

FINANCIAL REGULATION WEEKLY BULLETIN

Major UK and European regulatory developments of interest to banks, insurers and reinsurers, asset managers and other market participants

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If you have any comments or questions, please contact:

[Selmin Hakki](#).

Slaughter and May also produces a periodical Insurance Newsletter. If you would like to go on the distribution list, please contact: [Beth Dobson](#).

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GENERAL //

1 BANK OF ENGLAND

- 1.1 Operational resilience - SIMEX 24 undertaken by Bank of England - 3 October 2024** - The Bank of England (the Bank) has announced that it has undertaken its latest UK market-wide simulation exercise, SIMEX 24, in partnership with UK Finance, the financial sector, HM Treasury and the FCA. The simulation set out to exercise the UK financial sector's ability to respond to a major infrastructure failure that would require a total shutdown and restart of the sector.

[Press release](#)

- 1.2 Maximising the value of data collections across the financial sector - Bank of England publishes speech - 3 October 2024** - The Bank of England (the Bank) has published a speech given by James Benford, Executive Director for Data and Analytics Transformation and Chief Data Officer, on maximising the value of data collection across the financial sector.

Mr Benford explains how enhancements to the way data is collected can improve agility and productivity by freeing up and taking cost out of the data supply chain. Mr Benford outlines a number of initiatives in train, including a new and more efficient application called the Statistical Timeseries Repository for Analysis, Transformation, Understanding and Sharing (STRATUS) to process, quality-control and aggregate the returns the Bank receives. Mr Benford also points to the piecemeal introduction of regulatory data collection requirements after the financial crisis, and describes how (among other projects) the PRA's Banking Data Review will address this costly complexity by closing gaps and consolidating requirements where possible.

[Bank of England speech: Enhancing our national asset: Maximising the value of data collections across the financial sector](#)

2 EQUALITY AND HUMAN RIGHTS COMMISSION

- 2.1 Workplace sexual harassment - EHRC publishes updated technical guidance - 26 September 2024** - The Equality and Human Rights Commission (EHRC) has published updated technical guidance for employers on the steps they can take to prevent sexual harassment in the workplace. This update is intended to help employers comply with upcoming changes to the Equality Act 2010, which mean that from 26 October 2024 employers must take reasonable steps to prevent sexual harassment of their workers, including by third parties.

[Sexual harassment and harassment at work: technical guidance](#)

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BEYOND BREXIT //

3 FINANCIAL CONDUCT AUTHORITY

3.1 FSMA 2023 - FCA updates webpage on repeal and replacement of assimilated law - 27

September 2024 - The FCA has published an updated version of its webpage on the repeal and replacement of assimilated law under the Financial Services and Markets Act 2023.

The FCA provides updated timelines for its work on a number of files, including its file on the Markets in Financial Instruments Directive (2014/65/EU) (MiFID II) and the Markets in Financial Instruments Regulation (600/2014) (MiFIR), where it states that the FCA aims to start a tender process later in 2024 to appoint a single consolidated tape provider for bonds.

[Updated webpage](#)

BANKING AND FINANCE //

4 BANK OF ENGLAND

4.1 Exploring longer operating hours for Real-Time Gross Settlement - Bank of England publishes response to discussion paper - 3 October 2024

The Bank of England (the Bank) has published a response to its February 2024 discussion paper which explored the case for extending the hours of the Real-Time Gross Settlement (RTGS) service. Overall, respondents to that paper supported extending settlement hours, with general agreement that current hours are unlikely to remain sufficient in an increasingly 24/7 and global world.

While the Bank has not made a final decision, its central expectation is that it will extend RTGS and CHAPS settlement hours, with the ambition of achieving near-24/7 operations around the turn of the decade. The Bank expects to take a phased approach to implementation, starting with enabling earlier settlement at 1.30 am (UK time), no earlier than 2027.

The final proposal and implementation timeline is subject to further analysis, in collaboration with the industry, which the Bank will outline in a consultation paper in 2025. This will include details of the end-state proposal, implementation path and individual stages, alongside the assumed operating and service mode. A final decision on future RTGS and CHAPS settlement hours will be published in late 2025/early 2026.

[Bank of England: Response to the discussion paper exploring extended RTGS hours](#)

5 PRUDENTIAL REGULATION AUTHORITY

5.1 PRA publishes Dear CFO letter providing thematic feedback on accounting for IFRS 9 ECL and climate risk - 27 September 2024

The PRA has published a letter to the Chief Financial Officers of selected deposit-takers, providing thematic feedback following its review of written auditor

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reports received in 2024. This year, the questions related to IFRS 9 expected credit loss accounting and accounting for climate-related financial risks. The letter appends a range of practices the PRA encountered to help firms identify improvements and compare their approach to peers.

[Dear CFO letter](#)

SECURITIES AND MARKETS //

6 EUROPEAN SECURITIES AND MARKETS AUTHORITY

- 6.1 Consolidated tape providers under MiFIR II - ESMA announces next steps for selection - 30 September 2024** - The European Securities and Markets Authority (ESMA) has published an update on the selection of consolidated tape providers (CTPs) for bonds and for shares and exchange-traded funds (ETFs).

ESMA confirms that the selection process for the CTP for bonds will launch on 3 January 2025, and it intends to adopt a reasoned decision on the selected applicant by early July 2025. In June 2025, ESMA will launch the selection process for the CTP for shares and ETFs, with the intention of adopting a reasoned decision on the selected applicant by the end of 2025.

[Press release](#)

7 BANK OF ENGLAND

- 7.1 End of LIBOR - Bank of England publishes joint press release with FCA and Working Group on Sterling Risk-Free Reference Rates - 1 October 2024** - The Bank of England (the Bank) has published a joint press release with the FCA and the Working Group on Sterling Risk-Free Reference Rates (the Working Group) on the end of the London Interbank Offer Rate (LIBOR).

On 30 September 2024, the remaining synthetic LIBOR settings were published for the last time and LIBOR came to an end. All 35 LIBOR settings have now permanently ceased, and the Working Group will be wound down with effect from 1 October 2024. Nikhil Rath, CEO of the FCA, said “the transition away from LIBOR is one of the most significant events in markets in this generation”. With the transition away from LIBOR completed, market participants are reminded that credit-sensitive rates should not emerge as successor rates.

[Press release](#)

8 BANK OF ENGLAND AND FINANCIAL CONDUCT AUTHORITY

- 8.1 Digital Securities Sandbox - Bank of England and FCA publish policy statement on joint approach - 30 September 2024** - The Bank of England (the Bank) and the FCA have published a policy statement outlining their joint approach to implementing the Digital Securities Sandbox (DSS), which announces that the DSS is now open for applications, along with final guidance for

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firms considering or currently operating in the DSS. The DSS allows participants to use developing technologies, such as distributed ledger technology, to undertake activities traditionally associated with Central Securities Depositories and trading venues.

The DSS will be operational until December 2028, but this can be extended by the Government. The window for applying to join the DSS is expected to close around March 2027, so that the regulators and firms inside the DSS can prepare for a transition to a possible new permanent regime, provided the new technologies are implemented successfully.

[Bank of England and FCA policy statement: Bank of England and FCA joint approach to the DSS](#)

[Guidance on the operation of the DSS](#)

ASSET MANAGEMENT //

9 FINANCIAL CONDUCT AUTHORITY

9.1 Forbearance on investment trust disclosures - FCA publishes updated statement - 30

September 2024 - The FCA has published an updated version of its statement on forbearance in relation to investment trust disclosure requirements, announced in earlier in September 2024.

As reported in a previous edition of this Bulletin, from 19 September 2024 until legislation to amend the UK PRIIPs Regulation comes into force, closed-ended investment funds whose ordinary shares (of each class if there is more than one) are admitted to trading on a UK regulated market or a UK multilateral trading facility may choose not to follow the requirements of the PRIIPs Regulation and associated technical standards. They may also choose not to follow the requirements of Article 50(2)(b) and Article 51 of the Commission Delegated Regulation (EU) 2017/565 (MiFID Org Regulation).

The updated statement clarifies that this forbearance applies across the distribution chain to any firm carrying on business relating to these products, including manufacturing, distribution, and marketing firms. Where firms choose not to provide a key information document (KID), they may wish to consider whether any additional product information is needed to support retail investors, in line with PRIN 2.A.5.3R(1) requirements to equip consumers with the information to make effective, timely and properly informed decisions.

The FCA further expects firms in the distribution chain for securities issued by investment trusts to collaborate to determine and share what information is required to enable the continued distribution of these products, in compliance with their more general obligations towards retail investors. The importance of the Consumer Duty, in particular, is highlighted.

[Updated FCA press release: Statement on forbearance in relation to investment trust disclosure requirements](#)

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INSURANCE //

10 EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

10.1 Solvency II - EIOPA consults on technical standards - 1 October 2024 - The European Insurance and Occupational Pensions Authority (EIOPA) has published its first batch of consultation papers on Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) regarding changes to the Solvency II Directive (2009/138/EC) that are expected to be introduced by proposed Directive (2021/0295(COD)).

The five consultation papers relate to:

- draft RTS on liquidity risk management plans;
- draft RTS on exceptional sector-wide shocks (including how these are identified);
- draft RTS on factors for identifying insurance undertakings that are under dominant or significant influence, as well as those managed on a unified basis;
- draft ITS relating to a simplification of the valuation for life insurance obligations; and
- draft RTS on enhancing the supervision of cross-border activities.

The deadline for comments is 2 January 2025.

[Press release](#)

FINANCIAL CRIME //

11 HM TREASURY

11.1 The Payment Services (Amendment) Regulations 2024 - HM Treasury publishes draft statutory instrument - 3 October 2024 - HM Treasury has published a draft version of the Payment Services (Amendment) Regulations 2024 (the Regulations), which give payment service providers (PSPs) new powers to delay and investigate payments that are suspected of being fraudulent. The changes are intended to support efforts to tackle authorised push payment fraud, where victims are unknowingly tricked into sending significant sums to fraudsters.

The Regulations amend the Payment Services Regulations 2017 to give a payer's PSP the ability to delay the execution of certain payment orders by 72 hours where, within a specified time, the PSP establishes reasonable grounds to suspect the order has been made subsequent to fraud or dishonesty perpetrated by a third party (which may include the payee). Where the PSP exercises the ability to delay, the Regulations also make provision as to how and when the payer should be notified of the delay and for the liability for any charges or interest incurred by the payer as a result.

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The Regulations will be laid before Parliament shortly after its return from conference recess.

[The Payment Services \(Amendment\) Regulations 2024](#)[Press release](#)

12 PAYMENT SYSTEMS REGULATOR

- 12.1 Faster Payment APP scams - PSR publishes policy statement confirming maximum level of reimbursement - 3 October 2024** - The Payment Systems Regulator (PSR) has published a policy statement (PS24/7) confirming its decision to start the maximum level that payment service providers (PSPs) will have to reimburse victims of Faster Payments authorised push payment (APP) scams at £85,000 per claim, from 7 October 2024

The PSR notes that it will keep the level under review as part of its 12-month evaluation of the reimbursement policy. The PSR also confirms that the Bank of England, as the operator of CHAPS, has decided to set the maximum level for CHAPS APP scams to £85,000 per claim.

[PSR policy statement: Faster Payments APP scams reimbursement requirement: Confirming the maximum level of reimbursement \(PS24/7\)](#)

[Press release](#)

13 JOINT MONEY LAUNDERING STEERING GROUP

- 13.1 AML/CTF guidance on wholesale markets - JMLSG publishes revisions - 29 April 2024** - The Joint Money Laundering Steering Group (JMLSG) has published a revised version of chapter 18 (wholesale markets) in Part II of its anti-money laundering and counter-terrorist financing (AML/CTF) guidance for the financial services sector. The revisions relate to customer due diligence and wholesale subscription finance in private capital funds.

The revisions have been submitted to HM Treasury for ministerial approval.

[JMLSG: Guidance: Part II Sector 18 \(Wholesale markets\)](#)

[Press release](#)

ENFORCEMENT //

14 FINANCIAL CONDUCT AUTHORITY

- 14.1 Financial crime systems and controls failings - FCA publishes final notice and fines bank - 2 October 2024** - The FCA has published a final notice (dated 27 September 2024) issued to Starling Bank Limited (Starling), fining it £28,959,426 for financial crime failings related to its financial sanctions screening.

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Between 2016 and 2023, Starling experienced significant growth, but the FCA found that its financial systems and controls did not keep up. In 2021, the FCA identified serious concerns with Starling's anti-money laundering and financial sanctions framework, after which Starling agreed to a requirement restricting it from opening new accounts for high-risk customers until this improved. Starling failed to comply with this requirement, and opened over 54,000 accounts for 49,000 high-risk customers between September 2021 and November 2023.

In January 2023, Starling became aware that its automated screening system had, since 2017, only been screening customers against a fraction of the full list of those subject to financial sanctions. A subsequent internal review identified systemic issues in its financial sanctions framework. Starling has since reported multiple potential breaches of financial sanctions to the relevant authorities.

The FCA states that Starling has established programmes to remediate these breaches and to enhance its wider financial crime control framework. The FCA further flags that this case took 14 months from opening to achieving an outcome, compared to an average of 42 months for cases closed in 2023/24.

[Final notice: Starling Bank Limited](#)[Press release](#)

15 RECENT CASES

15.1 *BlueCrest Capital Management (UK) LLP v FCA* [2024] EWCA Civ 1125, 2 October 2024

The Court of Appeal has handed down its judgement in *FCA v BlueCrest Capital Management (UK) LLP* [2024] EWCA Civ 1125, allowing the FCA's appeal of the decision of the Upper Tribunal in *BlueCrest Capital Management (UK) LLP v FCA* [2023] UKUT 140 (TCC) and dismissing the cross-appeal of BlueCrest Capital Management (UK) LLP (BlueCrest).

In a separate press release, the FCA states that this result has important wider implications both for the FCA's ability to secure redress for consumers and its ability to conduct litigation before the Upper Tribunal effectively. Subject to any further appeal, the matter will now proceed to a full hearing before the Upper Tribunal (Tax and Chancery Chamber).

[BlueCrest Capital Management \(UK\) LLP v FCA \[2024\] EWCA Civ 1125](#)[FCA Press release](#)

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This Bulletin is prepared by the Financial Regulation Group (the Group) of Slaughter and May in London. The Group comprises a team of lawyers with expertise and experience across all sectors in which financial institutions operate.

We advise on regulatory issues affecting firms across the financial services sector, including banks, investment firms, insurers and reinsurers, brokers, asset managers and funds, non-bank lenders, payment service providers, e-money issuers, exchanges and clearing systems. We also advise non-regulated businesses involved in financial regulatory matters. In addition, our leading financial regulatory investigations practice is regularly instructed by financial institutions requiring specialist knowledge of financial services regulation together with experience in high-profile and complex investigations and contentious regulatory matters.

Most of the projects that we advise on have an extensive international or cross-border element. We work in seamless integrated teams with leading independent law firms which offer many of the most highly regarded financial institutions lawyers in Europe, the US and Asia, as well as strong and constructive relationships with local regulators.

Our Financial Regulation Group also produces occasional briefing papers and other client publications. The five most recent issues of this Bulletin and our most recent briefing papers and client publications appear on the Slaughter and May website [here](#).

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