

FINANCIAL REGULATION WEEKLY BULLETIN

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

QUICK LINKS

[Selected Headlines](#)

[General](#)

[Banking and Finance](#)

[Securities and Markets](#)

[Insurance](#)

[Financial Crime](#)

[Enforcement](#)

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

Rule Review Framework - final version published by FCA **2.1**

Banking and Finance

Enhancing the Special Resolution Regime - HM Treasury launches consultation **5.1**

Resourcing of approvals of IRB approaches and impact of countercyclical capital buffer - PRA responds **6.1**

Securities and Markets

CCP Special Resolution Regime - HM Treasury publishes Code of Practice **9.1**

Insurance

Supervision of insurers - PRA sets out 2024 priorities in Dear CEO letter **10.1**

Enforcement

Conduct rule breaches - PRA publishes final notice and imposes financial penalty with respect to former bank CEO **12.1**

Motor finance - FCA announces new work and publishes Policy Statement (PS24/1) introducing temporary changes **13.1**

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

GENERAL //

1 EUROPEAN SUPERVISORY AUTHORITIES

- 1.1 **European single access point - ESAs launch consultation - 8 January 2024** - The European Supervisory Authorities (comprising the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) (ESAs) have published a Consultation Paper (JC 2023 78) on draft implementing technical standards regarding aspects of the European single access point (ESAP) under Regulation (EU) 2023/2859 (the ESAP Regulation). The ESAP is intended to provide centralised EU-wide access to publicly available information of relevance on financial services, capital markets and sustainability.

The consultation is open until 8 March 2024.

[ESAs Consultation Paper: Draft ITS specifying certain tasks of collection bodies and certain functionalities of the European single access point under Regulation \(EU\) 2023/2859 \(JC 2023 78\)](#)

[Press release](#)

2 FINANCIAL CONDUCT AUTHORITY

- 2.1 **Rule Review Framework - final version published by FCA - 10 January 2024** - The FCA has published its Rule Review Framework (the Framework) setting out how it intends to monitor and review new and existing rules. This final version follows a public consultation on the Framework, launched in July 2023, as reported previously in this bulletin. Publication of the Framework reflects a requirement under the Financial Services and Markets Act 2023.

The Framework explains how the FCA sets, measures and monitors the outcomes of its rules. It also explains how the FCA gathers metrics and qualitative intelligence to understand where there are significant concerns about a rule and how the FCA will conduct a review, if required. Feedback plays an important role throughout the Framework and it is acknowledged that this may come from regulated firms and individuals, consumers, trade associations or other representative bodies. The FCA has developed a dedicated feedback tool to allow anyone to share evidence on the effectiveness of its rules.

[FCA: Our Rule Review Framework](#)

[Annex: Our approach to impact evaluations](#)

[Summary of feedback](#)

[Comparison of types of rule review](#)

Selected Headlines

[General](#)[Insurance](#)[Banking and Finance](#)[Financial Crime](#)[Securities and Markets](#)[Enforcement](#)

BANKING AND FINANCE //

3 EUROPEAN BANKING AUTHORITY

3.1 Supervisory colleges under CRD IV - EBA publishes draft RTS and ITS - 9 January 2024 -

The European Banking Authority (EBA) has published a final report on regulatory technical standards (RTS) and implementing technical standards (ITS) regarding supervisory colleges under the Capital Requirements Directive (2013/36/EU) (CRD IV). Among other things, the new RTS and ITS reflect amendments made to CRD IV and the Capital Requirements Regulation (575/2013) (CRR) by the CRD V Directive (EU) 2019/878) and the CRR II Regulation (EU) 2019/876). These include the expansion of the framework for supervisory colleges to cover certain financial holding companies and third-country groups with two or more EU institutions.

The EBA will submit the final draft RTS and ITS to the Commission for adoption.

[Final Report on RTS and ITS on supervisory colleges \(EBA/RTS/2024/01 / EBA/ITS/2024/01\)](#)

[Press release](#)

3.2 FRTB reporting - EBA publishes draft ITS - 11 January 2024 -

The EBA has published a final report on implementing technical standards (ITS) amending the ITS on specific reporting requirements on market risks set out in the Commission Implementing Regulation (EU) 2021/453 as part of its Fundamental Review of the Trading Book (FRTB). The changes include a comprehensive set of templates for reporting.

The EBA will submit the final draft ITS to the Commission for adoption. The revised reporting requirements under the ITS are generally expected to apply from 31 March 2025.

[Final Report on Draft ITS on reporting requirements for market risk \(EBA/ITS/2024/02\)](#)

[Press release](#)

4 EUROPEAN CENTRAL BANK

4.1 Financial conglomerates - ECB publishes final guide on significant risk concentrations and intragroup transactions - 10 January 2024 -

The European Central Bank (ECB) has published a guide on the reporting of significant risk concentrations and intra-group transactions under the Financial Conglomerates Directive (2002/87/EC). This follows a consultation on a draft version of the guide, launched in August 2023. Among other things, the guide is intended to help financial conglomerates to set up relevant internal processes for reporting using the templates provided in Commission Implementing Regulation (EU) 2022/2454. It also explains the ECB's expectations on the types of transactions to be reported as well as applicable thresholds.

[ECB: Guide on Financial Conglomerate Reporting of Significant Risk Concentrations and Intragroup Transactions](#)

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

[ECB feedback statement: Responses to the public consultation on the draft Guide on Financial Conglomerate Reporting of Significant Risk Concentrations and Intragroup Transactions](#)

[Webpage](#)

5 HM TREASURY

- 5.1 **Enhancing the Special Resolution Regime - HM Treasury launches consultation - 11 January 2024** - HM Treasury has published a Consultation Paper on proposals to enhance the UK's Special Resolution Regime. It explains that the government has recognised that the use of current powers to transfer a failing small bank to a bridge bank or to a willing buyer, rather than placing it into insolvency, can pose risks to taxpayers because of the potential need for the bank to be recapitalised.

The government therefore proposes a new mechanism for the Bank of England (the Bank) to employ alongside its existing resolution powers whereby it may use funds provided by the banking sector for certain costs that arise during resolution. The costs, which the Bank would estimate before placing a bank into resolution, are the costs of recapitalising the failed bank, the operating costs of a bridge bank, as well as costs incurred by HM Treasury and the Bank (including legal and other professional expenses and costs of valuation).

The funding for the new mechanism would be provided by the Financial Services Compensation Scheme (FSCS), by requiring the FSCS to make funding available at the Bank's direction. The government's preferred approach is for the FSCS to resource this funding through an ex-post levy on the banking sector. Legislation would be needed to expand the FSCS's statutory functions and its levy-raising powers. The government expects that the new mechanism would be used primarily to resolve small banks.

The consultation closes on 7 March 2024. The Bank has published a separate statement welcoming the consultation.

[HM Treasury Consultation: Enhancing the Special Resolution Regime](#)

[Webpage](#)

[Bank of England statement](#)

6 PRUDENTIAL REGULATION AUTHORITY

- 6.1 **Resourcing of approvals of IRB approaches and impact of countercyclical capital buffer - PRA responds - 10 January 2024** - The House of Commons Treasury Committee has published a letter (dated 8 January 2024) from Sam Woods, the Bank of England's Deputy Governor for Prudential Regulation and CEO of the PRA. The letter responds to queries from the Committee on the PRA's approval of firms' internal ratings based (IRB) approaches and the impact of the increase in the countercyclical capital buffer (CCyB) on banks' net lending.

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

In the letter, Mr Woods acknowledges that there have been difficulties in the PRA's approval of firms' IRB approaches for the calculation of risk-weighted exposure amounts for credit risk. According to the letter, these difficulties have arisen due to firms seeking IRB permissions for the first time using the PRA's modular approach. The letter also notes that applications from firms seeking to update or change existing IRB permissions typically require two or more submissions and are taking longer than expected to process. The PRA intends to increase its capacity in 2024 and anticipates that pressure on its resources will abate once existing IRB firms have completed their transition to hybrid models.

Separately, Mr Woods notes in the letter that the low levels of lending are primarily due to reduced demand for credit and that the increase in the CCyB has not had a material effect on banks' net lending.

[PRA letter to Treasury Committee](#)

- 6.2 Supervision of UK deposit-takers - PRA sets out priorities for 2024 in Dear CEO letter - 11 January 2024** - The PRA has published a Dear CEO letter sent to UK deposit-takers explaining its 2024 supervisory priorities for the sector. Among other things, the PRA intends to focus on credit risk management practices. Counterparty credit risk is expected to be a key area of supervisory focus during 2024 (as is also noted in the Dear CEO letter to international banks referred to below at [6.3](#)).

The letter refers to the delivery of firms' operational resilience programmes in line with the expectations set out in Supervisory Statement SS1/21. Before the model risk management (MRM) principles for banks come into force, the PRA expects firms within scope to conduct an initial self-assessment of their MRM frameworks and, where relevant, prepare remediation plans to address any shortcomings.

The PRA expects firms to further progress and demonstrate the development and integration of processes to identify, measure, manage and mitigate climate-related financial risks this year. Work to update SS3/19 is expected to commence shortly.

[Dear CEO letter to UK deposit-takers](#)

- 6.3 Supervision of international banks - PRA sets out 2024 priorities in Dear CEO letter - 11 January 2024** - The PRA has published a Dear CEO letter sent to international banks that are active in the UK on its 2024 supervisory priorities. Counterparty credit risk and secured financing risks will remain key priorities, with a particular focus on exposures to non-bank financial institutions. The PRA will look for further improvements in firms' ability to identify and assess correlations across financing activities with multiple clients.

The PRA will continue to focus on financial resilience. Also, it expects firms to continue to make progress on the development and integration of processes to identify, measure, manage and mitigate climate-related financial risks, including consideration of trading book exposures.

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

As is also noted in the Dear CEO letter to UK deposit-takers and to insurers, the PRA refers to the March 2025 deadline for firms to meet the operational resilience requirements set out in Supervisory Statement SS1/21. The PRA also expects firms to consider its previous feedback relating to deficiencies in controls over data, governance, systems and production controls related to regulatory reporting, and to take necessary remedial action.

[Dear CEO letter to international banks](#)**7 PAYMENT SYSTEMS REGULATOR**

- 7.1 Supply of card-acquiring services - PSR consults on changes to specific directions - 11 January 2024** - The Payment Systems Regulator (PSR) has published Consultation Paper (CP24/1) on proposed revisions to Specific Directions 14, 15 and 16 relating to the supply of card-acquiring services. The changes would update the list of directed legal entities and amend the PSR's method for updating changes in the future. The PSR notes that several directed providers have notified it of changes to the legal entities that supply services to UK customers.

The consultation is open until 9 February 2024.

[PSR Consultation Paper: Card-acquiring market remedies: change to list of directed legal entities: Consultation on proposed revisions to Specific Directions 14, 15 and 16 \(CP24/1\)](#)

[Webpage](#)

SECURITIES AND MARKETS //**8 EUROPEAN SECURITIES AND MARKETS AUTHORITY**

- 8.1 Post-trade transparency under MiFID II and MiFIR - ESMA updates manual - 8 January 2024** - The European Securities and Markets Authority (ESMA) has published an update to its manual on post-trade transparency under the MiFID II Directive (2014/65/EU) (MiFID II) and the Markets in Financial Instruments Regulation (EU) 600/2014 (MiFIR). The manual was originally published in July 2023, as previously reported in this bulletin.

ESMA has updated the manual to correct to the section on the type of transactions subject to post-trade transparency and to include guidance on non-equity transparency calculations.

[ESMA manual on post-trade transparency](#)

[Webpage](#)

- 8.2 MiFIR waivers from pre-trade transparency - ESMA updates opinion - 8 January 2024** - ESMA has updated an opinion (ESMA70-155-6641) providing guidance on pre-trade transparency waivers for equity and non-equity instruments under MiFIR. The opinion was last updated in

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

December 2020, as previously reported in this bulletin. The update provides guidance on several recurring issues identified in assessing the compliance of notified waivers.

[Updated opinion on the assessment of pre-trade transparency waivers for equity and non-equity instruments \(ESMA70-155-6641\)](#)

Webpage

- 8.3 MiFID II - ESMA announces common supervisory action on pre-trade controls - 11 January 2024** - ESMA has announced it will be launching a common supervisory action (CSA) with national competent authorities to assess the implementation of pre-trade controls (PTCs) by EU investment firms using algorithmic trading techniques. The CSA will address, among other things, the establishment of credit and risk limits and their interaction with PTCs.

ESMA intends to conduct the CSA in 2024.

Press release**9 HM TREASURY**

- 9.1 CCP Special Resolution Regime - HM Treasury publishes Code of Practice - 10 January 2024** - HM Treasury has published a Code of Practice regarding the special resolution regime for central counterparties (CCPs) under Schedule 11 of the Financial Services and Markets Act 2023 (FSMA 2023), which entered into force on 31 December 2023.

The Code clarifies how the Bank of England seeks to achieve the special resolution objectives under the regime and how the stabilisation powers may be used. It considers the choice between different stabilisation options, how the Bank determines whether the conditions for resolutions have been met, the management and control of bridge CCPs and other supplementary powers available to the Bank.

HM Treasury has also separately launched a consultation on the broader special resolution regime (see item 5.1).

[FSMA 2023: CCPs Special Resolution Regime Code of Practice](#)

INSURANCE //

10 PRUDENTIAL REGULATION AUTHORITY

- 10.1 Supervision of insurers - PRA sets out 2024 priorities in Dear CEO letter - 11 January 2024** - The PRA has published a Dear CEO letter on its supervisory priorities and areas of focus for 2024 for UK life and general insurers. In the life insurance sector, the PRA will focus on risk management, funded reinsurance and stress testing (noting that the next life insurance stress test will be in 2025). The PRA's priorities for the general insurance sector will include cyber underwriting risk, claims inflation, model drift and the general insurance stress test.

Selected Headlines

[General](#)[Insurance](#)[Banking and Finance](#)[Financial Crime](#)[Securities and Markets](#)[Enforcement](#)

More generally, the PRA will continue to focus on firms' credit risk management capabilities. The letter reminds insurers that they have just over a year left to meet the operational resilience requirements set out in Supervisory Statement SS1/21. The PRA intends to consult shortly on requirements for insurers to prepare plans for an orderly solvent exit as part of their business-as-usual activities. Policy Statements relating to the Solvency II review will also be published during 2024, to ensure that the changes to the Solvency II framework for the UK insurance market can be completed by the end of the year.

[Dear CEO letter for insurers](#)

FINANCIAL CRIME //

11 HM GOVERNMENT

11.1 Money laundering reporting in relation to DAML exemptions - Home Office publishes guidance - 10 January 2024 - The Home Office has published guidance on money laundering reporting requirements under the Proceeds of Crime Act 2002 (POCA) and provisions introduced by the Economic Crime and Corporate Transparency Act 2023 (ECCTA).

The guidance notes that a person can avoid committing an offence under sections 327 to 329 of POCA by submitting an authorised disclosure (a Defence Against Money Laundering (DAML) SAR) to the National Crime Agency and receiving consent to proceed. The threshold amount is the value of criminal property below which a bank or other financial entity can carry out a transaction without submitting a DAML in operating an account for a customer. As specified in the guidance, the threshold amount increased on 5 January 2023 from £250 to £1,000 for acts in operation of an account maintained with a bank or similar firm. This does not apply to other actions such as returning funds when terminating a relationship with a customer.

The guidance also refers to further DAML exemptions from the principal money laundering offences introduced by ECCTA 2023 as well as a reporting exemption under section 330 of POCA which creates a defence against the offence of failure to report, where the information only came to reporters as a result of a "status check" or "immigration check" carried out in compliance with the Immigration Act 2014.

[Guidance on money laundering reporting obligations in relation to the DAML exemption provisions introduced by the Economic Crime and Corporate Transparency Act 2023](#)

[Webpage](#)

Selected Headlines

[General](#)[Insurance](#)[Banking and Finance](#)[Financial Crime](#)[Securities and Markets](#)[Enforcement](#)

ENFORCEMENT //

12 PRUDENTIAL REGULATION AUTHORITY

- 12.1 Conduct rule breaches - PRA publishes final notice and imposes financial penalty with respect to former bank CEO - 11 January 2024** - The PRA has published a final notice (dated 10 January 2024) issued to Iain Mark Hunter, former chief executive (CEO) of Wyelands Bank plc (the Bank), fining him £118,808 for breaching three PRA conduct rules. The PRA considers that, between 7 March 2016 and 28 May 2020, Mr Hunter breached Individual Conduct Rule 2 (to act with due skill, care and diligence), Senior Manager Conduct Rule 1 (to take reasonable steps to ensure that the business of the firm for which the individual is responsible is controlled effectively) and Senior Manager Conduct Rule 2 (to take reasonable steps to ensure that the business of the firm for which the individual is responsible complies with the relevant requirements of the regulatory system).

According to the final notice, Mr Hunter failed to take reasonable steps to ensure, among other things, that the Bank had adequate systems and controls to identify, assess and manage connected parties' risks in relation to large exposures. Mr Hunter also failed to comply with the Bank's internal policy to mitigate certain potential conflicts of interest and failed to take appropriate steps to verify the accuracy of statements he made about the Bank in two letters he wrote to the PRA. In addition to being CEO and holding SMF1, Mr Hunter was the Bank's SMF4 (chief risk officer) and SMF2 (chief financial officer) for part of the relevant period.

As part of the settlement, Mr Hunter has undertaken not to apply for or perform any function relating to any regulated activity.

[PRA Final Notice: Iain Mark Hunter](#)

[Press release](#)

13 FINANCIAL CONDUCT AUTHORITY

- 13.1 Motor finance - FCA announces new work and publishes Policy Statement (PS24/1) introducing temporary changes - 11 January 2024** - The FCA has published a statement announcing that it is undertaking work in the motor finance market. As part of this, it has published a Policy Statement (PS24/1) setting out temporary changes to the rules for handling motor finance complaints.

In 2021, the FCA banned discretionary commission arrangements (DCAs) which removed the incentive for brokers to increase the interest rate that a customer pays for their motor finance. The FCA explains that there have been a high number of complaints from customers to motor finance firms claiming compensation for DCAs before the ban. It has found that firms are rejecting most complaints because they consider that they have neither acted unfairly nor caused their customers loss based on the applicable legal and regulatory requirements.

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

The Financial Ombudsman Service (FOS) has considered some complaints rejected by firms and recently found in favour of complainants in two decisions relating to Black Horse Ltd and Clydesdale Financial Services Ltd. Claims have also been brought in the County Courts, some of which have been upheld. In light of this, the FCA is using its powers under section 166 of the Financial Services and Markets Act 2000 to review historical motor finance commission arrangements and sales across several firms. In the meantime, as set out in PS24/1, it is introducing a pause (with immediate effect and without consultation) on the eight-week deadline for motor finance firms to provide a final response to relevant customer complaints. The pause will apply to complaints about motor finance agreements where there was a DCA between the lender and the broker and will last for 37 weeks.

Consumers will have up to 15 months to refer their complaint to the FOS. This applies to complaints where the firm had sent a final response in the period beginning 12 July 2023 and ending 10 January 2024, or where the firm sends a final response between 11 January 2024 and 20 November 2024.

Feedback on the impact of the rules and the FCA's approach to the provision of redress for harm caused by DCAs more generally can be sent up to, and including, 11 March 2024. The FCA plans to set out its next steps on this issue in the third quarter of 2024, and by 24 September 2024 at the latest (including whether it plans to extend the pause or make other changes).

[FCA Policy Statement: Temporary changes to handling rules for motor finance complaints \(PS24/1\)](#)

[FCA Webpage](#)

[FCA press release](#)

[FOS Decision: Black Horse Limited \(DRN-4188284\)](#)

[FOS Decision: Clydesdale Financial Services Limited \(DRN-4326581\)](#)

[FOS Webpage](#)

[FOS Press release](#)

Selected Headlines

[General](#)[Banking and Finance](#)[Securities and Markets](#)[Insurance](#)[Financial Crime](#)[Enforcement](#)

This Bulletin is prepared by the Financial Regulation Group of Slaughter and May in London. The Group comprises a team of lawyers with expertise and experience across all sectors in which financial institutions operate.

We advise on regulatory issues affecting firms across the financial services sector, including banks, investment firms, insurers and reinsurers, brokers, asset managers and funds, non-bank lenders, payment service providers, e-money issuers, exchanges and clearing systems. We also advise non-regulated businesses involved in financial regulatory matters. In addition, our leading financial regulatory investigations practice is regularly instructed by financial institutions requiring specialist knowledge of financial services regulation together with experience in high profile and complex investigations and contentious regulatory matters.

Most of the projects that we advise on have an extensive international or cross-border element. We work in seamless integrated teams with leading independent law firms which offer many of the most highly regarded financial institutions lawyers in Europe, the US and Asia, as well as strong and constructive relationships with local regulators.

Our Financial Regulation Group also produces occasional briefing papers and other client publications. The five most recent issues of this Bulletin and our most recent briefing papers and client publications appear on the Slaughter and May website [here](#).

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

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

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

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

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

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

Published to provide general information and not as legal advice. © Slaughter and May, 2024.
For further information, please speak to your usual Slaughter and May contact.

www.slaughterandmay.com