

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 JOINT COMMITTEE OF ESAS

- 1.1 Priorities of the ESAs - 2025 work programme published - 7 October 2024** - The Joint Committee of European Supervisory Authorities (ESAs) (comprising the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) has published its work programme for 2025 (JC 2024 27). Its work priorities for next year relate to sustainability disclosures, digital operational resilience, financial conglomerates and innovation in the financial sector. The ESAs also intend to address cross-sectoral matters such as retail financial services, investment products and securitisation.

[Work programme](#)

2 FINANCIAL CONDUCT AUTHORITY

- 2.1 Guides on nature-related risks, short-term scenarios and adaptation finance - released by the Climate Financial Risk Forum - 10 October 2024** - The FCA has updated its webpage on the Climate Financial Risk Forum (CFRF) to announce the publication of new materials. The webpage now signposts a fifth set of guides on climate-related risk, including:

- a handbook for financial institutions aimed at helping frame nature as a risk and exploring emerging practices in incorporating nature into financial risk management;
- a document examining some of the challenges in short-term climate scenarios, providing guidance and case studies; and
- guidance for firms to assess physical risks and facilitate increased levels of investment into climate adaptation.

[Updated webpage](#)

BANKING AND FINANCE //

3 UK GOVERNMENT

- 3.1 Payment Services (Amendment) Regulations 2004 published - 9 October 2024** - The Payment Services (Amendment) Regulations 2004 (SI 2024/1013) (the Regulations) have been published on legislation.gov.uk with an accompanying explanatory memorandum.

The Regulations amend regulation 86 of the Payment Services Regulations 2017 (SI 2017/752) (PSRs 2017), which require payment service providers (PSPs) to execute payment transactions within maximum time limits. In most cases, when a payer requests its PSP to execute a payment order, the PSRs 2017 require the payee's account to be credited by the end of the business day following receipt of the payment order (D+1). The Regulations will enable a payer's PSP to delay

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the crediting of the payee's PSP's account for certain in-scope payments by up to a further 72 hours (D+4) (broadly, where the PSP has reasonable grounds to suspect that the order has been made due to fraud or dishonesty). A new regulation, 94A, will address any liability the payer might incur for charges or interest as a result of the delay.

The Regulations were made on 8 October 2024 and will come into force on 30 October 2024.

The Payment Services (Amendment) Regulations 2024

Explanatory memorandum

- 3.2 Draft Prudential Regulation of Credit Institutions (Meaning of CRR Rules and Recognised Exchange) (Amendment) Regulations 2024 published - 7 October 2024** - A draft version of the Prudential Regulation of Credit Institutions (Meaning of CRR Rules and Recognised Exchange) (Amendment) Regulations 2024 has been published on *legislation.gov.uk*, alongside an explanatory memorandum.

The draft Regulations amend the definition of “CRR rules” in section 144A of the Financial Services and Markets Act 2000, with a related amendment made to the Financial Services Act 2021. They also expand the definition of “recognised exchange” in the UK Capital Requirements Regulation (575/2013) (UK CRR) to include UK-based investment exchanges that are considered to be regulated markets; investment exchanges in the register of Recognised Overseas Investment Exchanges (ROIEs); or an investment exchange that meets certain conditions, to be specified in the PRA’s rulebook.

See the item below on HM Treasury's policy statement on the treatment of overseas investment exchanges for the purposes of the UK CRR.

Draft Regulations

Explanatory memorandum

4 HM TREASURY

- 4.1 Prudential treatment of overseas investment exchanges - HM Treasury publishes policy statement - 7 October 2024** - HM Treasury has published a policy statement on the treatment of overseas investment exchanges for the purposes of the UK Capital Requirements Regulation (575/2013) (UK CRR).

In the statement, HM Treasury confirms that it will link the definition of “recognised exchanges” in the UK CRR to the FCA’s recognised overseas investment exchange (ROIE) regime. This means that firms will be able to recognise as eligible collateral instruments traded on exchanges listed on the ROIE register automatically. In addition, the UK CRR definition will refer to a set of conditions that will be specified in the PRA Rulebook in due course.

Policy statement

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5 PRUDENTIAL REGULATION AUTHORITY

- 5.1 Resolution assessment reporting and disclosure obligations - PRA consults on amendments - 8 October 2024** - The PRA has published a consultation paper on proposed amendments to reporting and disclosure requirements relating to resolution assessments (CP12/24).

The PRA is proposing to remove the prescribed dates set out in rules 3.1 and 4.1 of the Resolution Assessment Part of its Rulebook so that the timing of future submissions and disclosures will no longer be fixed to two-year cycles. The PRA also proposes to state in its supervisory statement on resolution assessment and public disclosure by firms (SS4/19) that a firm would be expected to continue to report and disclose a summary of its assessments periodically, as communicated by the PRA, and no more frequently than every two years.

Comments can be made on the proposals until 8 November 2024. The changes would come into effect on publication of the final policy, which is likely to be before the end of the first quarter of 2025.

[Consultation paper CP12/24](#)

6 FINANCIAL CONDUCT AUTHORITY

- 6.1 Consumer duty review of payments firms - FCA publishes findings - 9 October 2024** - The FCA has published its findings from a review of how payments firms have implemented the consumer duty, including how they have considered the specific payments sector risks set out in a Dear CEO letter of February 2023.

The payments firms reviewed were drawn from across the payments portfolio and included e-money issuers, merchant acquirers, money remitters and open banking firms. The FCA asked for documents evidencing their approach to the consumer duty, as well as specific questions about their approach for a key product or service. Overall, the FCA rated just over half of the firms as satisfactory. Just under half of the firms in the review were found to have partially implemented the duty and required significant work to comply with it. The FCA notes that these findings, if representative of the sector, would indicate that a substantial minority of firms may not be compliant.

The findings set out examples of good and poor practices in respect of agent oversight arrangements, fair value assessments, customer understanding and customer support, governance and management information.

[Payments consumer duty multi-firm review](#)

- 6.2 APP fraud reimbursement - FCA sets out expectations in Dear CEO letters - 7 October 2024** - The FCA has published two Dear CEO letters setting out its expectations relating to authorised push payment (APP) fraud reimbursement. One letter is addressed to banks and building

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societies while the other is directed at payment and e-money institutions (collectively referred to as payment service providers (PSPs)).

The letters refer to the new maximum reimbursement limit for victims of APP fraud of £85,000 per claim, confirmed by the Payment Systems Regulator in PS24/7. They remind PSPs that they are expected to have effective governance arrangements to detect, manage and prevent fraud and maintain appropriate customer due diligence controls. According to the letters, an example of foreseeable harm under the consumer duty might include a consumer becoming victim to a scam due to a firm's inadequate systems to detect and prevent scams. The letter also addresses the impact of internal book transfers (referred to as "on us" payments) where both the sending and receiving payment accounts are held with the same firm or group and can therefore be executed through an internal channel rather than an external payment system, such as the Faster Payments System (FPS).

The letter to payment and e-money institutions also sets out the FCA's expectations relating to the impact of potential APP fraud reimbursement liabilities on capital and liquidity.

[Dear CEO Letter to banks and building societies](#)

[Dear CEO Letter to payment and e-money institutions](#)

7 THE UNITED NATIONS ENVIRONMENT PROGRAMME FINANCE INITIATIVE

- 7.1 **Responsible banking - UNEP FI publishes blueprint - 8 October 2024** - The United Nations Environment Programme Finance Initiative (UNEP FI) has published a Responsible Banking Blueprint which sets out a roadmap for member banks for action on climate, nature and biodiversity, healthy and inclusive economies and human rights. The guidance indicates where a bank may be considered "*leading in its efforts towards the four UN Principles of Responsible Banking priorities could be by 2030 and beyond*".

UNEP FI has published a document entitled *Leading the way to a sustainable future: priorities for a global responsible banking sector*, to be read in conjunction with the guidance.

[Responsible Banking Blueprint](#)

SECURITIES AND MARKETS //

8 INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS

- 8.1 **Investor education on cryptoassets - IOSCO publishes report - 9 October 2024** - The International Organization of Securities Commissions (IOSCO) has published a report providing regulators with updated information on cryptoassets to help them design investor education initiatives for retail investors (FR06/2024).

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The report summarises the results of a survey of members of IOSCO's Committee for Retail Investors (C8) conducted in autumn 2023 about retail investor behaviour, demographics and experiences with cryptoassets. It sets out examples of regulatory changes and enforcement activity by C8 members and discusses current priority issues for investor education relating to cryptoassets, including the need to communicate with retail investors on, and about, social media.

[Report \(FR06/2024\)](#)[Press release](#)

9 EUROPEAN SECURITIES AND MARKETS AUTHORITY

- 9.1 **EU ETS market - ESMA publishes report - 7 October 2024** - The European Securities and Markets Authority (ESMA) has published its first annual report (ESMA50-43599798-10379) on the functioning of the EU Emissions Trading System (EU ETS) market. The report finds that emission allowance auctions remain significantly concentrated, suggesting that most EU ETS operators prefer to source allowances from financial intermediaries.

ESMA will produce the report annually. It will host a webinar to present its main findings on 24 October 2024, for which prior registration is required.

[Report](#)[Press release](#)

10 HM TREASURY

- 10.1 **Draft Securitisation (Amendment) (No. 2) Regulations 2024 published - 7 October 2024** - HM Treasury has published a draft version of the Draft Securitisation (Amendment) (No. 2) Regulations 2024 (the Regulations), alongside an explanatory memorandum.

The Regulations will amend the Securitisation Regulations 2024, which include a provision requiring any originator and sponsor involved in a transaction to be established in the UK for the transaction to qualify as a simple, transparent and standardised (STS) securitisation. The Securitisation Regulations 2024 also include a temporary "grandfathering" regime allowing any EU securitisations notified to the European Securities and Markets Authority (ESMA) as meeting EU STS criteria before and up to 31 December 2024 to also qualify as UK STS securitisations for the duration of the transaction. The Regulations will extend the expiry of this temporary arrangement from 31 December 2024 to 30 June 2026.

[Draft Regulations](#)[Explanatory memorandum](#)

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11 FINANCIAL CONDUCT AUTHORITY

- 11.1 Dealing for overseas clients operating aggregated accounts with no visibility of UBOs - FCA sets out observations - 9 October 2024** - The FCA has published issue 80 of Market Watch, in which it sets out its view on how firms deal for overseas clients that operate aggregated accounts with no visibility of the ultimate beneficial owners (UBOs).

The FCA notes that it has seen an increase in potential market abuse in leveraged equity products from aggregated accounts administered by firms based overseas. The identities of the UBOs of these trades are often withheld from the authorised firms executing their trades. In some cases, individual UBOs within these accounts instruct trades on their own behalf. The FCA refers to accounts where the identities of UBOs who determine their own investments are unknown to FCA-authorised firms as “obfuscated overseas aggregated accounts” (OOAAs). Authorised firms have unknowingly transacted trades for individual UBOs, through OOAAs, whose own trading accounts at those FCA-authorised firms have been terminated due to suspected market abuse.

The FCA suggests that firms may want to take extra precautions when onboarding and trading with OOAAs.

[Market Watch 80](#)

- 11.2 Supervisory strategy for financial advisers and investment intermediaries - FCA publishes portfolio letter - 7 October 2024** - The FCA has published a portfolio letter setting out its supervisory strategy for financial advisers and investment intermediaries. The FCA’s priorities for this sector over the next two years include reducing and preventing serious harm (with a focus on retirement income advice, the costs of ongoing advice services, and consolidation in the market); monitoring and testing higher industry standards under the consumer duty; and enabling more consumers to pursue their financial objectives through the Advice Guidance Boundary Review.

Other areas of work that may impact firms include the FCA’s next steps on its capital deduction for redress consultation, and its plans to undertake multi-firm work to review consolidation within the market.

[Portfolio letter](#)

- 11.3 Market volatility - FCA chief delivers speech - 8 October 2024** - The FCA has published a speech given by Nikhil Rathi, FCA Chief Executive, on the recent rise in market volatility and resulting risk. Mr Rathi argues that we are now living in an era of “predictable volatility”; he notes that the FCA has been exploring how adjustments to rules could encourage wholesale trading and improve market liquidity. This may reduce barriers to entry for specialised trading firms that do not hold retail deposits. Mr Rathi states that a new mindset towards risk is needed, referring to “*far-reaching reforms of listing rules, incentivising pension funds to take greater risk, or radical proposals for prospectuses*”.

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12 GLOBAL FOREIGN EXCHANGE COMMITTEE

- 12.1 Changes to FX Global Code - GFXC requests feedback - 9 October 2024** - The Global Foreign Exchange Committee (GFXC) has published a request for feedback on proposed amendments to the 2021 version of the FX Global Code of Conduct and on the disclosure cover sheets for both liquidity providers and platforms.

Broadly, the proposals aim to clarify market participants' responsibility to mitigate FX settlement risk and enhance market transparency on FX transactions and the use of FX data. The proposed changes are set out in the annexes to the document. Feedback is requested by 25 October 2024.

[Request for Feedback](#)[Press Release](#)

13 FINANCIAL MARKETS STANDARDS BOARD

- 13.1 Statement of good practice for front office supervision of wholesale traded markets - FMSB consults on updates - 7 October 2024** - The Financial Markets Standards Board (FMSB) has published, for consultation, a transparency draft of its updated statement of good practice for the front office supervision of wholesale traded markets. The statement was originally published in 2017 and has been widely used to support firms in their efforts to design and operate effective supervision frameworks for market and client-facing activity in wholesale markets.

The statement does not form part of FMSB Standards, nor does it impose any legal or regulatory obligations on member firms. The consultation will close on 15 November 2024.

[Transparency draft](#)

14 RECENT CASES

- 14.1 *Elliott Associates L.P. and Elliott International L.P. v London Metal Exchange and LME Clear* [2024] EWCA Civ 1168**

Recognised investment exchange - procedural impropriety - ultra vires

The Court of Appeal has dismissed an appeal against a decision by the Divisional Court that the London Metal Exchange (LME) and its clearing house, LME Clear, had acted lawfully in cancelling trades in nickel futures entered into on 8 March 2022 in response to an unprecedented extreme price movement during a short period.

The claimants sought judicial review of the LME's cancellation decision and damages against the LME under the Human Rights Act 1998 (HRA), arguing that the decision to cancel trades was ultra vires, procedurally unfair and irrational; they also argued that it amounted to an unlawful interference with their property rights. The Court of Appeal found that the LME's cancellation

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decision had been lawful and that there was no unlawful interference with the appellants' possessions so as to give rise to a claim in damages under the HRA.

Judgment

ASSET MANAGEMENT //

15 INVESTMENT ASSOCIATION AND TECHNOLOGY WORKING GROUP

15.1 AI Deployment Strategies for UK Investment Management Firms - new report published by IA and Technology Working Group - 10 October 2024 - The Investment Association and an industry-led Technology Working Group have published a report entitled 'Artificial Intelligence: Current and Future Usage Within Investment Management'.

The report follows two previous phases of work which focused on the application of distributed ledger technology to UK fund infrastructure through tokenisation. The report's key recommendations for policymakers and industry include establishing regulatory clarity and consistency to enable developers and users of AI to plan and invest with confidence. It has also recommended the further development of AI standards.

[Final Report: Artificial Intelligence - Current and Future Usage Within Investment Management](#)

[HM Treasury press release](#)

[Investment Association press release](#)

16 INVESTMENT ASSOCIATION

16.1 Principles of remuneration - IA publishes revised version - 9 October 2024 - The Investment Association has published a revised version of its principles of remuneration. They refer to three overarching objectives of remuneration policies: promoting long-term value creation through the delivery of the company's strategy; supporting individual and company performance within the context of sustainable long-term financial health of the business and sound risk management; and seeking to deliver remuneration levels clearly linked to company performance.

The principles are guidelines rather than rules and they do not prescribe any particular remuneration structure or quantum. They build on, and should be read in conjunction with, the remuneration expectations set out in the UK Corporate Governance Code.

[Principles of Remuneration](#)

[Press release](#)

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17 UK PARLIAMENT

17.1 Draft Packaged Retail and Insurance-based Investment Products (Retail Disclosure)

(Amendment) Regulations 2024 published - 7 October 2024 - A draft version of the Packaged Retail and Insurance-based Investment Products (Retail Disclosure) (Amendment) Regulations 2024 have been published on legislation.gov.uk, together with an explanatory memorandum.

The draft Regulations make transitional amendments to assimilated law relating to cost disclosure requirements for listed closed-ended funds, namely Regulation (EU) 2014/1286 of 26 November 2014 (The Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation) and certain provisions of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 (Markets in Financial Instruments Directive (MiFID) Org Regulation). In short, the changes mean that investment trusts, along with persons advising on or selling shares of investment trusts, will not be required to produce a Key Information Document. Additionally, they will not be required to disclose costs and charges relating to investment trusts to clients, pursuant to the MiFID Org Regulation. These changes are designed to “*resolve an ongoing issue for a sector which is being impacted by ineffective regulatory arrangements under the current EU-inherited regime*”.

The Regulations will come into force on the day after the day on which they are made.

[Draft statutory instrument](#)

[Explanatory memorandum](#)

17.2 Draft Consumer Composite Investments (Designated Activities) Regulations 2024 - 10 October

2024 - A draft version of the Consumer Composite Investments (Designated Activities) Regulations 2024 has been published on legislation.gov.uk, together with an explanatory memorandum. The draft Regulations set out the legislative basis for the new UK retail disclosure framework for consumer composite investments (CCIs) and replace existing law governing packaged retail and insurance-based investment products (PRIIPs), as set out in the UK PRIIPs Regulation (1286/2014) and related legislation.

The draft Regulations define which products can and cannot be CCIs, and therefore designate activities relating to CCIs for the purposes of Part 5A of the Financial Services and Markets Act 2000. They also provide the FCA with rule-making and supervisory powers relating to CCIs and make transitional provisions and consequential amendments to other legislation.

They will come into force on the day on which the revocation of the UK PRIIPs Regulation comes into force.

[Draft statutory instrument](#)

[Explanatory memorandum](#)

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INSURANCE //

18 EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

18.1 Value for money benchmarks methodology - published by EIOPA - 7 October 2024 - The European Insurance and Occupational Pensions Authority (EIOPA) has published its methodology (dated 27 August 2024) (EIOPA-BoS-24-332) for setting value for money benchmarks for unit-linked and hybrid insurance products, following a consultation in December 2023.

The benchmarks, to be set by EIOPA, are designed to assist supervisors to identify products with high value for money risks. The methodology involves clustering products with similar features into groups based on policyholders' needs and outlines various indicators for costs and returns.

[Methodology](#)[Press release](#)

FINANCIAL CRIME //

19 UK GOVERNMENT

19.1 Information sharing under ECCTA 2023 - Guidance published - 4 October 2024 - The Home Office, HM Treasury, the Ministry of Justice, Companies House, the Serious Fraud Office and the Department for Business and Trade have published guidance on information sharing measures in the Economic Crime and Corporate Transparency Act 2023 (ECCTA) to support anti-money laundering regulated firms, within Schedule 9 to the Proceeds of Crime Act 2002. The relevant provisions came into force on 15 January 2024 and allow for a waiver of civil liability for sharing of customer information between businesses in the anti-money laundering regulated sector, when this is done for the purposes of investigating, detecting and preventing economic crime.

[Guidance](#)

ENFORCEMENT //

20 FINANCIAL CONDUCT AUTHORITY

20.1 Treatment of customers in financial difficulty - FCA fines bank £10.9m - 9 October 2024 - The FCA has published a final notice imposing a fine on TSB Bank plc (the Bank) of £10,910,500 for failing to ensure customers who were in arrears were treated fairly and for lacking suitable systems and controls to secure fair outcomes. The Bank has paid £99.9m in redress to the 232,849 mortgage, overdraft, credit card and loan customers affected.

According to the FCA, between June 2014 and March 2020, the Bank's inadequate processes created a risk that repayment plans were not realistic. Moreover, its training did not fully

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support its staff in understanding customers' circumstances. Staff were potentially encouraged by incentive schemes to prioritise the number of plans made over taking enough time to assess individual customer circumstances. As a result of the failings, the Bank risked agreeing unaffordable payment arrangements with customers in difficulty or charging them inappropriate fees.

The extent of the failings was identified in an independent skilled person's report into the Bank's treatment of customers who had fallen into arrears, which had been ordered by the FCA in July 2020. The Bank has worked closely with the independent reviewer and the FCA and has concluded a programme to resolve the issues identified.

Final Notice

Press release

- 20.2 Refusal of authorisation application on threshold condition grounds - FCA publishes final notice - 8 October 2024** - The FCA has published the final notice (dated 3 October 2024) issued to Ashraf Wealth Management Ltd (AWML) refusing its application for authorisation. The FCA issued a decision notice to AWML in March 2023 setting out its reasons for refusing the application, including its concerns that AWML would be unable to satisfy, and continue to satisfy, the threshold conditions of appropriate resources and suitability (threshold conditions 2D and 2E) under section 55B(3) of the Financial Services and Markets Act 2000.

The Upper Tribunal (Tax and Chancery Chamber) dismissed the firm's reference of the FCA's decision to it, and published its conclusions in September 2024.

Final notice

21 RECENT CASES

- 21.1 *WealthTek LLP (Re Investment Bank Special Administration Regulations 2011) [2024] EWHC 2520 (Ch)* - 8 October 2024** - The Court has confirmed its approval of a distribution plan formulated by the administrators of WealthTek (the firm), having regard to the Investment Bank Special Administration (England and Wales) Rules 2011. The plan was developed in consultation with the FCA and Financial Services Compensation Scheme. Following an FCA investigation into suspected criminal activity, the firm was placed into administration in April 2023, leading to the discovery of a shortfall in what could be returned to clients under the plan.

While Mr Justice Rajah signified approval of most aspects of the distribution plan, he was not satisfied with a proposed £7.1 million costs reserve for potential litigation.

Judgment

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This Bulletin is prepared by the Financial Regulation 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](#).

If you would like to find out more about our Financial Regulation Group or require advice on a financial regulation matter, please contact one of the following or your usual Slaughter and May contact:

Jan Putnis	jan.putnis@slaughterandmay.com
Nick Bonsall	nick.bonsall@slaughterandmay.com
David Shone	david.shone@slaughterandmay.com
Kristina Locmele	kristina.locmele@slaughterandmay.com
Sabine Dittrich	sabine.dittrich@slaughterandmay.com

London
T +44 (0)20 7600 1200
F +44 (0)20 7090 5000

Brussels
T +32 (0)2 737 94 00
F +32 (0)2 737 94 01

Hong Kong
T +852 2521 0551
F +852 2845 2125

Beijing
T +86 10 5965 0600
F +86 10 5965 0650

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For further information, please speak to your usual Slaughter and May contact.

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