

INSURANCE UPDATE

In this update we discuss:

- The Which? super complaint to the FCA over its regulation of home and travel insurance
- Developments in the regulation of use of AI by insurers
- Final rules for the “Matching Adjustment Investment Accelerator”
- Ongoing issues with funding of bulk purchase annuity transactions
- Changes to the third country branches rules

Which? super complaint

On 29 September the consumer advocacy group, [Which?](#), launched a “super-complaint” aimed at pressurising the FCA into take further action in the retail non-life insurance market.

Which? claims that three features of the home insurance and travel insurance markets harm consumers:

- poor claims handling - including areas highlighted in the FCA’s 2025 claims-handling report, as well as other areas that Which? considers the FCA overlooked in that report
- inappropriate sales processes - in particular where these lead to misunderstandings on the part of consumers as to the scope of their cover under the policies sold
- a lack of application and enforcement of FCA rules and other relevant law.

The super-complaint refers extensively to the FCA’s [July 2025 home and travel claims handling report](#). In that report, the FCA set out examples of good practice and examples of areas for improvement, and commented that it would provide individual feedback to all firms within the review. It also set out its expectation that firms consider whether their policies are meeting customer needs and whether action is needed to improve the clarity of policy wordings. Which?, however, considers that the FCA is taking insufficient action to ensure that the insurers within the scope of the report and other insurers selling home and travel insurance are complying fully with their regulatory obligations, pointing to the absence of any publicised enforcement action or follow up market study.

Some of the issues Which? identifies with regard to consumer understanding of policy terms include:

- a commonly held belief that insurance products must meet minimum cover requirements under regulation
- reliance on comparison sites, which only highlight key policy terms
- an absence of easily accessible information about claims acceptance rates for different insurers.

Which? has reached the view that the FCA is failing in relation to the home and travel insurance markets to meet its statutory consumer protection objective to secure ‘an appropriate degree of protection for consumers’

Which? also thinks that the FCA should be addressing wider relevant laws such as those relating to unfair terms, unfair commercial practices and requirements of insurance legislation. It cites a number of examples of policy wordings in home and travel policies which it considers are inconsistent with requirements under the Insurance Act 2015 and the Consumer Insurance (Disclosure and Representations) Act 2012, and which potentially put the relevant firms in breach of requirements under ICOBS and the Consumer Duty.

Which?'s key recommendations are:

1. **The FCA should take action to address non-compliance by firms with their regulatory obligations.** This should include publicly stating how many of the firms involved in its claims-handling report had breached FCA rules and outlining what it is doing to address these breaches. It should also outline what initial assessment it has made of the scale of potential non-compliance among firms not included in the report and how and when it will address any non-compliance.
2. **The FCA should launch a market study to analyse, understand and address the underlying issues driving poor customer outcomes.** This should include consideration of processes through which products are sold, including comparison sites, and issues with claims-handling including use of outsourcing arrangements.
3. **The FCA and Government should conduct a joint initiative to review possible improvements to consumer protection legal frameworks in insurance.** This should include giving the FCA the power to fine firms for breaches of unfair commercial practices law under the Digital Markets, Competition and Consumers Act 2024.

The FCA has a programme of ongoing work already in this area and in July had published a “[roadmap](#)” for retail insurance which set out proposed next steps, including in respect of home and travel insurance claims-handling. It has 90 days from the launch of the super-complaint in which to publish its reasoned response setting out what action it proposes to take. Possible actions include enforcement against insurers, agreeing voluntary changes with the industry, conducting further investigations/market studies, or recommending action by the Government. The FCA could also, however, conclude that no action is required beyond the measures it is already putting in place.

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Regulating AI

The EU AI Act

The EU AI Act came into force in August 2024 but the majority of its provisions come into effect in August 2026. The Act is unusual compared to other jurisdictions such as the US and the UK in setting out a comprehensive legal framework for the development, supply and use of AI systems. Of particular relevance to the insurance sector is the fact that “*AI systems intended to be used for risk assessment and pricing in relation to natural persons in the case of life and health insurance*” are identified under the Act as high-risk AI systems, which attract a range of compliance requirements for relevant EU insurers.

There has been push back from both industry and the US government on the application of the AI Act. In September the European Commission opened a [call for evidence](#) on possible simplifications in respect of data legislation, cybersecurity incident reporting and targeted adjustments to the AI Act. It has recently been reported that this may include the Commission proposing a one year grace period in respect of systems already in use before the implementation date for relevant provisions of the Act. This follows lobbying by industry earlier this year, including an [open letter](#) to the Commission from CEOs of a number of European companies urging a two-year “stop-the-clock” on application of the Act.

The approach of the financial services regulators

In August, EIOPA published an [Opinion on AI Governance and Risk Management](#). In the Opinion, EIOPA confirms that (other than the limited set of AI systems which are identified by the EU AI Act as high risk, as mentioned above), the use of AI systems by insurers are subject to existing sectoral legislation without new requirements. The Opinion is therefore intended to provide additional clarity on how insurers and insurance intermediaries should apply existing governance and risk management provisions of the Solvency II Directive, the Insurance Distribution Directive (IDD) and the Digital Operational Resilience Act (DORA) to their use of AI systems.

Key aspects highlighted by EIOPA in the Opinion include:

- insurers should make reasonable efforts to remove biases in data used in AI systems, to comply with the IDD requirement to act in accordance with the best interests of customers
- undertakings should ensure that the outcomes of AI systems can be meaningfully explained - if the complexity of the system hinders full transparency and explainability, complementary risk management measures may need to be put in place
- appropriate human oversight of AI systems should be put in place, including clearly defined roles and responsibilities.

Regulators in the UK have so far taken a similar approach. In September the FCA published a new [AI landing page](#) on which it states clearly that it does not plan to introduce extra regulations for AI, in line with the [Government's white paper on regulating AI](#). Firms do, however, need to consider existing regulatory requirements in their use of AI and key areas of focus will be similar to those highlighted by EIOPA. In its [Guidance on the Consumer Duty](#), for example, the FCA gives as an example of not acting in good faith the use of algorithms, including machine learning or artificial intelligence, in ways that could lead to consumer harm. This might apply where algorithms embed or amplify bias and lead to outcomes that are systematically worse for some groups of customers, unless differences in outcome can be justified objectively. The UK regulators also expect firms to ensure human oversight of AI systems by allocating responsibility to a Senior Management Function within the Senior Managers and Certification Regime. Firms will therefore need to continue to monitor the ways in which the PRA and FCA interpret and apply their existing regulatory regimes to their use of AI going forwards.

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The Matching Adjustment Investment Accelerator

On 23 October the PRA published its [policy statement and final rules](#) for the introduction of a “Matching Adjustment Investment Accelerator” (“MAIA”). This follows its [April 2025 consultation](#), which we discussed in our [Insurance Update](#).

The new regime came into effect on **27 October**. Under the MAIA framework, firms with an existing matching adjustment (“MA”) permission will be able to apply for an MAIA permission. Once received, this will allow the firm to include “new assets” in its relevant portfolio of assets without needing to first obtain a variation of its MA permission to alter the scope. The firm would be required to apply for a variation of the MA permission within 24 months of inclusion of the new assets. For these purposes, a “new asset” is one with features that are not within the scope of the firm’s existing MA permission.

The PRA expects firms to include an appropriate exposure limit to its use of the MAIA permission in its application, with this limit forming part of the permission. The PRA expects that, in general, an appropriate MAIA exposure limit would be the lower of: (i) 5% of the best estimate liabilities of the MA portfolio; and (ii) an amount proposed by the firm which is no greater than £2 billion (in each case, considered across the Group).

Firms making use of the MAIA permission will need to:

- have in place an effective written contingency plan in respect of any “new assets” included in the MA portfolio, setting out the steps the firm will take if it is required to remove the new asset from the portfolio
- establish a written policy to ensure ongoing compliance with the PRA’s rules in respect of use of the MAIA, which must be approved by the board
- provide a report on use of the MAIA to the PRA on an annual basis.

The policy statement identifies a number of areas where changes were made to the final rules and guidance following feedback on the consultation. Key changes include:

- extending the time limit for submission of the MAIA use report from 14 weeks after a firm’s financial year end to 18 weeks after, to introduce a gap after other annual reporting deadlines
- some changes to the guidance in (revised) SS7/18 on assessing asset eligibility, including removing the expectations that it would generally be inappropriate to include in the MA portfolio using the MAIA permission (i) assets where the assessment of their MA eligibility is more complex; and (ii) internally restructured assets
- changes to the guidance on contingency planning to allow short or medium term (but not immediate) sales of MAIA assets to be included in plans in some circumstances
- introducing a limited exception to the general approach in the PRA’s (revised) supervisory statement on Funded Reinsurance (SS5/24) that firms cannot assume recapture of an asset into the MA portfolio using an MAIA permission.

Areas where the PRA has chosen not to make changes in response to feedback include the overall MAIA exposure limits (referred to above).

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Funding the life insurance sector

In a number of publications and speeches this year the PRA has highlighted its ongoing scrutiny of the potential risks to the UK life insurance sector arising out “bulk purchase annuity” transactions being entered into between insurers and defined benefit pension scheme trustees. Its concerns are focussed on both the high volumes of transactions being undertaken and the practice of insurers entering into so-called “funded reinsurance” (or “Funded Re”) transactions to manage these risks (often with overseas reinsurers).

The PRA is still considering whether any changes to its rules in respect of Funded Re are required, although it has said that these would only apply to future transactions. Most recently, in [a speech in September](#) Vicky White of the PRA suggested that there are some questions marks over the current prudential treatment of funded reinsurance transactions, which bundles together the asset component and longevity risk cover. It is worth noting that there has been some industry push back to this suggestion, with some reinsurance market participants pointing out that an unbundling approach would result in double capital being held, with both the cedant and the reinsurer holding capital against the same asset risk. Results of the industry-wide [Life Insurance Stress Test \(LIST\) 2025](#) are due in Q4 2025 and for the first time the stress test included a FundedRe recapture scenario. This may inform the PRA’s thinking in this area, although the PRA has said that this work is separate from its consideration of the appropriate framework for FundedRe.

The PRA does acknowledge that growth in the bulk purchase annuity market requires a sustainable capital-raising framework, and Vicky White indicated in her speech that the PRA is “*open to innovations that facilitate the raising of capital in a way consistent with Solvency UK, supporting both resilience and growth*”. The PRA therefore intends to discuss possible options with the life insurance sector, including the potential use of ISPVs, and plans to publish a **discussion paper** on the topic of “*alternative life capital options*”.

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Third Country Branches

On 16 September the PRA published a [consultation \(CP20/25\)](#) on proposed changes to the regime for third country branches of overseas insurers. This follows on from changes introduced at the end of 2024 as part of the review of UK Solvency II, including the removal of branch capital requirements.

The most significant change is a proposed increase in the “subsidiarisation threshold” above which the PRA may expect a third-country undertaking to establish a subsidiary rather than a third country branch. This will involve a change to the [PRA’s Statement of Policy on its Approach to insurance branch authorisation and supervision](#) to amend the threshold from £500 to £600 million of insurance liabilities covered by the Financial Services Compensation Scheme. The PRA is proposing this change largely to counteract the “prudential drag” caused by inflation.

Other proposed changes include:

- changing the quarterly and annual reporting requirements for third country branches to absorb the current “modification by consent” applicable to category 3 and 4 third country branches. This will be replaced with a quantitative threshold determining whether branches can benefit from reduced reporting requirements
- reinstating two annual reporting templates for smaller third country branches but discontinuing quarterly reporting for these branches
- excluding pure reinsurance branches from the prudent person principle, replacing the existing modification by consent which achieves the same effect
- amending the requirements for third country branch ORSAs, to reflect the fact that branch capital requirements are no longer calculated
- addressing EIOPA Branch Guidelines which were not addressed as part of the 2024 changes, to either restate or disapply them.

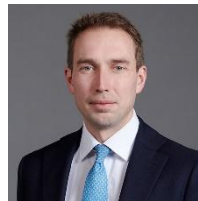
The consultation closes on 16 December 2025.

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