

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 **Data and analytics strategy - Bank of England speech delivered - 7 March 2024** - The Bank of England has published a speech titled “A weathervane for a changing world: refreshing our data and analytics strategy”, delivered by James Benford, Executive Director for Data and Analytics Transformation, and Chief Data Officer. In his speech, Mr Benford explains the work that is underway to update the Bank of England’s data and analytics strategy. Broadly, this involves seven steps, the first of which is to commission the Independent Evaluation Office to evaluate the use of data to support the Bank of England’s policy objectives. Mr Benford also refers more generally to plans to strengthen data governance and management, enhance external data sharing and explore pilots of artificial intelligence tools. The Bank’s data and technology areas are currently developing a minimum viable product for a cloud platform to create an environment where pilots can be stood up against prioritised use cases in the business.

[Webpage](#)[Speech](#)

2 HM GOVERNMENT AND FINANCIAL CONDUCT AUTHORITY

- 2.1 **Changes to Financial Promotion Order exemptions - SI made and FCA statement published - 7 March 2024** - The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment and Transitional Provision) Order 2024 (the Order) has been published on legislation.gov.uk, with an explanatory memorandum.

The effect of the Order is to reinstate both the financial thresholds necessary to meet the high net worth individual exemption and the eligibility criteria for the self-certified sophisticated investor exemption that were in place before the Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) (No 2) Order 2023 (SI 2023/1411) (2023 Order) came into force. These exemptions are found in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (SI 2005/1529). Stakeholders raised concerns about the potential unintended impacts of changes made by the 2023 Order, noting that they could affect the ability of start-up businesses to obtain investment and the ability to finance theatre productions through small-scale investors.

The FCA has separately published a statement referring to the changes. It notes that the FCA has “*previously set out that the UK’s definition of a high net worth investor is an international outlier, with a far lower threshold than comparable jurisdictions*”. In its last perimeter report, the FCA suggested that the criteria for investors to be classified as ‘sophisticated’ should be tightened. It made this suggestion to avoid the risk, which has occurred in many cases of investment fraud or misconduct, of ordinary investors self-classifying, often under pressure or through coaching, and buying risky investments that do not match their appetite or capacity for

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loss. The Order, which was made on 5 March 2024 and laid before Parliament on 6 March 2024, comes into force on 27 March 2024.

[The FSMA \(Financial Promotion\) \(Amendment and Transitional Provision\) Order 2024](#)

[Explanatory memorandum](#)[Webpage](#)[FCA statement](#)

3 FINANCIAL CONDUCT AUTHORITY

- 3.1 Detailed proposals for reform of the listing rules - published by the FCA - 7 March 2023** - The FCA has published an updated draft instrument which contains tranche 2 of the new draft UK Listing Rules (UKLRs) alongside the original tranche 1 drafting to form a complete draft instrument for the new UKLRs. This follows publication of CP23/31 in December 2023, which included a first tranche (tranche 1) of the new rules. The FCA has also published, in a separate instrument, proposed consequential changes to other FCA Handbook sourcebooks.

The CP23/31 closing date of 22 March 2024 remains unchanged for comments on the full set of policy positions as well as the tranche 1 draft rules published in December 2023. The FCA will accept consultation submissions in relation to the additional tranche 2 draft instrument material and the consequential changes instrument until 2 April 2024.

[UK Listing Rules Instrument 2024](#)[Updated webpage](#)

- 3.2 Wind-down planning - FCA publishes new webpage - 1 March 2024** - The FCA has published a new webpage with guidance for firms preparing a wind-down plan. Broadly, the purpose of a wind-down plan is to ensure that, when a firm goes out of business, it stops its regulated activities and cancels its permissions with minimal adverse effect on its clients, counterparties or the wider market.

The webpage notes that firms applying for authorisation should consult the relevant page for their sector or business model to understand what information should be submitted as part of their application. For some types of firms, this will include a wind-down plan.

[Webpage](#)

4 NATIONAL AUDIT OFFICE

- 4.1 Bank of England's approach to legal, ethical and staff compliance risks - NAO publishes report - 4 March 2024** - The National Audit Office (NAO) has published a report examining whether the Bank of England (the Bank) has efficient and effective systems and processes to manage the risks of non-compliance with legal, ethical and staff policy requirements (together, the "compliance

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risks"). Overall, the report finds that the Bank has made good progress in overhauling its approach to managing compliance risks following two high-profile incidents in 2017 and 2019. It sets out several recommendations to help the Bank further embed its approach in this area.

The NAO's remit to audit the Bank does not cover certain areas of its work, such as banking sector supervision and policy committee decisions. Moreover, the NAO did not assess the merits of any specific decisions.

[NAO report: Bank of England: Managing legal, ethical and staff compliance risks](#)

[Executive summary](#)

[Webpage](#)

[Press release](#)

BANKING AND FINANCE //

5 EUROPEAN PARLIAMENT

5.1 **PSR and PSD3 - ECON publishes adopted texts - 5 March 2023** - The European Parliament's Economic and Monetary Affairs Committee (ECON) has published the adopted text of the following:

- the proposal for a regulation on payment services in the internal market and amending the EBA Regulation (1093/2010) (2023/0210 (COD)) (known as the Payment Services Regulation (PSR)); and
- the proposal for a directive on payment services and electronic money services in the Internal Market amending the Settlement Finality Directive (98/26/EC) and repealing the Payment Services Directive (2015/2366/EU) and the Electronic Money Directive (2009/110/EC) (2023/0209 (COD)) (PSD3).

ECON voted to adopt the report at a meeting on 14 February 2024, having originally published the drafts of the reports in November 2023.

[ECON report on the proposal for a regulation of the European Parliament and of the Council on payment services in the internal market and amending Regulation \(EU\) 1093/2010 \(2023/0210 \(COD\)\)](#)

[ECON report on the proposal for a directive of the European Parliament and of the Council on payment services and electronic money services in the Internal Market amending Directive 98/26/EC and repealing Directives 2015/2366/EU and 2009/110/EC \(2023/0209 \(COD\)\)](#)

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6 BASEL COMMITTEE ON BANKING SUPERVISION

- 6.1 Revised G-SIB assessment framework - BCBS launches consultation - 7 March 2024** - The Basel Committee on Banking Supervision (BCBS) has published a Consultation Paper on a revised assessment framework for global systemically important banks (G-SIBs) containing potential measures to address what is referred to as "window-dressing" (broadly, lowering scores in the annual G-SIB assessment exercise).

The Consultation Paper sets out several proposals to revise the assessment methodology for G-SIBs. These include requiring the participating banks to report and disclose the stock G-SIB indicators based on an average of values over the reporting year, rather than on year-end values.

The consultation is open until 7 June 2024.

[BCBS Consultation Paper: Global systemically important banks - revised assessment framework](#)

[Webpage](#)

[BCBS Working Paper 42: Banks' window-dressing of the G-SIB framework: causal evidence from a quantitative impact study](#)

[Press release](#)

7 EUROPEAN BANKING AUTHORITY

- 7.1 CRR - EBA launches consultation on off-balance sheet items under the standardised approach to credit risk - 4 March 2024** - The European Banking Authority (EBA) has published a Consultation Paper (EBA/CP/2024/08) on draft regulatory technical standards (RTS) on the allocation of off-balance sheet items and unconditionally cancellable commitment (UCC) considerations under the Capital Requirements Regulation (575/2013) (CRR).

Amendments will be introduced to update the calibration of percentages used to convert nominal amounts of off-balance sheet items into on-balance sheet equivalent amounts. This will result in the introduction of an adjusted weighting scheme and an additional bucket. A definition of the term "commitment" is also being introduced.

The consultation is open until 4 June 2024.

[EBA Consultation Paper: Draft RTS on the allocation of off-balance sheet items and UCC considerations under article 111\(8\) of Regulation \(EU\) No 575/2013 \(EBA/CP/2024/08\)](#)

[Press release](#)

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SECURITIES AND MARKETS //

8 EUROPEAN PARLIAMENT

- 8.1 Benchmarks Regulation - ECON votes to adopt draft report on proposed amending Regulation - 5 March 2024** - The European Parliament's Economic and Monetary Affairs Committee (ECON) has voted to adopt its draft report on the European Commission's proposal to amend the Benchmarks Regulation ((EU) 2016/1011) (BMR) regarding scope, the use of third country benchmarks and certain reporting requirements (2023/0379(COD)).

As drafted, the new rules would apply to critical benchmarks, significant benchmarks, EU climate transition benchmarks, EU Paris-aligned benchmarks and certain commodity benchmarks. ECON intends to retain the current threshold of a total average value of at least EUR50 billion to define a significant benchmark, with other benchmarks subject to a voluntary supervision regime.

Trilogue negotiations between the Parliament and Council are expected to start after the Parliamentary elections in June 2024.

[Press release](#)

9 HM TREASURY

- 9.1 Private Intermittent Securities and Capital Exchange System (PISCES) - HM Treasury consults - 6 March 2024** - As part of the Spring 2024 Budget, HM Treasury has published a consultation paper on the regulatory framework for a proposed new intermittent trading venue (that is, a platform to allow the trading of securities issued by private companies in a controlled environment and on an intermittent basis during trading windows). This is referred to as the Private Intermittent Securities and Capital Exchange System (PISCES).

The regulatory framework for the platform will be developed using a 'financial markets infrastructure (FMI) sandbox', as established under the Financial Services and Markets Act 2023. PISCES will operate as a secondary market, facilitating the trading of existing shares. Firms wishing to run a PISCES platform will have to apply to the FCA, and once approved will be able to run intermittent trading events for participating companies. Those eligible to trade on PISCES will likely be limited initially to institutional and professional investors (such as pension funds and private equity investors), at least during the trial phase.

HM Treasury intends to lay secondary legislation before Parliament later in 2024 to set up the sandbox. The consultation closes on 17 April 2024. The FCA also intends to consult on the sandbox before it is established at the end of 2024.

[PISCES consultation](#)

[Webpage](#)

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10 FINANCIAL CONDUCT AUTHORITY

10.1 UK EMIR reporting requirements - FCA consults on Q&As - 1 March 2024 - The FCA, along with the Bank of England (the Bank), has published a Consultation Paper seeking feedback on draft Q&As on revised reporting requirements under Article 9 of the retained EU law version of the European Market Infrastructure Regulation (648/2012/EU) (UK EMIR). This follows the FCA and the Bank's publication of a joint policy statement (PS23/2) on changes to the derivatives reporting framework in February 2023.

The consultation covers five topics: transitional arrangements; reconciliations of data between trade repositories; errors and omissions in reporting; derivative identifiers; and action and events clarifying the reasons why a report is made. The remaining topics to be covered are: venues; exchange traded derivatives; margin and collateral; clearing; post-trade risk reduction; position level reporting; and asset class and product specific topics. The FCA intends to consult on these remaining topics in Spring 2024.

The new requirements come into effect on 30 September 2024 (subject to a transitional period for certain rules). The deadline for comments on the consultation is 28 March 2024.

[FCA Consultation Paper: Changes to UK EMIR reporting requirements: draft questions and answers](#)

[Figures](#)

ASSET MANAGEMENT //

11 HM TREASURY

11.1 Reserved investor fund - HM Treasury announces tax rules - 6 March 2024 - As part of the Spring 2024 Budget, the government has published a policy paper announcing that it will introduce tax rules for reserved investor funds (RIFs). It has also published responses to its earlier consultation on RIFs of April 2023.

The government will proceed with the three restricted RIFs proposed in its original consultation. The Finance (No 2) Bill 2024 will include a power for regulations to be made setting out their tax treatment. Detail on the proposed financial services regulatory treatment of RIFs was set out in Annex B of the original consultation paper.

The new tax rules will take effect from a date to be specified in a statutory instrument.

[Updated webpage](#)

[Policy paper](#)

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12 FINANCIAL CONDUCT AUTHORITY

12.1 Asset management supervision strategy - FCA publishes portfolio letter - 1 March 2024 - The FCA has published a portfolio letter addressed to the CEOs of asset management firms and alternatives portfolios providing an interim update on its supervisory strategy. The letter states that it reflects changes in the external risk environment and the work completed since the FCA's portfolio letter of February 2023.

Among the supervisory priorities identified for this sector over the next year, the FCA intends to focus on assessments of value and the price and value of products and services provided to unit-linked funds in light of the consumer duty, as well as operational resilience. It also plans to focus on market integrity and disruption and to support innovation in the sector (including by working on fund and asset tokenisation). Finally, the letter refers to the FCA's plans to implement the government's Smarter Regulatory Framework as well as modernising the funds authorisation process and enabling cross-border operation.

[FCA Portfolio Letter](#)

INSURANCE //

13 EUROPEAN PARLIAMENT

13.1 Legislative proposal for European Deposit Insurance Scheme - ECON publishes draft report - 4 March 2024 - The European Parliament's Economic and Monetary Affairs Committee (ECON) has published a draft report (PE758.704v01-00) on the European Commission's legislative proposal for a Regulation establishing the European Deposit Insurance Scheme (EDIS) (2015/0270(COD)) (EDIS Regulation). The updated draft Regulation focuses on the first of three proposed stages for setting up the EDIS. This would involve it operating as a "*reinsurance scheme that covers a share of the liquidity shortfall and of the excess losses of participating DGSs*". It is envisaged that EDIS would progress to a full insurance scheme with loss coverage at a later stage.

[ECON draft report on the EDIS Regulation \(2015/0270\(COD\)\)](#)

14 UK GOVERNMENT

14.1 Pension scheme asset disclosure and value for money framework - Chancellor announces reforms - 2 and 6 March 2024 - As part of the Spring 2024 Budget, the Chancellor of the Exchequer has announced that certain UK pension schemes will be required to disclose publicly their asset allocations, including their allocations to UK equities (see paragraphs 4.28 - 4.29, 5.104 - 5.105 of the Budget). HM Treasury has separately published a press release (dated 2 March 2024) indicating that the UK government intends to require defined contribution (DC) pension schemes to disclose their levels of investment in UK businesses, as well as their costs and net investment returns, by 2027. The Spring 2024 Budget confirmed that the asset allocation disclosure plans will cover DC schemes and the Local Government Pension Scheme in England and Wales. Defined benefit (DB) schemes will be outside the scope of the measures.

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The FCA will consult in the Spring on proposals requiring publication of contract-based DC scheme default funds' historic net investment returns and a breakdown of their UK investments. Schemes will be required to compare their performance, costs and other metrics against those of at least two schemes managing over £10 billion in assets. The measures will form part of the government's proposed new value for money framework in DC schemes. The government plans to legislate "at the earliest opportunity" to apply these requirements to DC schemes generally by 2027.

[Spring Budget](#)[Press release](#)

FINANCIAL CRIME //

15 HM TREASURY

15.1 The Economic Crime and Corporate Transparency Act 2023 (Commencement No. 2 and Transitional Provision) Regulations 2024 - 1 March 2024 - The Economic Crime and Corporate Transparency Act 2023 (Commencement No. 2 and Transitional Provision) Regulations 2024 (SI 2024/269) (the Regulations) have been published.

The Regulations brought into force on 4 March 2024 the majority of provisions of Part 1 and certain provisions of Parts 2 to 5 of the Economic Crime and Corporate Transparency Act 2023 (ECCTA). These include powers for Companies House to better screen the company information it receives by requesting supporting evidence and removing factually incorrect information from the Corporate Register. Some of the provisions of ECCTA regarding cryptoassets and money laundering will come into force on 26 April 2024.

[The Economic Crime and Corporate Transparency Act 2023 \(Commencement No. 2 and Transitional Provision\) Regulations 2024 \(SI 2024/269\)](#)

16 THE FOREIGN, COMMONWEALTH AND DEVELOPMENT OFFICE

16.1 Sanctions and Anti-Money Laundering Act 2018 - Post-Legislative Scrutiny Memorandum: published - 4 March 2024 - The Foreign, Commonwealth and Development Office has published Post-Legislative Scrutiny Memorandum on the Sanctions and Anti-Money Laundering Act 2018 (SAML A). The memorandum provides a summary and a preliminary assessment of the provisions and implementation of SAML A.

Broadly, the memorandum concludes that the legislation has been effective given the introduction of sanctions in response to the Russian invasion of Ukraine. Annex A provides a compendium of statutory instruments made pursuant to SAML A and a case study of the UK's Russia sanctions regime. On the money laundering aspects of the legislation, the memorandum notes that the relevant powers in SAML A have functioned satisfactorily in allowing for the amendment and improvement of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

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17 FINANCIAL CONDUCT AUTHORITY

17.1 AML framework failings - FCA publishes Dear CEO letter to Annex 1 firms - 5 March 2024 - The FCA has published a Dear CEO letter to financial institutions within the scope of Annex 1 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017/692) (the MLRs) on common control failings identified in anti-money laundering (AML) frameworks.

According to the letter, the FCA has observed discrepancies between firms' registered and actual activities and a lack of financial crime controls to keep pace with business growth. Another common issue highlighted by the FCA is the lack of detail in firms' customer due diligence and monitoring policies. Relevant firms have been asked to consider their resources relating to financial crime and financial crime training, as well as whether there is a clear audit trail for financial crime-related decision-making.

The FCA expects firms to complete a gap analysis against each of the common weaknesses identified in the letter within six months and take prompt and reasonable steps to close any gaps identified.

[FCA Dear CEO letter to Annex 1 firms](#)

[Press release](#)

ENFORCEMENT //

18 FINANCIAL CONDUCT AUTHORITY

18.1 Woodford Equity Income Fund redress - FCA provides update - 6 March 2024 - The FCA has updated its webpage relating to the LF Equity Income Fund (formerly the LF Woodford Equity Income Fund) settlement scheme. Link Fund Solutions announced on 14 December 2023 that investors had overwhelmingly voted to approve the proposed scheme which, according to the FCA, "*offers investors the quickest and best chance to obtain a better outcome than might be achieved by any other means*". The webpage now notes that, on 9 February 2024, the High Court (Richards J) handed down a judgment sanctioning the scheme (*Re Link Fund Solutions Ltd* [2024] EWHC 250 (Ch)).

The scheme became fully effective on 5 March 2024. Payments are expected to be made around Easter 2024 and scheme creditors do not need to take any action to receive them.

[FCA webpage](#)

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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:

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