

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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Slaughter and May also produces a periodical Insurance Newsletter. If you would like to go on the distribution list, please contact:

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GENERAL //

1 BANK FOR INTERNATIONAL SETTLEMENTS

- 1.1 **FSI publishes insight paper on regulating AI in the financial sector - 12 December 2024** - The Financial Stability Institute (FSI) of the Bank for International Settlements has published a paper exploring the regulation of artificial intelligence (AI) in the banking and insurance sectors. The FSI concludes that, while AI exacerbates existing risks such as model risk and data privacy risk, it does not introduce fundamentally new risks. This is with the exception of generative AI, which may give rise to hallucination and anthropomorphism risks.

Observing that most financial authorities have not issued AI regulations specific to financial institutions, on the basis that existing frameworks address most risks, the FSI suggests that some areas require further regulatory attention. These areas include governance, model risk management, and third-party AI service providers.

[FSI Insight paper](#)

[Press release](#)

2 EUROPEAN SUPERVISORY AUTHORITIES

- 2.1 **MiCA - ESAs publish guidelines on cryptoasset classification - 10 December 2024** - The European Supervisory Authorities (ESAs) have published a final report containing guidelines intended to facilitate consistency in the regulatory classification of cryptoassets under the Regulation on markets in cryptoassets ((EU) 2023/1114) (MiCA). The guidelines include a flowchart for cryptoasset classification.

[Press release](#)

3 UK PARLIAMENT

- 3.1 **Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2024 published - 10 December 2024** - the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2024 (SI 2024/1306) (the Regulations) have been published alongside an explanatory memorandum. The Regulations amend the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188) to rectify a drafting deficiency and widen to whom the FCA may disclose 'confidential information', as defined in section 348(2) of the Financial Services and Markets Act 2000 ("FSMA 2000").

The explanatory memorandum states that the amendments will help improve information sharing between the FCA and legal regulators and therefore improve the supervision of claims management activity. The FCA will now be able to share information about potential claims

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management misconduct or emerging risks with the appropriate legal regulator, which will ultimately reduce consumer harm.

The Regulations were made on 9 December 2024 and come into force on 21 January 2025.

[The Financial Services and Markets Act 2000 \(Disclosure of Confidential Information\) \(Amendment\) Regulations 2024](#)

[Explanatory Memorandum](#)

4 TREASURY COMMITTEE

- 4.1 **Sexism in the City inquiry - Treasury Committee publishes letters from HM Treasury, PRA and FCA - 10 December 2024** - The House of Commons Treasury Committee (the Committee) has published letters from HM Treasury, the PRA and FCA which update the Committee on progress made against the recommendations of the predecessor Committee's "Sexism in the City" inquiry.

Of particular interest, the FCA states that its policy statement on non-financial misconduct will be published 'early in 2025', and the PRA and FCA will set out any next steps on diversity and inclusion policy in the second quarter of 2025. The FCA also plans to strengthen its messaging to whistleblowers and better promote the FCA's whistleblowing reporting channels in 2025, and the PRA and FCA will be monitoring the impact of the removal of the bonus cap on gender pay and inequality.

[HM Treasury letter](#)

[PRA letter](#)

[FCA letter](#)

5 BANK OF ENGLAND AND PRUDENTIAL REGULATION AUTHORITY

- 5.1 **Cost Benefit Analysis Panel - Bank of England and PRA publish terms of reference and approach - 12 December 2024** - The Bank of England (the Bank) and PRA have published the terms of reference for their new Cost Benefit Analysis (CBA) Panel (the Panel) as required by s138JA of the Financial Services and Markets Act 2000 (FSMA 2000). This requirement was inserted into FSMA 2000 by the Financial Services and Markets Act 2023, and the Bank and PRA have a statutory duty to consult the Panel on relevant CBAs accompanying consultation papers relating to rules.

The Bank and the PRA have also published their approaches for conducting CBA and welcome feedback from all members of the public by 30 September 2025. Both regulators plan a review of their approaches in Q4 2025, which will take into account feedback from the CBA Panel, other stakeholders and any lessons learnt from future CBAs.

[Selected Headlines](#)[General](#)[Banking and Finance](#)[Insurance](#)[PRA CBA Panel: Terms of Reference](#)[Bank of England statement of policy: The Bank of England's approach to cost benefit analysis](#)[PRA statement of policy: The PRA's approach to cost benefit analysis](#)

6 PRUDENTIAL REGULATION AUTHORITY

- 6.1 Exposures to cryptoassets - PRA publishes data request - 12 December 2024** - The PRA has published a data request addressed to PRA-supervised firms for information on their current and expected future cryptoasset exposures, and their application of the Basel framework for the prudential treatment of cryptoassets. The PRA explains that the information gathered will help calibrate the prudential treatment of cryptoasset exposures. Firms are requested to complete the information request at the highest-level of UK consolidation to the extent that it is relevant to their business, exposures or activities. This information is requested by 24 March 2025.

[Webpage](#)

7 FINANCIAL CONDUCT AUTHORITY

- 7.1 FCA publishes Quarterly Consultation Paper No.46 (CP24/26) - 6 December 2024** - The FCA has published Quarterly Consultation Paper No.46, which proposes a range of minor amendments for feedback. These include removing the requirement for UK insurance special purpose vehicles to allocate the SMF16 Compliance Oversight Function, and increasing the £100 medical condition premium trigger point for firms to signpost customers with pre-existing medical conditions to a directory of specialist providers.

[FCA CP24/26: Quarterly Consultation Paper No 46](#)

- 7.2 FCA perimeter report - FCA publishes updated version and letter to Treasury Committee regarding areas of concern - 9 & 10 December 2024** - The FCA has published an updated version of its perimeter report identifying the following new issues:

- reform of investment trust cost disclosure, where the FCA will consult on a new framework for Consumer Composite Investments (CCIs) before the end of 2024 with a view to publishing final rules in H1 2025; and
- exclusions to regulated activities under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544), where the FCA calls for wider consideration of the circumstances where these exclusions could be disapplied to enable the FCA to have greater oversight. This follows criticism of the use of an exclusion relating to trustees who are acting in the course of discharging their general obligations as a trustee.

The FCA also highlights concerns regarding arrangements where general insurance policies are used by commercial entities to provide the benefit of the insurance cover for liabilities their

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clients may suffer, where consumers may lose access to regulatory protections. The FCA is considering whether it would help to consult on guidance setting out the FCA's approach in this area.

Separately, the House of Commons Treasury Committee has published a letter it has received from Nikhil Rathi, FCA Chief Executive, relating to the perimeter report. The letter emphasises areas within the report which reflect longstanding perimeter concerns which the FCA is keen to progress further. These include whether investment consultants should be within the FCA's perimeter following problems in the liability driven investment markets in 2022, and the longstanding perimeter issue of SME lending.

FCA perimeter report

Letter

- 7.3 The FCA's approach to risk - FCA publishes letter to HM Treasury - 9 December 2024** - The FCA has published a letter sent from Nikhil Rathi, FCA Chief Executive, and Ashley Alder, FCA Chair, to Rachel Reeves, Chancellor of the Exchequer. The letter covers how the FCA supports growth, the development of the FCA's strategy from 2025 to 2030, its international role and its approach to risk.

The FCA welcomes the government's commitment to supporting the FCA as it seeks to facilitate more informed and responsible risk-taking by authorised firms and consumers. Of particular interest, the FCA highlights the diversity of views among those who would prefer the FCA to invest more resource to minimise consumer losses and risk-taking, and those who want the FCA to focus on reducing burdens on firms and supporting the growth and international competitiveness of the financial services industry. In delivering on its objectives, the FCA observes that it will face trade-offs between different priorities.

The FCA presses for a "*shared view across the ecosystem of the financial services sector*" as it pursues a shift in mindset and risk appetite. The FCA asks for the government's perspective on issues of compensation and where liability should fall in the context of the scale of the UK financial services sector, stating that "*no other comparable regulator is liable for losses in the way some argue we are or should be in the UK through the current complaints system for financial regulators*". Finally, the FCA underscores "*the reality is we will never operate a zero failure regulatory regime...we will always have to make judgements about how best to deploy our resources*".

Letter

- 7.4 Consumer Duty - FCA publishes review findings and priority areas for 2024/25 - 9, 10 & 11 December 2024** - The FCA has published the findings of its review of firms' approaches to completing the first annual consumer duty board report and, separately, its review of firms'

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approaches to complaints and root cause analysis. In both cases, the FCA outlines areas of good practice alongside areas for improvement.

The FCA has also published its priority areas under the consumer duty for the remainder of 2024/25. These four focus areas are: embedding the consumer duty and raising standards; enhancing understanding of the price and value outcome; sector-specific priorities (including across retail banking, payments and digital assets, and consumer investments); and realising the benefits of the consumer duty.

[FCA: Consumer Duty Board Reports: good practice and areas for improvement](#)

[FCA: Complaints and root cause analysis: good practice and areas for improvement](#)

[FCA corporate document: Our Consumer Duty focus areas](#)

- 7.5 Machine learning - FCA publishes research note on bias - 11 December 2024** - The FCA has published a research note providing a literature review to explore how biases may arise (and may be mitigated) in supervised machine learning models used to make predictions or assist in decision-making about individuals. The FCA intends the note to form part of a broader academic conversation, helping to create rigorous evidence to support its decision making in this area.

[Research Note: -A Literature Review on Bias in Supervised Machine Learning](#)

8 FINANCIAL OMBUDSMAN SERVICE

- 8.1 2025/26 plans and budget - FOS publishes consultation paper - 11 December 2024** - The FOS has published a consultation paper on its plans and budget for 2025/26, highlighting its intention to freeze all case fees and levies for financial firms. The budget assumes that the FOS will receive £3 million from professional representatives and claims management companies in the next financial year.

Of particular interest, the FOS notes the uncertainty around demand for its service arising from motor finance commission (MFC) cases. The FOS has assumed that it cannot resolve most MFC cases owing to the FCA's ongoing review of the historic use of motor finance discretionary commission arrangements and ongoing legal action. Other external regulatory factors that may impact demand include the incoming regulation of buy now, pay later products, and the consumer duty. The consultation is open until 29 January 2025.

[Strategic plans and budget](#)

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BANKING AND FINANCE //

9 EUROPEAN BANKING AUTHORITY

- 9.1 **CRR - EBA publishes final draft RTS on the specification of long and short positions under the derogations for market and counterparty risks - 6 December 2024** - The European Banking Authority (EBA) has published a final report containing final draft Regulatory Technical Standards (RTS) on the method for identifying the main risk driver of a position and for determining whether a transaction represents a long or a short position under the derogations for market and counterparty risks under the Regulation (EU) No 575/2013 (CRR), as amended by the revised Capital Requirements Regulation (CRR3). The EBA will now submit the final draft RTS to the European Commission for endorsement.

[Final report](#)

- 9.2 **CRR - EBA publishes draft RTS that specify material changes and extensions to the Internal Ratings Based approach - 9 December 2024** - The European Banking Authority (EBA) has published a consultation paper containing draft Regulatory Technical Standards (RTS) amending Delegated Regulation (EU) 529/2014, which supplements the Capital Requirements Regulation (575/2013) (CRR) with regard to RTS for assessing the materiality of extensions and changes to the internal ratings based (IRB) approach. The consultation closes on 10 March 2025.

[Consultation paper](#)

- 9.3 **MiCA - EBA publishes report on tokenised deposits - 12 December 2024** - The European Banking Authority (EBA) has published a report outlining its preliminary observations as to the potential benefits and challenges of the use of tokenised deposits. The EBA states that it has identified no immediate need to adjust the regulatory and supervisory framework to account for tokenised deposits, in part due to the limited market presence of such tokens to date. The EBA further confirms that the tokenisation of a deposit does not *per se* alter the fundamental nature of the claim and thus its regulatory qualification as a deposit.

The report also aims to promote convergence in the classification of tokenised deposits, distinguishing them from electronic money tokens (EMTs) issued by credit institutions under the Markets in Crypto-Assets Regulation (MiCA). The EBA will continue to monitor market developments.

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

10 TREASURY SELECT COMMITTEE

- 10.1 **SME finance - Treasury Select Committee publishes HM Treasury's response to report - 12 December 2024** - The House of Commons Treasury Select Committee has published HM Treasury's

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response to its May 2024 report on access to finance for SMEs which, among other things, made recommendations related to de-banking and the Business Banking Resolution Service.

HM Treasury addresses several of the Committee's concerns, including its warning that the removal of the SME supporting factor under Basel 3.1 threatens to undermine the UK's SME finance market. HM Treasury states that while the PRA is proceeding with its proposal to remove the SME supporting factor to align with international Basel standards, this change will not result in higher capital requirements for lending to small businesses as structural adjustments will be made to another part of the capital framework. HM Treasury also acknowledges the Committee's concerns over the lack of transparency regarding de-banking. In response, HM Treasury intends to bring forward legislation to ensure that customers receive a detailed and specific explanation when providers close their account, along with a longer period of notice (subject to certain exceptions).

[Treasury Select Committee report: SME Finance: Government Response](#)

11 HM TREASURY

- 11.1 Payment and Electronic Money Institution Insolvency Regulations 2021 - HM Treasury launches independent review - 12 December 2024** - HM Treasury has announced the launch of an independent review into the Payment and Electronic Money Institution Insolvency Regulations 2021 (SI 2021/716) (PESAR). HM Treasury is required to appoint an independent reviewer to assess how the regime is working in practice, and whether it fulfils its statutory objectives.

The PESAR was introduced in response to lengthy administration cases of payment and electronic money firms which caused delays for customers in accessing their funds. The regime introduced new statutory objectives for administrators of these firms, including the objective to return customer funds as soon as practicable. HM Treasury has appointed Adam Plainer to lead the review and has requested an interim report with initial conclusions by September 2025, with a final report no later than the end of 2025 (which will subsequently be laid in Parliament).

[Appointment letter](#)

[Webpage](#)

12 FINANCIAL CONDUCT AUTHORITY

- 12.1 Personal guarantees for business loans - FCA publishes follow-up work on FSB super-complaint - 9 December 2024** - The FCA has published a corporate document outlining the work it has conducted following a super-complaint made by the Federation of Small Businesses (FSB) in December 2023 on the use of personal guarantees (PGs) to support lending to SMEs. The FCA has collected data from a representative group of lender firms, emphasising that its findings relate to a very limited part of the SME lending market that it regulates (and noting that most SME lending sits outside the FCA's remit).

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The FCA's analysis shows that the number of guarantees in place to support regulated lending is low, and the FCA has not found evidence of harm that would warrant it taking further supervisory activity or develop additional guidance relating to the treatment of guarantors. The FCA has, however, identified and set out practices that firms may want to adopt to address some of the FSB's concerns.

[FCA corporate document](#)

13 SUPREME COURT

13.1 Motor finance - Supreme Court grants FirstRand Bank and Close Brothers Ltd permission to appeal - 11 December 2024 - The Supreme Court has granted permission to appeal in the following cases: *Wrench v FirstRand Bank* (UKSC 2024/0159), *Johnson v FirstRand Bank* (UKSC 2024/0158) and *Hopcraft & Another v Close Brothers* (UKSC 2024/0157).

The appeals concern the duties owed to customers by car dealers and third-party lenders in relation to car finance. The appeals will be listed at a date still to be confirmed in the 2025 Hilary Term (January to March).

The FCA has issued a statement welcoming the swiftness of the Supreme Court's decision and noted that it is considering whether to formally intervene in the case or to share its expertise to assist the Court on the substantive appeal.

[UK Supreme Court announcement](#)[FCA announcement](#)

INSURANCE //

14 PRUDENTIAL REGULATION AUTHORITY

14.1 Liquidity reporting reforms under Solvency II - PRA publishes consultation paper CP19/24 - 11 December 2024 - The PRA has published a consultation paper on a package of reporting reforms under the Solvency II regime (CP 19/24). The reforms include the introduction of new liquidity reporting requirements for large life insurers, and reduce the expectations for life firms that use an internal model to submit standard formula reporting to the PRA.

These proposed liquidity reporting requirements form part of the PRA's response to prominent market stress episodes such as the 'dash for cash' at the onset of the Covid-19 pandemic in March 2020, and the problems in liability-driven investment markets in September 2022. The PRA observes that these episodes highlighted gaps in UK insurers' liquidity risk frameworks and in some cases led to strains on liquidity, driven by sharp rises in margin requirements under derivatives contracts. The PRA proposes an implementation date of 31 December 2025 and welcomes comments on the consultation until 31 March 2025.

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[PRA CP19/24 - Closing liquidity reporting gaps and streamlining Standard Formula reporting](#)

[Press release](#)

15 FINANCIAL CONDUCT AUTHORITY

15.1 Advice Guidance Boundary Review - FCA launches consultation on targeted support reforms for pensions - 12 December 2024 - The FCA has published a consultation paper (CP24/27) on a proposed new regime of ‘targeted support’ in pensions as part of the Advice Guidance Boundary Review.

Targeted support would exist between current guidance-based services and more bespoke advice. It aims to help consumers, at scale, make effective, timely and properly informed decisions about their pensions through bespoke suggestions developed for a group of similar consumers. The FCA is suggesting that targeted support is provided for free. While this means that suggestions will not be optimised for the individual, the FCA sees this as a required trade-off if pension support is going to be more scalable.

In the consultation paper, the FCA sets out how it sees this support working, and proposes conduct standards to ensure better outcomes for consumers. The FCA is not consulting on new rules at this point, but given the significant change these proposals entail, the FCA is seeking initial feedback on its proposed direction. The deadline for comments is 13 February 2025, and the FCA expects to consult in summer 2025 on the rules that would create a new framework.

[FCA consultation paper: Advice Guidance Boundary Review - proposed targeted support reforms for Pensions \(CP24/27\)](#)

[Consumer research paper](#)

[FCA press release](#)

15.2 Adapting FCA requirements for pensions - FCA publishes discussion paper - 12 December 2024 - The FCA has published a discussion paper (DP24/3) seeking feedback on whether changes might be needed to certain aspects of its pensions regulatory framework. This was published in response to changes in the pensions market, and in particular a shift in workplace pension savings from defined benefit pensions to defined contribution pensions.

The discussion paper covers the potential for use of digital tools to improve support and engagement with pensions, consolidation of pension pots and the rules around self-invested personal pensions. The deadline for comments is 27 February 2025.

[FCA discussion paper: Pensions: Adapting our requirements for a changing market \(DP24/3\)](#)

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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](#).

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