

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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[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 EUROPEAN PARLIAMENT

- 1.1 Legislative proposal for a framework for financial data access - ECON votes to adopt draft report - 13 May 2024** - The European Parliament's Economic and Monetary Affairs Committee (ECON) has published its report on the European Commission's legislative proposal for a Regulation on a framework for financial data access (FIDA) (2023/0205(COD)). The European Parliament and the Council of the EU have been considering the legislative proposal and are working towards determining their respective negotiating positions.

[ECON report 2023/0205\(COD\)](#)

2 DEPARTMENT FOR BUSINESS AND TRADE

- 2.1 UK sustainability reporting standards - DBT publishes framework and terms of reference - 16 May 2024** - The Department for Business and Trade (DBT) has published a framework and terms of reference for the development of UK sustainability reporting standards (SRS). The framework sets out the assessment, endorsement and implementation process for the IFRS Sustainability Disclosure Standards, published on 26 June 2023 (IFRS S1 and IFRS S2).

Each standard issued by the International Sustainability Standards Board will require analysis and assessment to determine its appropriateness for use within a UK context, prior to an endorsement decision. The final endorsement decision will be made by the Secretary of State for Business and Trade. Endorsement decisions on IFRS S1 and IFRS S2 are expected to be made by the first quarter of 2025. The FCA will be able to use the standards to introduce requirements for UK listed companies to report sustainability-related information to their investors, subject to consultation.

[Framework and Terms of Reference for the Development of UK Sustainability Reporting Standards](#)

[Updated guidance](#)

[Webpage](#)

3 TREASURY COMMITTEE

- 3.1 Accountability hearing - FCA gives evidence to Treasury Committee - 9 May 2024** - The Treasury Select Committee has published the transcript of an oral evidence session, held on 8 May 2024, which forms part of ongoing parliamentary scrutiny of the FCA. The witnesses at the session were Nikhil Rathi, FCA Chief Executive, and Ashley Alder, FCA Chair.

Among other things, Mr Alder and Mr Rathi responded to questions from the Committee regarding the FCA's proposed changes to publicising enforcement investigations, announced in a

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consultation paper published in February 2024 (CP24/2) and previously reported in this bulletin. The FCA also confirmed that it would prioritise its work on non-financial misconduct and that it is taking time to consider responses to its consultation on the broader data and diversity proposals. The transcript also details the content of discussions on debanking, motor finance and access to cash.

[Oral evidence given by Ashley Alder and Nikhil Rathi \(8 May 2024\)](#)

- 3.2 Sexism in the City inquiry - Responses from HM Treasury, PRA and FCA published - 14 May 2024** - The House of Commons Treasury Committee has published the responses from HM Treasury, the PRA and the FCA to the recommendations made following its findings from the “Sexism in the City” inquiry, launched in July 2023.

Most notably, HM Treasury has confirmed that it will not take forward the Committee’s recommendation to introduce a total ban on the use of non-disclosure agreements (NDAs). HM Treasury states that there are legal limits to how NDAs can be used in an employment context and that an NDA will “most likely” be unenforceable to the extent that it seeks to prevent employees from reporting a crime to the police or co-operating in a criminal investigation.

The FCA and the PRA confirm that they will formally review the impact of the bonus cap removal on gender pay inequality. The FCA also confirms that it is prioritising its work on non-financial misconduct (NFM) and is currently considering how it can improve its approach to whistleblowing. The FCA and the PRA are also carefully reviewing the responses received to their consultation papers on diversity and inclusion.

[Sexism in the City: HM Treasury, Prudential Regulation Authority and Financial Conduct Authority Responses to the Committee’s Sixth Report](#)**[Press release](#)****4 FINANCIAL CONDUCT AUTHORITY**

- 4.1 Consumer Duty for closed products and services - FCA publishes Dear CEO letters - 16 May 2024** - The FCA has published Dear CEO letters addressed to the chief executives of firms spanning the retail banking, life insurance, consumer finance, consumer investments and asset management sectors on the implementation of the Consumer Duty for closed products and services.

Firms are asked to consider the contents of the letter ahead of the new rules coming into force on 31 July 2024. Firms will need to be able to demonstrate that they are acting to deliver good customer outcomes by the final deadline.

[Dear CEO letter \(retail banking\)](#)**[Dear CEO letter \(life insurance\)](#)**

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BANKING AND FINANCE //

5 BASEL COMMITTEE ON BANKING SUPERVISION

- 5.1 **Cryptoasset prudential standard - BCBS publishes update - 14 May 2024** - The Basel Committee on Banking Supervision (BCBS) has published the outcome of the meeting of the Group of Central Bank Governors and Heads of Supervision (GHOS), the BCBS oversight body, held on 13 May 2024.

As well as taking stock of the implementation status of the outstanding Basel III reforms, the GHOS agreed to defer implementation of the BCBS's prudential standard for banks' cryptoasset exposures by one year to 1 January 2026.

[Press release](#)

- 5.2 **Digitalisation of finance - BCBS publishes report - 16 May 2024** - The BCBS has published a report (BCBS575) on the implications of ongoing digitalisation of finance on banks and supervision. The report builds on the BCBS's paper on fintech developments for banks and supervisors, published in February 2018.

Among other things, the report contains a useful overview of the use of key innovative technologies across various aspects of the banking value chain, including application programming interfaces (APIs), AI and machine learning, distributed ledger technology (DLT) and cloud computing. The BCBS has not considered technologies (such as quantum computing) that may impact banks and banking over a longer horizon period. The report sets out both the benefits and risks of these new technologies and new technologically enabled suppliers for the provision of banking services.

[BCBS report: Digitalisation in finance](#)[Webpage](#)[Press release](#)

6 EUROPEAN BANKING AUTHORITY

- 6.1 **Draft RTS on equivalent mechanism for unfinished property under CRR - EBA consults - 13 May 2024** - The European Banking Authority (EBA) has published a consultation paper

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(EBA/CP/2024/11) containing draft regulatory technical standards (RTS) on the equivalent mechanism for unfinished property under Article 124(12) of the Capital Requirements Regulation (575/2013) (CRR). In short, the draft RTS aim to provide a harmonised EU framework for the prudential treatment of residential real estate exposures under construction.

The consultation closes to responses on 13 August 2024. The EBA will hold a public hearing on the draft RTS on 11 June 2024. It will assess the feedback received before submitting the final draft RTS to the European Commission.

[EBA consultation paper: Draft Regulatory Technical Standards on equivalent mechanism for unfinished property under Article 124\(12\) of EU Regulation 575/2013 \(EBA/CP/2024/11\)](#)

[Press release](#)

7 SINGLE RESOLUTION BOARD

- 7.1 MREL policy - updated by SRB - 14 May 2024** - The Single Resolution Board (SRB) has published an updated version of its policy for the minimum requirement for own funds and eligible liabilities (MREL). The revised policy updates the SRB's approach to calibrating the internal and external market confidence charge (MCC) and to the monitoring of eligible liabilities. It also reflects changes to the MREL framework relating to entities in a "daisy chain" and to liquidation entities introduced by Directive (EU) 2024/1174.

The revised version of the MREL policy reflects the outcome of an SRB consultation on the future of the policy, published in December 2023.

[SRB MREL policy](#)

[Feedback statement to the consultation on the future of MREL](#)

[Press release](#)

8 PRUDENTIAL REGULATION AUTHORITY

- 8.1 Solvent exit planning for non-systemic banks and building societies - PRA publishes Dear CEO letter - 15 May 2024** - The PRA has published a Dear CEO letter sent to chief executives of non-systemic banks and building societies outlining the findings of a recent thematic review into recovery planning. The PRA's review of around 70 non-systemic UK banks and building societies found that although many firms understand the basics of recovery planning, there are significant areas for improvement, particularly relating to the development of recovery scenarios and the calculation of recovery capacity. The appendix to the letter provides examples of effective practices noted by the PRA which firms may find useful for their recovery planning.

The PRA will engage collectively with firms and trade associations as appropriate to discuss the findings of the letter in the second half of 2024. In the meantime, it expects firms to consider the recommendations made in the letter and to update their recovery plans accordingly.

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Although the sample of firms reviewed was restricted to UK-headquartered firms, the PRA expects PRA-regulated international banking subsidiaries operating in the UK to consider the actions outlined in the letter.

From October 2025, non-systemic firms must meet the rules and expectations in Policy Statement PS5/24 on solvent exit planning for non-systemic banks and building societies and the expectations set out in the related Supervisory Statement SS2/24.

[Dear CEO letter: Non-systemic firms' recovery planning thematic review: Industry feedback](#)

[Webpage](#)

SECURITIES AND MARKETS //

9 EUROGROUP

- 9.1 **Capital Markets Union - Eurogroup agrees roadmap to delivery - 15 May 2024** - The Eurogroup has published a press release announcing that, at a meeting on 13 March 2024, it agreed a high-level roadmap following its March 2024 statement on the future of the capital markets union (CMU). The roadmap sets out the CMU work programme, which is designed to ensure that implementation remains a priority. The work programme will be taken forward by ministers, assisted by deputies, building on the relevant technical support structures.

[Statement by the Eurogroup President on the follow-up to the Eurogroup agreement on the future of the Capital Markets Union](#)

[Roadmap](#)

[Meeting](#)

10 HM TREASURY

- 10.1 **The Markets in Financial Instruments (Equivalence) (United States of America) (Commodity Futures Trading Commission) Regulations 2024 - 14 May 2024** - The Markets in Financial Instruments (Equivalence) (United States of America) (Commodity Futures Trading Commission) Regulations 2024 (SI 2024/638) (the Regulations) have been published, with an explanatory memorandum.

The Regulations revoke and reenact an existing EU equivalence decision in respect of the Commodity Futures Trading Commission (CFTC) made under Article 28(4) of the UK version of the Markets in Financial Instruments Regulation (600/2014). More specifically, they update the list of designated contract markets and swap execution facilities that are regulated by the CFTC and which will be able to fulfil the derivatives trading obligation for the UK.

The Regulations were made on 13 May 2024 and will come into force on 4 June 2024.

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[The Markets in Financial Instruments \(Equivalence\) \(United States of America\) \(Commodity Futures Trading Commission\) Regulations 2024 \(SI 2024/638\)](#)

[Explanatory memorandum](#)

[Webpage](#)

ASSET MANAGEMENT //

11 EUROPEAN SECURITIES AND MARKETS AUTHORITY

11.1 Fund names using ESG or sustainability-related terms - ESMA update on adoption of guidelines - 14 May 2024 - The European Securities and Markets Authority (ESMA) has published its final report (ESMA34-472-440) on guidelines on the use of ESG or sustainability-related terms in funds' names. The guidelines include a quantitative threshold (80%) for the use of ESG-related terms, with certain exclusion criteria for different terms. They are intended to ensure that investors are protected against unsubstantiated or exaggerated sustainability claims; they also provide asset managers with clear and measurable criteria to assess their ability to use ESG or sustainability-related terms.

The guidelines will now be translated and will apply three months after publication of the translations. A transitional period for funds existing before the application date will be six months after that date. New funds created after the application date will be required to apply the guidelines immediately.

[ESMA final report: Guidelines on funds' names using ESG or sustainability-related terms \(ESMA34-472-440\)](#)

[Webpage](#)

[Press release](#)

12 HOUSE OF LORDS FINANCIAL SERVICES REGULATION COMMITTEE

12.1 Cost disclosure requirements for listed investment companies - FCA responds to Committee- 14 May 2024 - The House of Lords Financial Services Regulation Committee has published a letter (dated 10 May 2024) from the FCA responding to the Committee's own letter (dated 30 April 2024) on cost disclosure requirements for listed investment companies.

The FCA does not share industry concerns that the UK is alone in its application of the retained EU law versions of the PRIIPs Regulation (1286/2014) and Commission Delegated Regulation (EU) 2017/565 to investment trusts. The FCA believes that its interpretation of MiFID requirements for aggregation is consistent with guidance provided by ESMA. It also argues in the letter that its November 2023 forbearance statement on the aggregation of costs and charges figures went as far as it could without legislative change.

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The FCA plans to consult on the details of the replacement composite consumer investments regime by autumn 2024. The proposed new disclosure rules will be tailored to cater to the various products and investment vehicles, including investment trusts. The consultation will set out the FCA's intention to move away from the EU-inherited requirement to aggregate charges into a single figure.

[FCA letter](#)

13 HM TREASURY

13.1 [The Financial Services and Markets Act 2000 \(Overseas Funds Regime\) \(Equivalence\) \(European Economic Area\) Regulations 2024 - 14 May 2024](#) - The Financial Services and Markets Act 2000 (Overseas Funds Regime) (Equivalence) (European Economic Area) Regulations 2024 (SI 2024/635) (the Regulations) have been published with an explanatory memorandum.

Under the Regulations, all EEA states (that is, the 27 EU member states and Norway, Iceland and Liechtenstein) have been determined as equivalent for the purpose of section 271A of the Financial Services and Markets Act 2000 (FSMA) with regards to UCITS that are not authorised as money market funds (MMFs). This will allow EEA UCITS (that are not authorised as MMFs) to apply to the FCA for recognition to market to all UK investors under section 271A(c) of FSMA. This is the first use of this provision since the overseas funds regime (OFR) was created in the Financial Services Act 2021.

The Regulations were made on 13 May 2024 and come into force on 16 July 2024.

[The Financial Services and Markets Act 2000 \(Overseas Funds Regime\) \(Equivalence\) \(European Economic Area\) Regulations 2024 \(SI 2024/635\)](#)

[Explanatory memorandum](#)

[Webpage](#)

14 INVESTMENT ASSOCIATION

14.1 [Implementing the SDR - IA publishes guidance - 13 May 2024](#) - The Investment Association (IA) has published guidance on implementing the FCA's sustainability disclosure requirements and investment labelling regime. The guidance sets out ways in which members can address industry-wide issues based on a common framework. It includes Q&As on the anti-greenwashing rule, which comes into force on 31 May 2024, the labelling regime and naming and marketing rules for fund managers, fund authorisations and requirements for overseas funds marketed in the UK. It also addresses sustainability disclosures for fund managers and stewardship requirements.

Alongside the guidance, the IA has published the result of a survey of its membership on several related issues, including the number of labels that firms will be applying and when.

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15 NETWORK FOR GREENING THE FINANCIAL SYSTEM

15.1 Sustainable and responsible investment for central banks - NGFS publishes report and technical documents - 16 May 2024 - The Network for Greening the Financial System (NGFS) has published a report and two technical documents on sustainable and responsible investment (SRI) in central banks' portfolio management.

The report presents ten non-binding recommendations central banks can use to advance their understanding and adoption of SRI practices. The recommendations are based on a step-by-step approach inspired by the climate framework of the United Nations Principles for Responsible Investment (UN PRI).

Alongside the report, the NGFS has published two supporting technical documents. The first, "Decarbonisation strategies for corporate portfolios of central banks", discusses how central banks can integrate net-zero considerations into their investments in equity and corporate bonds. The second, "Climate-related risks and impact in sovereign investments: data, metrics and implementation issues," describes metrics that can inform strategies related to sovereign holdings.

[NGFS report: Sustainable and responsible investment in central banks' portfolio management - Practices and recommendations](#)

[NGFS technical document: Decarbonisation strategies for corporate portfolios of central banks](#)

[NGFS technical document: Climate-related risks and impact in sovereign investments - Data, metrics and implementation issues for central banks](#)

[Webpage](#)[Press release](#)

INSURANCE //

16 NATIONAL AUDIT OFFICE

16.1 Pensions Dashboard Programme - NAO publishes report - 14 May 2024 - The National Audit Office has published a report on its investigation into the Department for Work and Pensions' Pensions Dashboard Programme (PDP). No date is currently set for public access.

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The report highlights the issues that have caused delays in the development of the PDP as well as the significant increase in the estimated cost of delivering pensions dashboards to the industry. According to the report, capacity and capability issues, including a lack of digital skills and ineffective governance, have contributed to delays.

[NAO report: Investigation into the Pensions Dashboards Programme](#)

[Webpage](#)[Press release](#)

ENFORCEMENT //

17 FINANCIAL CONDUCT AUTHORITY

17.1 FCA cancellation of listing decision - challenge withdrawn - 14 May 2024 - The FCA has published a statement confirming that Umuthi Healthcare Solutions plc (the Company) has withdrawn its reference to the Upper Tribunal in connection with an FCA decision to discontinue the listing of the Company's standard shares on the Official List.

The FCA issued its first supervisory notice to Umuthi on 28 October 2022 to cancel the listing of Umuthi's shares with immediate effect having found that there were special circumstances which precluded normal regular dealing in the shares in the company. The FCA's first supervisory notice remains in force and the discontinuance of the listing of the shares remains in effect.

[Press release](#)

17.2 CFD trading pension fraud - FCA charges three individuals - 15 May 2024 - The FCA has charged three individuals for alleged involvement in a high-risk trading scheme, which targeted people by persuading them to invest in contracts for difference (CFDs). Many victims of the alleged fraud were encouraged to use their pensions to invest, which were then traded to generate large commissions for those running the scheme. The FCA alleges that the individuals made false statements to a CFD trading platform that their clients were professional investors. The individuals have been charged with multiple offences, including fraud by false representation (an offence under section 2 of the Fraud Act 2006) and fraudulent trading (an offence under section 993(1) of the Companies Act 2006).

The individuals will appear before Westminster Magistrates' Court on 7 June 2024.

[Press release](#)

17.3 Alleged promotion on social media of unauthorised FX trading scheme - FCA charges nine 'influencers' - 16 May 2024 - The FCA has announced that it has brought charges against nine individuals in relation to an unauthorised foreign exchange trading scheme promoted on social media. One of the individuals has been charged with one count of breaching the general

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prohibition under section 19 of the Financial Services and Markets Act 2000 (FSMA) for operating an unauthorised investment scheme and one count of unauthorised communications of financial promotions under section 21 of FSMA. The eight other individuals each face one count of issuing unauthorised communications of financial promotions.

The individuals will appear before Westminster Magistrates' Court on 13 June 2024.

In March 2024, the FCA published finalised guidance on financial promotions on social media to clarify its expectations for when firms and influencers use social media to communicate financial promotions, and to address emerging consumer harm seen as arising from use of social media.

[Press release](#)

18 RECENT CASES

18.1 *Banque Havilland, Edmund Lloyd Rowland, Vladimir Bolelyy and David John Rowland v The Financial Conduct Authority*, [2024] UKUT 00155, 15 May 2024

Upper Tribunal (Tax and Chancery Chamber) - Decision Notices - third party references

The Upper Tribunal (Tax and Chancery Chamber) has published its decision of 8 May 2024 relating to various applications for directions involving references made in respect of Decision Notices issued by the FCA in relation to improper advice that was allegedly given by Banque Havilland S.A in a presentation which recommended manipulative trading strategies which could be a criminal offence, had it taken place in the UK. It follows a case management hearing that took place on 26 and 27 March 2024.

Among other things, the Court has decided to postpone the substantive hearing, referring to the appeal of the Tribunal's decision in *Bluecrest Capital Management v FCA* [2023] UKUT 00140 (*Bluecrest*) to be heard in July 2024. Furthermore, one of the applicants has successfully argued that the FCA's contention that he was "knowingly concerned" in breaches of Principle 3 and/or SYSC 6.1.1R Handbook has no reasonable prospect of success.

[Banque Havilland, Edmund Lloyd Rowland, Vladimir Bolelyy and David John Rowland v The Financial Conduct Authority \[2024\] UKUT 00155](#)

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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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