

Financial Regulation Weekly Bulletin

2 April 2020 / Issue 1053

Major UK and European regulatory developments of interest to banks, insurers and reinsurers, asset managers and other market participants

Quick Links

[Selected Headlines](#)
[General](#)
[Brexit](#)
[Banking and Finance](#)
[Securities and Markets](#)
[Asset Management](#)
[Insurance](#)
[Financial Crime](#)

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](#).

Selected Headlines

General

Principles for Responsible Banking - UNEP FI publishes portfolio impact analysis tool 2.1

FCA publishes statement - senior managers' responsibilities in relation to work-related travel 5.1

Brexit

Financial services regulatory regime post-Brexit - House of Lords EU Financial Affairs Committee publishes letter containing recommendations 7.1

Banking and Finance

Basel III - Basel Committee defers implementation in light of COVID-19 8.1

COVID-19 - EBA publishes statements clarifying measures to mitigate impact of COVID-19 10.2

Dividend distribution policies - ECB publishes Recommendation in response to COVID-19 11.1

COVID-19 - SRB publishes letter on operational relief measures 12.1

COVID-19 - PRA publishes statement on amendments to regulatory reporting and Pillar 3 disclosures 14.3

COVID-19 - FCA updates webpage on strong customer authentication 15.1

COVID-19 - FCA consults on temporary financial relief measures for customers 15.2

Securities and Markets

EMIR Refit - ESMA publishes consultation on post-trade risk reduction services 21.2

EMIR/EMIR Refit - ESMA publishes consultation on technical standards on reporting, data quality, data access and the registration of trade repositories 21.3

Credit rating information and data - ESMA publishes call for evidence 21.5

[Selected Headlines](#)
[Securities and Markets](#)

[General](#)
[Asset Management](#)

[Brexit](#)
[Insurance](#)

[Banking and Finance](#)
[Financial Crime](#)

MiFID II - ESMA clarifies best execution obligations in light of COVID-19	21.10
COVID-19 - FCA publishes update on implementation of lowered notification thresholds for net short positions	22.1
Asset Management	
AIFMD - ESMA publishes consultation on Guidelines to address leverage risk	23.11
COVID-19 - FCA publishes 'Dear CEO' letter to firms providing retail investor services	24.1
Insurance	
COVID-19 - IAIS announces actions to mitigate impact on the insurance sector	25.1
COVID-19 - EIOPA publishes statement on actions to mitigate impact on consumers	26.1
Distribution of profits - PRA publishes 'Dear CEO' letter in light of COVID-19	27.2
COVID-19 - FCA updates webpage on its expectations of general insurance firms	28.1
Financial Crime	
COVID-19 - FATF publishes statement on measures to combat illicit financing	29.1

General

1. Financial Stability Board

- 1.1 COVID-19 - FSB publishes update on actions to ensure continuity of critical financial services functions - 2 April 2020** - The Financial Stability Board (FSB) has published an update on its actions taken to mitigate the economic impact and financial risks posed by the COVID-19 pandemic, including actions to ensure the continuity of critical financial services functions.

The FSB states that many financial services firms have successfully implemented extensive remote working in a relatively short time but that, for many financial service firms to continue to operate critical functions, a limited number of essential personnel are required to work on-site. Where public health authorities have implemented social distancing measures, the FSB asks firms to have in place appropriate business continuity plans in respect of critical financial services functions. The FSB states that it is actively cooperating with national and local authorities to ensure that essential personnel, including those necessary to maintain critical financial services infrastructure, are permitted to work on-site.

In addition, the FSB confirms that it is re-prioritising its work programme for 2020 in response to the disruption caused by the COVID-19 pandemic.

[Press release: FSB publishes update on actions to ensure the continuity of critical financial services functions](#)

[Webpage](#)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

2. United Nations

- 2.1 Principles for Responsible Banking - UNEP FI publishes portfolio impact analysis tool - 31 March 2020** - The United Nations Environment Programme Finance Initiative (UNEP FI), a private sector collaboration between over 240 financial institutions, has published a portfolio impact analysis tool designed to help banks analyse the impacts associated with their retail and wholesale portfolios, in line with the United Nations' Principles for Responsible Banking, which were launched in September 2019.

The UNEP FI states that the tool will help banks develop targeted goals to increase their contribution to society, as required by the Principles of Responsible Banking, by helping banks identify their most significant impact areas, based on the nature, content and geographic scope of their portfolios, and to assess their current level of performance in relation to these impact areas.

[UNEP FI portfolio impact analysis tool for banks](#)

[UNEP FI guidance document on impact analysis under the Principles of Responsible Banking](#)

[Webpage](#)

[Press release](#)

3. European Commission

- 3.1 COP26 - European Commission announces postponement in response to COVID-19 - 2 April 2020** - The European Commission has published a statement by Frans Timmermans (Vice President of the European Commission), announcing its decision to postpone the 2020 United Nations Climate Change Conference (COP26) amid efforts to contain the COVID-19 pandemic. The Commission confirms that the UK Presidency will consult on rescheduling the meeting, which plans to focus on how to mitigate the impact of climate change by building a sustainable financial system to support the EU's transition to a net zero economy.

[Press release: European Commission announces postponement of COP26 in response to COVID-19](#)

4. Prudential Regulation Authority

- 4.1 PRA Policy Statement PS8/20 - Financial Services Compensation Scheme: Management Expenses Levy Limit 2020/21 - 27 March 2020** - The PRA has published a Policy Statement (PS8/20) on the management expenses levy limit (MELL) for the Financial Services Compensation Scheme (FSCS) covering the period from 1 April 2020 to 31 March 2021. This follows its January 2020 Consultation Paper (CP1/20). The MELL represents the maximum amount that the FSCS may levy in a year to fund its operating costs without further consultation.

The PRA has made no amendments to the proposed FSCS MELL of £83.2 million. The FSCS MELL will apply for the financial year ending 31 March 2021.

[PRA Policy Statement PS8/20 - Financial Services Compensation Scheme: Management Expenses Levy Limit 2020/21](#)

[Webpage](#)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

5. Financial Conduct Authority

- 5.1 COVID-19 - FCA publishes statement on senior managers' responsibilities in relation to work-related travel - 27 March 2020** - The FCA has published a statement, which applies to all FCA-regulated UK firms, setting out how they should prioritise work-related travel in light of the COVID-19 pandemic. The statement confirms that each firm's designated senior manager, or equivalent person, is responsible for identifying which of their employees are unable to perform their jobs from home and must therefore travel to the office or business continuity site. The FCA expects the number of roles requiring an ongoing physical presence to be far smaller than the number of workers needed to ensure all of a firm's business activities continue to function on a 'business as usual' basis.

The FCA clarifies that it would not expect the following roles to necessitate an ongoing physical presence: (i) financial advisers; (ii) staff capable of safely and securely trading shares and financial instruments from home; (iii) business support staff, including IT; and (iv) individuals working for claims management companies and those selling non-essential goods and credit.

[FCA statement on senior managers' responsibilities in respect of work-related travel](#)

6. Financial Conduct Authority and Payment Systems Regulator

- 6.1 Business cooperation under competition law - FCA and PSR publish statement responding to CMA guidance on COVID-19 - 27 March 2020** - The FCA and Payment Systems Regulator (PSR) have published a joint statement outlining their approaches to competition law enforcement in light of the COVID-19 pandemic. The FCA and PSR issued the statement in response to the Competition and Markets Authority's (CMA's) guidance on business cooperation under competition law in light of COVID-19, which was published on 25 March 2020.

The regulators confirm that they support the CMA's guidance and both will take a consistent approach to their competition law enforcement activities in the payments and financial services sectors. The FCA and PSR also state that it is important that competition law does not impede firms from working together to provide essential services to consumers in light of the current situation and that neither the FCA nor the PSR will tolerate conduct that seeks to exploit or harm consumers.

[FCA and PSR statement on their approach to competition law enforcement in light of COVID-19](#)

Brexit

7. UK Parliament

- 7.1 Financial services regulatory regime post-Brexit - House of Lords EU Financial Affairs Committee publishes letter containing recommendations - 27 March 2020** - The House of Lords EU Financial Affairs Committee has published a letter to Rishi Sunak MP (Chancellor of the Exchequer) containing the Committee's recommendations on the UK's post-Brexit financial services regime. The letter follows the Committee's inquiry into the UK's financial services regime after Brexit, which was carried out between January and March 2020.

The Committee's recommendations include:

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

- when publishing its white paper on financial services, which is expected in spring 2020, the government should consider the merits of granting regulators a formal secondary competitiveness objective and proposals for increasing the delegation of powers to regulators to provide the UK's regulatory regime with greater flexibility;
- making targeted amendments to financial services regulation after Brexit to ensure the regulatory regime is tailored to the UK post-Brexit, including in regards to specific areas in which the UK may wish to diverge from the EU in its implementation of the final Basel III standards and other international standards; and
- the UK should take a leadership role in the development of common global standards, in areas such as fintech, and develop bilateral relations with jurisdictions with which it shares a common approach in relation to promoting cross-border financial services.

The letter also considers the ongoing negotiations on the future UK-EU relationship post-Brexit and recent discussions on equivalence in the area of financial services. It calls on the UK and EU to develop a forum for structured regulatory dialogue in order to manage divergences in post-Brexit regulation. This includes the process to follow should an equivalence decision be withdrawn so as to minimise impact on the industry. The Committee also warns that the UK and the EU should urgently address the risks of disruption to financial services arising from Brexit separately from broader discussions on equivalence and the future UK-EU relationship.

[Letter from Lord Sharkey \(Chair of the House of Lords EU Financial Affairs Committee\) to Rishi Sunak MP \(Chancellor of the Exchequer\) on the UK's financial services regulatory regime post-Brexit](#)

[Press release](#)

Banking and Finance

8. Basel Committee

- 8.1 Basel III - Basel Committee defers implementation in light of COVID-19 - 27 March 2020** - The Basel Committee on Banking Supervision has announced a series of measures, including deferring the implementation of the final Basel III standards, in order to increase the operational capacity of banks and supervisors to respond to the financial stability implications of the COVID-19 pandemic on the global banking system.

The measures endorsed by the Basel Committee Group of Central Bank Governors and Heads of Supervision (GHOS) include:

- deferring the implementation of the Basel III standards, and the accompanying transitional arrangements for the output floor, by one year to 1 January 2023 and 1 January 2028, respectively;
- deferring the implementation of the revised market risk framework by one year to 1 January 2023; and
- deferring the implementation of the revised Pillar 3 disclosure requirements by one year to 1 January 2023.

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

The Basel Committee states that the revised timeline is not expected to dilute the capital strength of the global banking system and will provide banks and supervisors additional capacity to respond immediately and effectively to the impact of COVID-19.

[Press release: Basel Committee defers the implementation of Basel III standards in light of COVID-19](#)

9. Official Journal of the European Union

9.1 CRR - Implementing Regulation amending ITS on supervisory reporting published in the Official Journal - 30 March 2020 - Commission Implementing Regulation (EU) 2020/429, of 14 February 2020, which amends Implementing Regulation (680/2014/EU) which lays down implementing technical standards (ITS) on the supervisory reporting of institutions under Article 99(5) of the Capital Requirements Regulation (575/2013/EU) (CRR), has been published in the Official Journal of the European Union. The Implementing Regulation amends the supervisory reporting requirements relating to:

- common reporting (COREP) following the implementation of the new securitisation framework;
- the reporting of the liquidity coverage requirement (LCR), as amended by Delegated Regulation (EU) 2018/1620; and
- financial information reporting (FINREP) on non-performing exposures (NPEs) and forbearance measures, to enable the monitoring of institutions' NPEs strategies; the reporting of profit and loss items; and the implementation of the International Financial Reporting Standard on leases (IFRS 16).

Commission Implementing Regulation (EU) 2020/429 entered into force on 31 March 2020, with the revised reporting requirements on: (i) own funds and own funds requirements under COREP applying from 30 March 2020; (ii) liquidity and LCR reporting applying from 1 April 2020; and (iii) NPEs and forbearance measures applying from 1 June 2020.

[Official Journal: Commission Implementing Regulation \(EU\) 2020/429 amending ITS on supervisory reporting under the CRR](#)

10. European Banking Authority

10.1 Fundamental Review of the Trading Book - EBA publishes final draft RTS on the new internal model approach - 27 March 2020 - The European Banking Authority (EBA) has published three final draft regulatory technical standards (RTS) on the new internal model approach (IMA) under the Fundamental Review of the Trading Book (FRTB):

- final draft RTS on liquidity horizons for the IMA, which clarifies how institutions are to map risk factors to the relevant category and sub-category and provides a definition of large and small capitalisation, reflecting the specificities of the EU equity market;
- final draft RTS on back-testing and profit and loss attribution (PLA) requirements, which: (i) specify the elements to be included for the purpose of those tests in the hypothetical, actual and risk-theoretical profit and loss; (ii) identify the key elements characterising the

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

PLA requirements; and (iii) set the aggregation formula that institutions are to use for aggregating own funds requirements; and

- final draft RTS on criteria for assessing the modelability of risk factors under the IMA, including criteria for identifying the risk factors that are capable of being modelled and included by institutions in expected shortfall calculations, and setting the frequency with which the modelability assessment should be undertaken by institutions.

The EBA will submit the final draft RTS to the European Commission for adoption, which is expected, under the second Capital Requirements Regulation (EU) 2019/876 (CRR II), to trigger a three-year period after which institutions with permission to use the FRTB internal models are required, for reporting purposes only, to calculate their own funds requirements for market risk with those internal models.

The publication of these RTS concludes the first phase of the EBA roadmap towards the implementation of the market and counterparty credit risk frameworks in the EU.

[EBA final draft RTS on liquidity horizons for the new internal model approach under the Fundamental Review of the Trading Book](#)

[EBA final draft RTS on back-testing and profit and loss attribution \(PLA\) requirements under the Fundamental Review of the Trading Book](#)

[EBA final draft RTS on criteria for assessing the modelability of risk factors under the new internal model approach under the Fundamental Review of the Trading Book](#)

[Press release](#)

- 10.2 COVID-19 - EBA publishes statements clarifying measures to mitigate impact of COVID-19 - 31 March 2020** - The EBA has published three statements which aim to provide additional clarity on its actions taken to mitigate the impact of COVID-19 on the EU banking sector. The statements provide additional guidance on: (i) supervisory reporting and Pillar 3 disclosures; (ii) dividends, share buybacks and variable remuneration; and (iii) actions to mitigate financial crime risks during the COVID-19 pandemic.

The EBA's statement on supervisory reporting and Pillar 3 disclosures encourages firms to concentrate their efforts on monitoring and assessing the impact of COVID-19 and ensuring business continuity. The statement outlines further possible actions to be taken by firms and national competent authorities (NCAs), including allowing institutions up to one additional month to submit regulatory data due between March and the end of May 2020 (although this flexibility should not apply to the liquidity coverage requirement (LCR), additional monitoring metrics (ALMM) or information for resolution planning purposes).

The EBA's statement on dividends, share buybacks and variable remuneration reiterates that institutions should refrain from the distribution of dividends or share buybacks which result in a capital distribution outside the banking system for the purpose of remunerating shareholders. The statement also urges institutions to assess their remuneration policies in line with the risks stemming from the economic impact of COVID-19.

The EBA's statement on financial crime risks calls on competent authorities to support financial institutions' ongoing efforts on anti-money laundering (AML) and counter-terrorist financing (CTF)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

by sharing information on emerging money laundering and terrorist financing risks, setting clear regulatory expectations and using supervisory tools flexibility.

[EBA statement on supervisory reporting and Pillar 3 disclosures in light of COVID-19](#)

[EBA statement on dividends, share buybacks and variable remuneration in light of COVID-19](#)

[EBA statement actions to mitigate financial crime risks arising in light of COVID-19](#)

[Press release](#)

11. European Central Bank

- 11.1 Dividend distribution policies - ECB publishes Recommendation in response to COVID-19 - 27 March 2020** - The European Central Bank (ECB) has published a Recommendation, dated 27 March 2020, on credit institutions' dividend distribution policies in light of the COVID-19 pandemic. The ECB recommends that firms should not pay dividends for the 2019 and 2020 financial years until at least 1 October 2020 and that banks should also refrain from share buy-backs which aim to remunerate shareholders.

The ECB explains that, although the Recommendation does not retroactively cancel the dividends already paid out by some banks for the 2019 financial year, banks that have asked their shareholders to vote on a dividend distribution proposal in their upcoming general shareholders meeting will be expected to amend such proposals in line with the Recommendation.

The Recommendation repeals the ECB's Recommendation on credit institutions' dividend distribution policies for the 2019 financial year, published in January 2020. The ECB intends to further evaluate the economic situation and consider whether further suspension of dividends is advisable after 1 October 2020.

[ECB Recommendation on firms' dividend distribution policies in light of COVID-19](#)

[Press release](#)

12. Single Resolution Board

- 12.1 COVID-19 - SRB publishes letter on operational relief measures - April 2020** - The Single Resolution Board (SRB) has published a letter, dated 25 March 2020, from Elke König (Chair of the SRB) to banks under the SRB's remit outlining potential operational relief measures in light of the COVID-19 pandemic.

The letter states that while the SRB is committed to working on 2020 resolution plans and issuing 2020 decisions on minimum requirements for own funds and eligible liabilities (MREL) according to the planned deadlines in early 2021, it will apply a pragmatic and flexible approach in order to consider postponing less urgent information requests relating to the 2020 resolution planning cycle.

The SRB confirms that it regards the liability data report, the additional liability report and the MREL quarterly template as essential and expects banks to publish these documents on time. However, the SRB intends to assess possible leeway for the submission of other reports and deliverables under its work programme. All banks are expected to substantiate their requests and identify mitigating actions to continue progress towards resolvability.

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

The SRB plans to monitor carefully market conditions in the next few months and analyse the potential impact on transition periods needed for the build-up of MREL. It states that it is prepared to use its discretion, and flexibility within the regulatory framework, to adapt transition periods, interim targets and MREL targets accordingly.

[SRB letter from Elke König \(Chair of the SRB\) to banks outlining potential operational relief measures in light of COVID-19](#)

[Webpage](#)

- 12.2 Expectation for banks - published by the SRB - March 2020** - The SRB has published its 'Expectations for Banks' document, which outlines the actions and capabilities the SRB expects banks to demonstrate in order to show that they are resolvable. The document also describes best practice and sets benchmarks for assessing resolvability. The document has been updated to reflect industry feedback following its public consultation between October and December 2019.

The SRB states that the expectations outlined will be phased-in gradually and that banks will be expected to have built up their capabilities in all areas by the end of 2023, except where otherwise indicated. The expectations are tailored to each individual bank and its resolution strategy, allowing for flexibility and proportionality. Acknowledging the current challenges caused by the COVID-19 pandemic, the SRB confirms that it is prepared to give banks the necessary flexibility to implement the expectations on an individual basis.

[SRB Expectations for Banks](#)

[Press release](#)

13. HM Treasury and Prudential Regulation Authority

- 13.1 Basel III - HM Treasury and PRA publish statement on delaying implementation - 2 April 2020** - HM Treasury and the PRA have published a statement welcoming the Basel Committee's decision (see item above) to delay the implementation of the final Basel III standards by one year, to 1 January 2023, in response to the economic impact and disruption caused by the COVID-19 pandemic.

HM Treasury and the PRA state that the delay "*will provide operational capacity for banks and supervisors to respond to the immediate financial stability priorities from the impact of COVID-19*". HM Treasury and the PRA remain committed to the full, timely and consistent implementation of the Basel III standards and will work together towards a UK implementation timetable that is consistent with the one year delay.

[HM Treasury and PRA statement on delaying the implementation of the final Basel III standards](#)

14. Prudential Regulation Authority

- 14.1 COVID-19 - PRA publishes statements on its approach to VAR back-testing exceptions and exposure value for internal models method counterparty credit risk - 30 March 2020** - The PRA has published statements setting out its approach to value-at-risk (VAR) back-testing exceptions and calculating exposure values under the internal models method counterparty credit risk in light of the COVID-19 pandemic.

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

The statement on the PRA's approach to VAR back-testing exceptions states that firms are allowed, on a temporary basis, to offset increases due to new exceptions through a commensurate reduction in risks-not-in-VAR (RNIV) capital requirements. The PRA intends to review its approach after six months.

The statement on calculating exposure under the internal models method counterparty credit risk confirms that the PRA is aware that some firms have experienced significant moves in counterparty credit risk risk-weighted assets, and understands that such moves are partially attributable to large margin calls following significant intraday market price movements. The PRA also clarifies that the Capital Requirements Regulation (575/2013/EU) (CRR) does not preclude firms from using the internal models method to measure the exposure value, including collateral which has not yet settled at the time of calculation.

[PRA statement on its approach to value-at-risk \(VAR\) back-testing exceptions in light of COVID-19](#)

[Webpage](#)

[PRA statement on its approach to calculating exposure under the internal models method counterparty credit risk in light of COVID-19](#)

[Webpage](#)

- 14.2 COVID-19 - PRA publishes statement on large UK deposit-taking banks' approach to dividend payments, share buybacks and cash bonuses - 31 March 2020** - The PRA has published a statement on the decisions of large UK deposit-taking banks to suspend dividend payments and share buybacks until the end of 2020, and to cancel any outstanding 2019 dividend payments, following a request made by the PRA in response to the economic impact of the COVID-19 pandemic.

The statement reiterates that the PRA welcomes the banks' decisions to suspend dividends and share buybacks and expects banks not to pay any cash bonuses to senior staff, including all material risk takers. The PRA does not expect the capital preserved to be needed by the banks in order to maintain adequate capital positions, but notes that the extra headroom should help the banks support the economy through 2020.

The PRA has also published the letters it has written to HSBC, Nationwide, Santander, Standard Chartered Bank, Barclays, RBS and Lloyds Banking Group, setting out its expectations on the payment of cash bonuses and asking the banks to confirm whether or not they are prepared to agree to the PRA's requests. In the letters the PRA states that it will consider using its supervisory powers should any bank not agree to take the requested action.

[PRA statement on deposit-taking banks' approach to dividend payments, share buybacks and cash bonuses in response to the COVID-19 pandemic](#)

[PRA letter to HSBC](#)

[PRA letter to Nationwide](#)

[PRA letter to Santander](#)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)[PRA letter to Standard Chartered Bank](#)[PRA letter to Barclays](#)[PRA letter to RBS](#)[PRA letter to Lloyds Banking Group](#)

- 14.3 COVID-19 - PRA publishes statement on amendments to regulatory reporting and Pillar 3 disclosures - April 2020** - The PRA has published a statement outlining its approach, and amendments made, to regulatory reporting and Pillar 3 disclosure requirements for UK banks, building societies, designated investment firms and credit unions in light of the COVID-19 pandemic and in response to the EBA's statement on supervisory reporting and Pillar 3 disclosures, published on 31 March 2020 (see item above).

In particular, the PRA states that:

- it will accept delays of up to one month for the submission of specified aspects of harmonised regulatory reporting, where the original remittance deadlines fall on or before 31 May 2020. However, this does not apply to the liquidity coverage requirement (LCR), additional monitoring metrics (ALMM) or resolution reporting;
- it will accept delays of up to one or two months for specified aspects of PRA-owned regulatory reporting where the remittance deadlines in the PRA Rulebook fall on or before 31 May 2020; and
- it may request more frequent submissions of particular reports and additional ad-hoc reporting on key prudential measures to maintain the financial stability and safety of firms.

The PRA confirms that it will take a flexible approach to assessing the reasonableness of any delay to the publication of firm's Pillar 3 disclosures. Where firms reasonably anticipate that publication of their Pillar 3 reports will be delayed, the PRA expects them to inform their supervisors and market participants of the delay, the reasons for the delay and, to the extent possible, the estimated publication date.

The PRA intends to consider whether the actions outlined will be extended to reporting beyond 31 May 2020.

[PRA statement on amendments to regulatory reporting and Pillar 3 disclosures in light of COVID-19](#)

[Webpage](#)

15. Financial Conduct Authority

- 15.1 COVID-19 - FCA updates webpage on strong customer authentication - 31 March 2020** - The FCA has updated its webpage on strong customer authentication in light of the COVID-19 pandemic. Among other things, the FCA states that:

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

- despite the impact and disruption caused by the COVID-19 pandemic, it expects firms to continue to protect consumers from unauthorised transactions and fraud;
- it supports the industry's initiative to increase the limit for contactless payments to £45 from 1 April 2020 and, to facilitate this, confirms that it is very unlikely that it will take enforcement action if a firm does not apply strong customer authentication when the cumulative amount of transaction values has exceeded €150 or five contactless transactions in a row, provided that the firm sufficiently mitigates the risk of unauthorised transactions and fraud; and
- firms which have not yet implemented strong customer authentication requirements for online banking, which have applied since 14 September 2019 with an adjustment period until 14 March 2020, and are facing further delays due to COVID-19, may be subject to further measures from the FCA.

[FCA webpage on strong customer authentication](#)

- 15.2 COVID-19 - FCA consults on temporary financial relief measures for customers - 2 April 2020 -** The FCA has published for consultation a series of targeted, temporary financial relief measures for customers in light of the economic impact caused by the COVID-19 pandemic. The proposed measures, which are published in the form of guidance for firms and focus on the application of FCA Principle 6 (treating customers fairly), cover credit cards, overdrafts and personal loans.

Credit Cards

The FCA guidance provides that customers facing financial difficulties as a result of COVID-19 will be able to ask for a three-month payment freeze or deferral, or to make a nominal payment on credit cards, store cards and catalogue credit. Firms could also consider alternative measures, including reductions in monthly payments. The FCA has announced its intention to suspend temporarily specified rules within its Consumer Credit sourcebook (CONC) in order to facilitate such payment deferrals.

Overdrafts

The FCA is proposing an interest free overdraft measure intended to assist customers who are, or can reasonably be expected to, experience temporary financial difficulties as a result of COVID-19. The measure would allow customers to request that up to £500, on their main personal current account, is provided at 0% for up to three months.

Personal loans

The FCA's guidance for firms regarding personal loans provides that, where a customer is already experiencing or reasonably expects to experience temporary payment difficulties as a result of circumstances relating to COVID-19 and wishes to receive a payment deferral, a firm should grant the customer a payment deferral for three months. The FCA suggests that a payment deferral would be appropriate where there is or will be a reduction in household income that would have otherwise been used to make loan payments.

The consultation period closes on 6 April 2020. If confirmed, the FCA expects the measures to enter into force by 9 April 2020.

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

The FCA intends to review the guidance over the next three months and may, if appropriate, revise it in light of further developments regarding the COVID-19 pandemic.

[FCA draft guidance for firms on credit cards in light of COVID-19](#)

[FCA draft guidance for firms on overdrafts in light of COVID-19](#)

[FCA draft guidance for firms on personal loans in light of COVID-19](#)

[Press release](#)

16. Payment Systems Regulator

- 16.1 Annual Plan and Budget 2020/21 - published by the PSR - March 2020** - The Payment Systems Regulator (PSR) has published its Annual Plan and Budget for 2020/21. The PSR's aims and activities for the year include: (i) monitoring Pay.UK's development and implementation of the new payments architecture for digital payments; (ii) further work on access to cash using ATMs; (iii) ensuring that the market for card-acquiring services works effectively; (iv) further work on preventing authorised push payment (APP) scams; and (v) tackling anti-competitive conduct in payment systems and markets.

The PSR confirms that its Annual Plan and Budget for 2020/21 was finalised prior to the COVID-19 pandemic. Therefore, the PSR intends to continually review its work to ensure that it is adapting its approach to meet the challenges presented by COVID-19, in order to enable firms to focus all their efforts on supporting their customers as best as they can during this difficult time.

[PSR Annual Plan and Budget for 2020/21](#)

[Webpage](#)

[Press release](#)

17. UK Finance

- 17.1 Contactless payments - UK Finance announces increase in payment limit - 1 April 2020** - UK Finance has announced that the increased spending limit for contactless card payments in the UK has come into effect, increasing from £30 to £45. The increase forms part of the financial services industry's response to the COVID-19 pandemic, following consultation between the retail sector and the finance and payments industry. UK Finance encourages retailers to update their payment systems to accept contactless payments up to the new higher limit of £45.

[Press release: UK Finance confirms increase in contactless payment limit to £45](#)

18. Recent Cases

- 18.1 Case C-66/19 JC v Kreissparkasse Saarlouis, 26 March 2020**

Exercise of a consumer's right of withdrawal - information to be included in a consumer credit agreement - information referring to a series of provisions of national law - interpretation of Article 10(2)(p) of the Consumer Credit Directive (2008/48/EC)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

The European Court of Justice (Sixth Chamber) (ECJ) has given a preliminary ruling on the correct interpretation of Article 10(2)(p) of the Consumer Credit Directive (2008/48/EC) (CCD) concerning the time limits for, and provision of information to be included in a credit agreement relating to, the exercise of a consumer's right of withdrawal. Article 10(2)(p) states that the credit agreement must clearly specify the existence of a right of withdrawal, the period during which the right may be exercised and any conditions governing the exercise of that right.

In 2012, a consumer entered into a credit agreement with Kreissparkasse Saarlouis (KS), a credit institution, which specified that the borrower had a period of 14 days to withdraw from the contract, starting from receipt of all mandatory information by the consumer, as stipulated in a separate provision of national law (which itself referred to further provisions of national law). In 2016, the consumer sought to withdraw from the agreement. KS considered that it had properly informed the consumer of his right to withdraw and that the period for doing so had already expired.

The ECJ held that Article 10(2)(p) of CCD must be interpreted as:

- meaning that the information to be specified, in a clear and concise manner, in a credit agreement in accordance with that provision includes information on how the period of withdrawal, provided for in the second subparagraph of Article 14(1) of CCD, is to be calculated. The effectiveness of the right to withdraw is otherwise seriously undermined; and
- precluding a credit agreement from referring, in the mandatory information required under Article 10 of the CCD, to a provision of national law which itself refers to other provisions of national law. The basis for this conclusion is that the consumer is not then in a position to determine the scope of his or her contractual obligations from the content of the agreement.

[Case C-66/19 JC v Kreissparkasse Saarlouis](#)

[Press release](#)

18.2 *Joined Cases C-84/19, C-222/19 and C-252/19 Profi Credit Polska SA v QJ; BW v DR; QL v CG*, Opinion of Advocate General Hogan, 2 April 2020

Assessment of unfairness of contractual terms - interpretation of the Unfair Contract Terms Directive (93/13/ECC) - interpretation of the Consumer Credit Directive (2008/48/EC)

Advocate General Hogan has delivered an Opinion in relation to requests for preliminary rulings on the interpretation of Article 1(2), 3(1) and 4(2) of the Unfair Contract Terms Directive (93/13/ECC) (UCTD) and Articles 3(1) and 22(1) of the CCD. The joined cases concerned three different consumer credit agreements where, in each case, the consumer has raised a plea of unfairness regarding certain terms of the contract as a defence to actions for debt and enforcement of loans bought by a credit institution.

[Joined Cases C-84/19, C-222/19 and C-252/19 Profi Credit Polska SA v QJ; BW v DR; QL v CG, Opinion of Advocate General Hogan](#)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

Securities and Markets

19. Council of the European Union

- 19.1 Taxonomy Regulation for sustainable investment - Council of the EU adopts position at first reading - 1 April 2020** - The Council of the European Union has formally adopted, at first reading, the text of proposed Regulation (EU) 2018/0178 (COD) (Taxonomy Regulation) on the establishment of a framework to facilitate sustainable investment and identify green activities. The Council of the EU and the European Parliament reached political agreement on the text of the proposed Taxonomy Regulation in February 2020.

The European Parliament is expected to formally adopt the text in plenary at second reading.

[Adopted text of the proposed Taxonomy Regulation \(EU\) 2018/0178\(COD\) on the establishment of a framework to facilitate sustainable investment and identify green activities](#)

20. Official Journal of the European Union

- 20.1 EMIR - Delegated Regulation on RTS on the mitigation of counterparty credit risk associated with covered bonds and securitisations published in Official Journal - 27 March 2020** - Commission Delegated Regulation (EU) 2020/447, of 16 December 2020, which contains regulatory technical standards (RTS) supplementing the European Market Infrastructure Regulation (648/2012/EU) (EMIR) on the criteria for establishing the arrangements to adequately mitigate counterparty credit risk associated with covered bonds and securitisations, has been published in the Official Journal of the European Union.

The Delegated Regulation will enter into force and apply from 16 April 2020.

[Official Journal: Delegated Regulation \(EU\) 2020/447 on supplementing RTS on the migration of counterparty credit risk associated with covered bonds and securitisations under EMIR](#)

- 20.2 EMIR - Delegated Regulation amending RTS on risk mitigation techniques for uncleared OTC derivatives published in the Official Journal - 27 March 2020** - Commission Delegated Regulation (EU) 2020/448, of 17 December 2019, which contains RTS supplementing EMIR on risk mitigation techniques for over-the-counter (OTC) derivative contracts in connection with certain simple, transparent and standardised securitisations for hedging purposes, has been published in the Official Journal of the European Union.

The Delegated Regulation will enter into force and apply from 16 April 2020.

[Official Journal: Delegated Regulation \(EU\) 2020/448 amending RTS on risk mitigation techniques for uncleared OTC derivatives under EMIR](#)

21. European Securities and Markets Authority

- 21.1 Transparency Directive - ESMA publishes statement on the application of forbearance measures for financial reporting deadlines - 27 March 2020** - The European Securities and Markets Authority (ESMA) has published a statement, in light of the impact of the COVID-19 pandemic, on the application of forbearance measures in respect of upcoming financial reporting deadlines for listed issuers under the Transparency Directive (2004/109/EC). The statement aims to promote coordinated action by national competent authorities (NCAs) in relation to the supervision of listed issuers' obligations.

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

ESMA states that, having regard to the challenges and difficulties encountered by issuers and auditors in carrying out timely audits, it expects NCAs not to prioritise supervisory action against issuers in respect of the following upcoming reporting deadlines:

- annual financial reports, for a period of two months following the Transparency Directive deadline (referring to a year-end occurring on or after 31 December 2019 but before 1 April 2020); and
- half-yearly financial reports, for a period of one month following the Transparency Directive deadline (referring to a reporting period ending on or after 31 December 2019 but before 1 April 2020).

ESMA also states that, where issuers anticipate a delay in their publication of financial reports, it expects: (i) issuers to inform their NCA and the market of the delay and the reasons for it, and, to the extent possible, the estimated publication date; and (ii) NCAs to apply a risk-based approach in the exercise of their day-to-day supervisory and enforcement powers in relation to financial reporting publication deadlines under the Transparency Directive.

[ESMA statement on the application of forbearance measures in respect of listed issuers' financial reporting deadlines under the Transparency Directive in light of COVID-19](#)

[Press release](#)

- 21.2 EMIR Refit - ESMA publishes consultation on post-trade risk reduction services - 26 March 2020 -** ESMA has published a Consultation Paper on whether trades which directly result from post-trade risk reduction services (PTRR), including portfolio compression, should be exempted from the clearing obligation under the EMIR Refit Regulation (EU) 2019/834.

ESMA seeks feedback on: (i) how the clearing obligation affects PTRR services; (ii) whether there should be an exemption to the clearing obligation for trades directly resulting from PTRR services; and (iii) the scope of such an exemption, including whether an exemption should be subject to conditions or restrictions.

The consultation period closes on 15 June 2020. ESMA intends to consider the feedback it receives in Q2 2020 and aims to publish a final report on the matter to the European Commission in mid-2020.

[ESMA Consultation Paper on post-trade risk reduction services and the clearing obligation under EMIR Refit](#)

[Press release](#)

- 21.3 EMIR/EMIR Refit - ESMA publishes consultation on technical standards on reporting, data quality, data access and the registration of trade repositories - 26 March 2020 -** ESMA has published a Consultation Paper containing draft RTS and implementing technical standards (ITS) on reporting requirements, the quality and provision of data accessible to trade repositories (TRs), and the registration of TRs under the EMIR Refit Regulation (EU) 2019/834.

The draft technical standards include: (i) draft RTS on the reports to be provided to TRs under EMIR; (ii) draft ITS on standards, formats, frequency and methods and arrangements for reporting to TRs under EMIR; (iii) draft ITS on registration and extension of registration of TRs under EMIR;

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

(iv) draft RTS on procedures for ensuring data quality; and (v) draft RTS on operational standards for the aggregation and comparison of data and terms and conditions for granting access to data. The consultation also seeks feedback on proposed amendments to Delegated Regulation 150/2013/EU to include in the RTS information on the application process for TR registration under EMIR.

The consultation period closes on 19 June 2020. ESMA intends to consider feedback received during Q3 2020 and submit the final draft technical standards to the European Commission for endorsement in Q4 2020.

[ESMA Consultation Paper on draft technical standards for reporting, the quality and provision of data and the registration of trade repositories under EMIR and EMIR Refit](#)

[Webpage](#)

[Press release](#)

- 21.4 MiFID II/MiFIR - ESMA confirms application date for equity transparency calculations - 27 March 2020** - ESMA has confirmed that the application date for transparency calculations for equity instruments, under the Markets in Financial Instruments Directive (2014/65/EU) (MiFID II) and the Markets in Financial Instruments Regulation (600/2014/EU) (MiFIR), will remain 1 April 2020.

ESMA states that, while some stakeholders had asked to postpone the application date in light of the COVID-19 pandemic, delaying the application of the new transparency results may create additional operational burdens and challenges for market participants who have already planned for them. ESMA also states that adapting to new transparency results for equity instruments is a process that market participants have performed several times in the past and should not require new IT releases.

[Press release: ESMA confirms application date for equity transparency calculations will remain unchanged](#)

- 21.5 Credit rating information and data - ESMA publishes call for evidence - 30 March 2020** - ESMA has published a call for evidence on the availability and use of credit rating information and data. The call for evidence aims to gather information on the specific uses of credit ratings as well as how the users of credit ratings are currently accessing this information.

Feedback to the call for evidence will enable ESMA to map the principal activities, regulatory and otherwise, undertaken by various types of users of credit ratings, including risk management, market research and regulatory reporting. ESMA aims to identify users' specific rating data needs (such as format, frequency, scope and ability to download) and how these needs correspond with the information currently provided. The call for evidence also aims to understand why users choose to subscribe to third party data service providers rather than rely on the information published free of charge.

The deadline for responses is 3 August 2020. Following the call for evidence, ESMA intends to publish a report considering, among other things, how to improve access to and use of credit ratings.

[ESMA call for evidence on the availability and use of credit rating information and data](#)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

[Press release](#)

- 21.6 EMIR 2.2 - ESMA publishes draft RTS on colleges for CCPs - 30 March 2020** - ESMA has published a final report containing draft RTS on central counterparty (CCP) colleges under Regulation (EU) 2019/2099 (EMIR 2.2). EMIR 2.2 amends EMIR in relation to the procedures and authorities involved in the authorisation of CCPs and requirements for the recognition of third-country CCPs.

The draft RTS covers practical arrangements for the functioning of colleges, including: (i) voting procedures; (ii) communication between college members; (iii) minimum timeframes for the assessment of documentation by college members; and (iv) procedures for reviewing and evaluating arrangements, strategies, processes and mechanisms implemented by CCPs and risks to which CCPs are exposed.

ESMA confirms that the draft RTS only concern competent authorities and do not impose any additional requirements on market participants. ESMA intends to submit the final draft RTS to the European Commission for endorsement.

[ESMA report containing draft RTS on colleges for CCPs under EMIR 2.2](#)

[Press release](#)

- 21.7 MMF Regulation - ESMA postpones deadline for Q1 reporting - 31 March 2020** - ESMA has announced that it is postponing the deadline for the submission of money market fund (MMF) managers' Q1 reports under the Money Market Funds Regulation (EU) 2017/1131 (MMF Regulation) until September 2020. MMF managers' Q1 reports were due to be submitted to national competent authorities (NCAs) by the end of April 2020. ESMA states that it will publish an amended version of the XML schema and reporting instructions and that MMF managers will be required to submit both Q1 and Q2 reports in September 2020.

[Press release: ESMA postpones deadline for MMF managers' Q1 reporting under the MMF Regulation](#)

- 21.8 Enforcement of fines and penalties - ESMA publishes final technical advice on regime for third-country CCPs, TRs and credit ratings agencies - 31 March 2020** - ESMA has published its final technical advice to the European Commission on procedural rules regarding the imposition of fines and penalties on CCPs and the alignment of fines and penalties for TRs and credit ratings agencies.

The technical advice contains advice on several specific areas, including: (i) rights and obligations in connection with the independent investigation officer (IIO) and his/her work; (ii) the procedure for imposing fines; (iv) the adoption of interim decisions; (v) the limitation periods for the imposition and enforcement of penalties; (vi) the collection of fines and penalties; and (vii) the relevant calculation periods.

[ESMA final technical advice on procedural rules regarding the imposition of fines and penalties on third-country CCPs, TRs and credit ratings agencies](#)

[Press release](#)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

- 21.9 Regulation on cross-border distribution of collective investment undertakings - ESMA publishes consultation on draft ITS - 31 March 2020** - ESMA has published a Consultation Paper on the development of draft ITS under Regulation (EU) 2019/1156 on the cross-border distribution of collective investment undertakings.

The draft ITS proposes to cover the standard forms, templates and procedures that national competent authorities (NCAs) should use to publish information on their websites to facilitate the cross-border distribution of funds. In particular, the standard information should cover:

- national laws, regulations and administrative provisions governing marketing requirements for alternative investment funds (AIFs) and undertakings for collective investment in transferable securities (UCITS); and
- regulatory fees and charges NCAs levy for carrying out their duties in relation to the cross-border activities of fund managers.

The consultation period closes on 30 June 2020. ESMA intends to consider the feedback received and aims to finalise the ITS for submission to the European Commission by 2 February 2021.

[ESMA Consultation Paper on draft ITS under Regulation \(EU\) 2019/1156 on the cross-border distribution of collective investment undertakings](#)

[Press release](#)

- 21.10 MiFID II - ESMA clarifies best execution obligations in light of COVID-19 - 31 March 2020** - ESMA has published a statement clarifying firms' and execution venues' obligations to publish best execution reports under RTS 27 and 28 of MiFID II, in light of the COVID-19 pandemic. ESMA states that:

- execution venues that are unable to publish RTS 27 reports by 31 March 2020 must publish their reports as soon as reasonably practicable afterwards and no later than 30 June 2020; and
- firms that are unable to publish RTS 28 reports by 30 April 2020, must publish their reports no later than 30 June 2020.

ESMA encourages national competent authorities (NCAs) not to prioritise supervisory action against firms and execution venues in respect of the March and April deadlines referred to above and to apply a risk-based approach in the exercise of their day-to-day supervisory and enforcement powers in relation to these deadlines.

[ESMA statement clarifying best execution obligations under MiFID II in light of COVID-19](#)

[Press release](#)

- 21.11 MiFID II - ESMA publishes technical advice on the impact of inducements, costs and charges disclosure requirements - 31 March 2020** - ESMA has published its final technical advice to the European Commission on the impact of inducements, costs and charges disclosure requirements under MiFID II. In the advice, ESMA encourages the Commission to conduct further analysis on the topic of inducements, which is key for the protection of investors, and proposes some changes to the regime mainly aimed at improving the clients' understanding of inducements.

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

ESMA finds that the MiFID II costs and charges disclosure regime generally works well, helping investors to make informed investment decisions, and recommends that the existing regime should largely be kept in place. Proposed amendments include scaling back some disclosure obligations in the case of eligible counterparties and professional investors. The technical advice also covers trading by telephone, the provision of information to clients in a durable medium and the possibility of creating new categories of clients.

[ESMA final technical advice on the impact of inducements, costs and charges disclosure requirements under MiFID II](#)

[Press release](#)

- 21.12 MiFID II - ESMA publishes review report on the impact of position limits and position management on commodity derivatives markets - 1 April 2020** - ESMA has published a review report on the impact of position limits and position management on commodity derivatives markets, following over two years of MiFID II. This follows ESMA's consultation on the matter, published in November 2019.

The report summarises the MiFID II position limit regime and assesses the impact of the application of position limits on market abuse, orderly pricing, settlement conditions and the liquidity of commodity derivatives markets. ESMA also assesses the impact of position management controls on commodity derivatives markets. ESMA proposes certain amendments to improve the efficiency of the position limit regime, including: (i) refocusing the position limit regime on the most important commodity derivatives contracts; and (ii) improving convergent implementation of position management controls by trading venues through Level 2 measures.

ESMA has also published its final technical advice to the European Commission on the weekly aggregated information to be published by trading venues on open positions per category of stakeholders. This contains feedback ESMA received on its proposals to introduce a new threshold for the size of open positions triggering the publication of weekly position reports, which it consulted on in November 2019.

[ESMA review report on the impact of position limits and position management on commodity derivatives markets under MiFID II](#)

[ESMA final technical advice on weekly position reports under MiFID II](#)

[Press release](#)

22. Financial Conduct Authority

- 22.1 COVID-19 - FCA publishes update on implementation of lowered notification thresholds for net short positions - 31 March 2020** - The FCA has updated its webpage on its recent statement on short selling reporting under the Short Selling Regulation (236/2012/EU) to confirm that the required changes to its systems have been made in order to implement the lowered notification threshold for persons holding net short positions in shares traded on EU regulated markets to 0.1% of the issued share capital.

The FCA confirms that it will be ready to receive notifications at the lower threshold from Monday 6 April 2020 and reiterates that firms are not required to amend and resubmit notifications submitted to the FCA between 16 March 2020 and 3 April 2020.

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

[FCA webpage on short selling reporting](#)

See the **Asset Management** section for an item on the FCA's approach to firms' and venues' best execution obligation under the Markets in Financial Instruments Directive (2014/65/EU) (MiFID II) in light of COVID-19.

Asset Management

23. European Securities and Markets Authority

23.1 AIFMD - ESMA publishes consultation on Guidelines to address leverage risk - 27 March 2020 -

The European Securities and Markets Authority (ESMA) has published a Consultation Paper on Guidelines to address leverage risk in accordance with Article 25 of the Alternative Investment Fund Managers Directive (2011/61/EU) (AIFMD). Article 25 provides for national competent authorities (NCAs) to identify the extent to which the use of leverage risk in the alternative investment fund (AIF) sector contributes to the build-up of systemic risk in the financial system. This follows a letter, published by the European Systemic Risk Board (ERSB) in February 2020, which, among other things, recommended that ESMA provide guidance on this point.

The Guidelines cover: (i) how the leverage-related systemic risk assessment should be conducted; and (ii) when the leverage limits might be imposed.

The consultation period closes on 1 September 2020.

[ESMA Consultation Paper on Guidelines to address leverage risk under AIFMD](#)

[Webpage](#)

[Press release](#)

24. Financial Conduct Authority

24.1 COVID-19 - FCA publishes 'Dear CEO' letter to firms providing retail investor services - 31 March 2020 -

The FCA has published a 'Dear CEO' letter from Christopher Woolard (Interim Chief Executive of the FCA) to all UK firms providing services to retail investors, setting out its approach to several issues in relation to the impact and disruption caused by the COVID-19 pandemic.

For firms providing portfolio management services or holding client accounts that include leveraged investments, the FCA confirms that it has no intention of taking enforcement action in respect of firms' failure to notify investors where the value of their portfolio or leveraged position depreciates by 10%, provided that firms: (i) issue at least one notification to retail clients within the current reporting period; and (ii) subsequently provide general updates through its public channels indicating how clients can check their portfolio value; or (iii) choose to cease providing 10% depreciation reports for any professional clients. The FCA states that it will adopt this approach until at least 1 October 2020.

Among other things, the letter also states that:

- firms should continue to comply with their obligations to verify client identification under the Money Laundering etc Regulations 2017 (MLRs). The letter provides guidance on how

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

firms can carry out client identity verification remotely and the additional safeguards firms should take; and

- the FCA expects firms and execution venues to continue to meet their best execution obligations under the Markets in Financial Instruments Directive (2014/65/EU) (MiFID II) but does not intend to take enforcement action where firms or venues do not publish Article 65(6), RTS 27 or RTS 28 best execution reports by 1 April 2020, provided these are published by 30 June 2020.

Finally, the letter also clarifies that while firms can use government schemes to meet debts as they fall due and remain solvent in response to the economic impact of the COVID-19 pandemic, government loans cannot be used to meet capital adequacy requirements.

[FCA 'Dear CEO' letter to firms providing retail investor services in light of COVID-19](#)

See the **Securities and Markets** section for an item on the Council of the European Union formally adopting the text of the proposed Taxonomy Regulation on the establishment of a framework to facilitate sustainable investment.

Insurance

25. International Association of Insurance Supervisors

25.1 COVID-19 - IAIS announces actions to mitigate impact on the insurance sector - 27 March 2020 -

The International Association of Insurance Supervisors (IAIS) has announced a series of measures which aim to mitigate the impact of the COVID-19 pandemic on the global insurance sector. In order to provide operational relief to IAIS member supervisors, insurers and other stakeholders during this time, the IAIS has agreed to:

- undertake a targeted assessment of the impact of COVID-19 on the global insurance sector by utilising its framework on forward-looking risk assessment;
- review the 2020 timelines for the implementation of the Holistic Framework for the mitigation of systemic risk in the global insurance sector, in consultation with the Financial Stability Board (FSB);
- review and adjust the 2020 timelines in relation to data collection for Insurance Capital Standard (ICS) confidential reporting and the Aggregation Method (AM). The IAIS states that the submission deadline will be extended to 31 October 2020 to provide operational relief to participating insurers and confirms that submissions should be on a best efforts basis; and
- postpone the development of supporting materials and public consultations by at least six months, including its planned July 2020 consultation on the development of criteria by which to assess whether the AM provides comparable outcomes to the ICS.

[Press release: IAIS announces actions to mitigate the impact of COVID-19 on the global insurance sector](#)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

26. European Insurance and Occupational Pensions Authority

- 26.1 COVID-19 - EIOPA publishes statement on actions to mitigate impact on consumers - 1 April 2020** - The European Insurance and Occupational Pensions Authority (EIOPA) has published a statement urging insurers and intermediaries to continue to take actions to mitigate the impact of the COVID-19 pandemic on consumers. EIOPA states that it is critical that insurers and intermediaries focus on ensuring business continuity and the fair treatment of customers.

In particular, EIOPA expects all market participants to continue to act in the best interests of consumers by: (i) providing clear and timely information to consumers on contractual rights; (ii) continuing to apply product oversight and governance requirements, taking into account the impact of the COVID-19 outbreak, and carrying out a product reviews where necessary; and (iii) considering the interests of consumers and being flexible in how they are treated where reasonable and practicable.

EIOPA acknowledges that in the case of a widespread pandemic it may be difficult for insurers to achieve the pooling of risks necessary for insurance, and this imposes restrictions on what the sector can offer. As a general principle, EIOPA states that imposing retroactive coverage of claims not envisaged within contracts could create material solvency risks, threaten policyholder protection and market stability, and aggravate the financial and economic impacts of the COVID-19 pandemic.

[EIOPA statement urging insurers and intermediaries to take actions to mitigate the impact of COVID-19 on consumers](#)

[Press release](#)

27. Prudential Regulation Authority

- 27.1 Solvency II EVT - PRA publishes review of parameters - March 2020** - The PRA has published its review of the deferment rate parameter for its Solvency II Directive (2009/138/EC) effective value test (EVT), which helps the PRA determine whether firms appear to be taking inappropriately large matching adjustment benefit from restructured equity release mortgages (ERMs) held within matching adjustment portfolios.

The statement confirms that the PRA will retain the minimum deferment rate used in the EVT at 0.5% per annum. However, the PRA confirms that: (i) firms that have elected to use a minimum deferment rate of 0% to conduct the EVT prior to 31 December 2021 may continue to do so; and (ii) all firms should use the volatility parameter at 13% per annum, regardless of the minimum deferment rate they are using. The volatility parameter has not been reviewed and therefore remains unchanged.

The reviewed deferment rate parameter applies from 31 March 2020.

[PRA statement on its review of Solvency II EVT parameters](#)

- 27.2 Distribution of profits - PRA publishes 'Dear CEO' letter in light of COVID-19 - 31 March 2020** - The PRA has published a 'Dear CEO' letter from Sam Woods (Deputy Governor and CEO of the PRA) to all UK insurers on the distribution of profits in light of the COVID-19 pandemic. The letter states that, when considering any distributions to shareholders or decisions on variable remuneration, insurers should pay close attention to the need to manage their financial resources prudently to

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

ensure that they can continue to protect policyholders and provide long-term investment in the UK economy despite the economic disruption arising from COVID-19.

[PRA 'Dear CEO' letter to UK insurers on distribution of profits in light of COVID-19](#)

- 27.3 PRA Policy Statement PS9/20 - Solvency II: Income producing real estate loans and internal credit assessments for illiquid unrated assets - April 2020** - The PRA has published a Policy Statement (PS9/20) outlining its expectations of firms in respect of their modelling of income producing real estate (IPRE) loans and use of internal credit assessments for assigning fundamental spreads for illiquid, unrated assets under the Solvency II Directive. It also contains the PRA's final Supervisory Statement 3/17, 'Solvency II: Illiquid unrated assets'.

Following consultation on these issues in September 2019 in CP 23/19, the PRA has decided to maintain the expectations it consulted on, save for some minor amendments clarifying its expectations, which are set out in Chapter 2. The PRA considers that the changes make the final policy clearer and do not result in any additional requirements on firms. The expectations set out in SS 3/17 came into force on 2 April 2020.

[PRA Policy Statement PS9/20 - Solvency II: Income producing real estate loans and internal credit assessments for illiquid unrated assets](#)

[Updated Supervisory Statement SS3/17 'Solvency II: Illiquid unrated assets'](#)

[Webpage](#)

28. Financial Conduct Authority

- 28.1 COVID-19 - FCA updates webpage on its expectations of general insurance firms - 31 March 2020** - The FCA has updated its webpage on its expectations for general insurance firms in response to the COVID-19 outbreak to provide additional guidance on firms' compliance with key requirements under the Insurance Conduct of Business sourcebook (ICOBS).

The FCA has updated its information on renewals to explain that firms may experience challenges in contacting customers during the COVID-19 pandemic and that the FCA recognises that this may make it harder for firms to meet key requirements in ICOBS, such as assessing customers' demands and needs at renewal. Firms are expected to continue to meet these requirements, including the obligation to act honestly, fairly and professionally in accordance with the best interests of the customer.

The FCA has not prescribed how firms should meet these requirements but suggests that it may be reasonable for firms to: (i) rely on existing information they already hold, if this information is recent and still expected to be accurate and there have not been significant changes to the product; and (ii) decide that providing continuity of cover meets a customer's best interests where there is no evidence to show the insurance contract is inconsistent with the customer's demands and needs.

[Updated FCA webpage on its expectations of general insurance firms in response to COVID-19](#)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

Financial Crime

29. Financial Action Task Force

- 29.1 COVID-19 - FATF publishes statement on measures to combat illicit financing - 1 April 2020 -**
The Financial Action Task Force (FATF) has published a statement setting out measures to combat money laundering (ML) and terrorist financing (TF) in light of the operational challenges posed by COVID-19. Of particular interest, the FATF encourages financial institutions and other businesses to make full use of responsible digital customer onboarding, simplified due diligence measures and the delivery of digital financial services in light of social distancing measures. It also states that national authorities and financial institutions should apply a risk-based approach to ensure that legitimate non-profit and charitable activity is not unnecessarily delayed, disrupted or discouraged to enable aid to reach recipients in a timely and transparent manner.

[FATF statement on measures to combat illicit financing in response to COVID-19](#)

[Selected Headlines](#)[General](#)[Brexit](#)[Banking and Finance](#)[Securities and Markets](#)[Asset Management](#)[Insurance](#)[Financial Crime](#)

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](#).

The Group's recent work includes advising:

- A number of global banks, insurance and asset management groups on their preparations for Brexit;
- A number of banking groups in relation to banking structural reform, including the UK ring-fencing regime;
- Prudential plc on the proposed demerger of its UK & Europe business (M&G Prudential) from Prudential plc, resulting in two separately-listed companies;
- Standard Life plc on the recommended all-share merger with Aberdeen Asset Management and the subsequent sale by Standard Life Aberdeen plc of its capital-intensive insurance business to Phoenix;
- UK Asset Resolution and Bradford & Bingley plc in relation to the disposal of legacy buy-to-let mortgage assets to Prudential plc and funds managed by Blackstone for a total consideration of £11.8bn;
- On the legal implications of developments across a broad Fintech waterfront for clients such as Euroclear, TreasurySpring, Bupa, TrueLayer, WorldRemit and Stripe, as well as other established businesses, challengers and start-ups; and
- A number of multi-national clients in relation to the UK, EU, and US economic and trade sanctions regimes.

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
Ben Kingsley ben.kingsley@slaughterandmay.com
Nick Bonsall nick.bonsall@slaughterandmay.com

© Slaughter and May 2019

This material is for general information only and is not intended to provide legal advice.
For further information, please speak to your usual Slaughter and May contact.