will accelerate its testing programme to assess firms' control frameworks, including through more in-person supervisory visits. Operational resilience will also continue to be a focus, in particular firms' understanding of dependence on third parties.

Banks should also expect supervisory attention across a range of other topics, including the delivery of ESG commitments, deployment of artificial intelligence, implementation of the Consumer Duty, its role in furthering the diversity, equity and inclusion agenda, as well as its approach to non-financial misconduct. Firms' boards should have discussed the contents of the letter and agreed any actions within two months.

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

FCA sets out supervisory priorities for Corporate Finance firms

On 28 September 2023, the FCA published its first [Dear Portfolio letter for Corporate Finance firms](#) (CFFs), detailing its views of the key risks of harm and its subsequent supervisory priorities for this sector. The FCA notes the portfolio is highly heterogeneous, comprising over 500 firms whose business models include a wide range of regulated and unregulated activities. The FCA identifies two major risks of harm: market abuse, and unsuitable selling and client categorisation. On the former, CFFs have access to privileged information if they act for listed issuers so the importance of having robust systems and controls in place to manage market abuse risks is seen as a priority. The FCA will conduct ongoing systems and controls reviews of compliance with the UK Market Abuse Regulation, and undertake a multi-firm review of personal account dealing to address this risk.

On the latter, the FCA highlights that CFFs can inappropriately classify clients as professional clients, and end investors as sophisticated or high net worth individuals, thereby inappropriately reducing the protections available to them. The FCA will undertake a review of firms' client and investor categorisation practices, and the types of products that have been marketed to them.

The FCA will also focus on ensuring firms have correctly assessed the applicability of the Consumer Duty to their business models. It will challenge firms with retail permissions which have not considered the Duty, or have concluded that the Duty does not apply to them, as well as those firms that hold permissions which they appear to not need or use.

In-scope firms should consider how these risks may apply to them and undertake assessments of potential weaknesses as needed.

Asset management



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Please refer to the cross-sector section on p4 for developments that are relevant to asset management.

Insurance

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Conduct

FCA's IDD consultation preserves existing requirements

The FCA issued a [consultation](#) on Insurance Distribution Directive (IDD) delegated acts on 5 September 2023. The FCA fully implemented the IDD in 2018 through its Handbook. Following the UK's exit from the EU, these delegated regulations became part of retained EU law (REUL), which will be repealed. Therefore the FCA is now consulting on changes to various sourcebooks to replace the provisions of REUL. Impacted sourcebooks are SYSC, COBS, ICOBS and PROD.

The FCA makes clear that the purpose of the proposed changes is to provide continuity of the insurance regulatory regime. There will be no new rules and the changes will maintain existing requirements. Nonetheless, the FCA confirms it will continue to consider whether substantive changes might be needed in the future for the regime to remain effective. For example, the FCA notes concerns about the application of its rules to the London Market, and states it will continue to engage with the London Market to ensure proportionate application of its rules.

The consultation closes on 9 October 2023. The FCA will publish its final rules in line with the Government's timetable to repeal REUL.

FCA warns GI firms to improve product value

The FCA [published](#) general insurance (GI) value measures data for the period January to December 2022 on 20 September 2023. The FCA states that it publishes this data annually to create incentives for firms to compete beyond the price element of a product, and to improve the value of products that firms offer.

The FCA is concerned that the data suggests some firms are not complying with its fair value rules under PROD 4, and not delivering good outcomes for customers under the Consumer

Duty. The FCA's concerns sit in three key areas. These are: the extent and quality of Consumer Duty implementation and embedding of the rules; poor evidencing of fair value assessments; and deficiencies in product governance and a lack of adequate management information. Further, the FCA states it is not clear how the high commission levels it has observed for certain products are consistent with fair value. The FCA therefore confirms it will take action in the coming months where it sees high levels of commission in the product distribution chain.

Specifically, the data shows that at an aggregated product level Guaranteed Asset Protection (GAP) insurance had the lowest claims ratio of 4% (when sold as an add-on product). The FCA has therefore written to GAP insurers giving them a month to propose how they would address the FCA's concerns around fair value. The FCA has warned it will use its regulatory powers where it is unsatisfied with the responses it receives from GAP insurers. The FCA also states the data is indicative of potentially wider issues at firms, and so it reminds firms' boards to ensure that their firms are meeting the FCA's product governance rules across all retail products.

FCA finalises new protections for leaseholders

The FCA [confirmed](#) its rules on multi-occupancy buildings insurance on 29 September 2023. The policy statement follows the FCA's review into the market, which found that the premiums of leasehold buildings insurance significantly increased after the Grenfell tragedy, and leaseholders suffered from spiralling costs and poor value.

The FCA's remedies aim to increase transparency for leaseholders by requiring insurance firms to disclose key information about their products. This includes a summary of the policy features; the policy premium; and the remuneration received by distributors, property managing agents and freeholders. Firms will also be required to act in

the best interests of leaseholders. This means firms will need to consider the interests of leaseholders when designing, pricing and distributing their products. The FCA states that firms must be able to show that their products provide fair value to leaseholders in addition to the contractual customer, and this includes being able to justify commission payments to other parties. The rules will come into effect from 31 December 2023.

Alongside the FCA's remedies, the government has announced its intention to ban the payment of insurance commissions to property managing agents, landlords and freeholders. The FCA states it will work with the government on its proposed ban and will make changes to its rules where necessary.

Prudential

PRA consults on Matching Adjustment reforms

The PRA [issued](#) its second major Solvency II review consultation, CP19/23, on 28 September 2023. It follows the PRA's June 2023 consultation ([CP12/23](#)), which proposed to remove onerous reporting requirements and improve flexibility for internal model approvals.

CP19/23 focuses on the design and operation of the Matching Adjustment (MA) framework, and it covers a range of topics including: the new MA attestation process, the expansion of MA permissible assets and liabilities, reforms to the granularity and validation of credit rating processes, internal model changes and the introduction of a new data reporting template. The PRA states its proposals will enable life insurers to play a significant role in productive investment in the UK economy, while continuing to meet the PRA's statutory objectives.

Overall, the PRA's proposals aim to improve business flexibility by widening the MA asset eligibility conditions to go beyond the current requirement for fixed cash flows (CFs), to allow a limited proportion of asset with highly predictable

CFs. The proposals also aim to be more responsive to the level of risk, for example by introducing notched credit ratings and Fundamental Spread add ons for assets with highly predictable CFs; and enhance firms' responsibility for risk management, for example by introducing an attestation for the level of MA benefit claimed. The also PRA proposes to remove the limit on the amount of MA that may be claimed from sub-investment grade assets.

CP19/23 closes on 5 January 2024. The PRA plans to publish its final rules on the MA in Q2 2024, with an effective date of 30 June 2024.

For more information, please read [our Hot Topic](#) publication.

Recovery and resolution

PRA finalises regime for insurers in financial difficulties

The PRA published its [final rules and policy](#) on a new regime for insurers in financial difficulties on 14 September 2023. The regime is applicable to all insurers except for participants within the Society of Lloyd's and friendly societies.

The new Financial Services and Markets Act (FSMA) 2023 provisions contain the general framework for the court's powers to write-down an insurer's liabilities. The court can use its write-down power where an insurer is or is likely to become, unable to pay its debts, and where the write down order is reasonably likely to lead to a better outcome for the insurer's policyholders and other creditors as a whole (compared with not making the order).

FSMA 2023 requires the PRA to set out the details of the framework for the court's write-down power. Therefore, the PRA's rules concern the role of the FSCS in a write-down, the basis on which affected persons should be notified of a write-down, including the form and manner of the notification, and the PRA's consent process before an application for a write-down can go to court. The regime came into effect on 19 September 2023.

Supervision

FCA sets out funeral plans sector priorities

The FCA [published](#) its 2023–25 priorities for the funeral plans sector on 20 September 2023. The FCA notes the sector is new to regulation, and so it will focus its supervision on ensuring that firms are effectively adapting to the regulatory environment, and meeting expectations to deliver good customer outcomes.

To prevent firm failure resulting in customer harm, the FCA expects firms to ensure that they have appropriate controls and governance arrangements in place so that they can effectively assess their capital adequacy and liquidity requirements. Additionally, the FCA expects firms to perform annual reviews of their wind-down plans to ensure that business can be run-off in an orderly way if needed.

The FCA states that under the Consumer Duty, firms should take steps to ensure that: their products provide fair value, customers receive clear information, and customers get support when needed.

The FCA explains that its strengthened Appointed Representative (AR) regime works hand in hand with the Duty. Principal firms should ensure that they have appropriate controls in place to oversee their ARs' activities and ensure that they are complying with the Duty. The FCA states it has become aware that many ARs are conducting unauthorised business by holding undeclared legacy funeral plan books without appropriate permissions. The FCA therefore highlights an urgent need for improvement in the oversight of ARs by principal firms in this sector.

The FCA expects all firms to uphold good standards of behaviour and professionalism, and to nurture healthy cultures. The FCA also states firms need to take action to improve the quality of their regulatory returns, to ensure they are providing accurate information.

FCA sets out insurance strategy for next two years

The FCA issued three insurance portfolio letters on 20 September 2023. The letters cover the FCA's insurance supervisory priorities for the next two years in the [personal and commercial lines](#) insurance portfolio, [wholesale](#) insurance portfolio (includes Lloyd's and London Market insurers and intermediaries), and [life](#) insurance portfolio (includes Third-Party Administrators).

The letters cover four market-wide priorities: embedding the Consumer Duty; governance and culture; operational resilience and increasing reliance on third parties; and improving oversight of Appointed Representatives (ARs).

With respect to the Duty, the FCA continues to see examples of insurers and intermediaries not sharing information, and distribution chains that are longer than necessary. The FCA reminds wholesale insurance firms that the Duty applies to them where they can determine or have material influence over retail customer outcomes. The FCA stresses that firms need to do better in justifying how high commission levels are appropriate for the price retail customers pay under the Duty. The FCA warns it will act where it finds that poor implementation of the Duty has led to customer harm.

On governance and culture, the FCA expects firms to review their drivers of culture, this includes leadership, purpose, governance, recruitment, and rewards and incentives. Moreover, firms must have systems and controls to deal with serious non-financial misconduct. The FCA expects firms to have credible plans to manage and recover from operational incidents. Additionally, the FCA states it will test how firms have embedded its new regime for ARs, which requires principal firms to ensure high standards at their ARs.

Our [At a glance](#) publication provides more information.

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Wholesale markets

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