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# Insurance Regulatory eBulletin

Round up of regulatory developments in September 2024

**IBDO**

# WELCOME TO OUR INSURANCE REGULATORY EBULLETIN

Welcome to this September 2024 edition of our Insurance Regulatory eBulletin. This aims to keep you updated with significant regulatory developments, during the month, and their implications across the insurance sector.

Following from the issue of annual reports by the PRA, detailed in the August edition, the FCA has issued its Annual Report & Accounts together with a series of annual reports in relation to specific aspects of its operation. There has also been helpful feedback from the FCA regarding observations in respect of principals' oversight of appointed representatives and fair value assessments.

In relation to corporate governance we have included details of the FRC's Annual Review of Corporate Reporting together with a details of the findings from its thematic reviews into offsetting in the financial statements and IFRS 17 insurance contracts. We have also included details of Lloyd's ongoing consultation with regards to its Poor Conduct and Behaviours Framework.

I have highlighted these elements. However, there is much detail included in this eBulletin, referenced to the source documents. I hope you will find this helpful in identifying matters relevant to yourself in keeping abreast of recent Regulatory activity.

Please do not hesitate to contact myself or your usual BDO contact if you have any concerns over any matter highlighted in this update. For more information about our audit, tax and advisory services to the insurance sector, visit our [insurance services](#) page.

I hope you enjoy reading this latest update.



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# PRUDENTIAL REGULATION

## FINANCIAL STABILITY AT YOUR SERVICE – SPEECH BY SARAH BREEDEN

On 10 September, Sarah Breedon, the Bank's Deputy Governor for Financial Stability, delivered a [speech](#) at the Wharton-IMF Transatlantic Dialogue in Washington DC. She discussed the Bank's work on financial stability and argued that policymakers should focus on the provision of vital services, requiring a better understanding of system dynamics rather than just individual institutions. She emphasised that financial stability means the financial system reliably provides essential services to households and businesses, even during shocks. The importance of mitigating externalities and ensuring resilience while being prepared to intervene quickly when disruptions occur was highlighted.

## COMPETING ON A GLOBAL STAGE – SPEECH BY SHOIB KHAN

On 26 September, Shoib Khan, Director, Insurance Supervision at the PRA, delivered a [speech](#) at the Bank of America Securities Annual Financials CEO Conference, entitled Competing on a Global Stage. In this he looked at measures the PRA is taking in its oversight of the insurance sector to deliver on its new Secondary Competitiveness and Growth Objective (SCGO) which was introduced by Parliament last year. He outlined how the PRA is taking a differentiated supervisory approach for the different segments of the insurance market, and also announced changes to be consulted on relating to the Insurance Special Purpose Vehicle regime and catastrophe bonds.

## FINANCIAL STABILITY AT THE BANK OF ENGLAND

On 10 September, the Bank [published](#) its quarterly bulletin for 2024 which provides an overview of how it works to protect and enhance financial stability in the UK. The bulletin sets out the Financial Policy Committee's interactions with the Monetary Policy Committee:

- how the committees take into account each other's actions,
- the interest of the two committees in the Bank's balance sheet, and
- lessons from the Liability Driven Investment (LDI) crisis in 2022 and the failure of Silicon Valley Bank UK in 2023.

## OPERATIONAL RESILIENCE IN A MACROPRUDENTIAL FRAMEWORK - FINANCIAL STABILITY PAPER NO. 50

The Bank has [published](#) Financial Stability Paper No. 50 on operational resilience within a macroprudential framework, highlighting its importance for maintaining financial stability, especially as the financial system becomes more digitalised and interconnected. The paper builds on the Financial Policy Committee's (FPC) earlier focus on operational resilience and emphasises the risks posed by operational incidents, which can disrupt vital services like payment systems and access to financing. It identifies vulnerabilities at both firm and system levels, noting that interconnectedness and common dependencies can amplify risks across the financial system. The FPC outlines the need for both firm-level resilience and system-wide policies to address these challenges, advocating for collaborative efforts among financial authorities and international cooperation to enhance operational resilience globally.

## REVIEW OF SOLVENCY II - PLANNED PRA PUBLICATION OF FINAL PACKAGE OF RULES

On 23 September, the PRA [announced](#) that it will publish the final package of rules for the Solvency II Review in mid-November 2024. These rules are set to come into effect on 31 December 2024.

# CONDUCT REGULATION

## TARGETED AND OUTCOMES-BASED APPROACH TO TACKLING FINANCIAL CRIME - SPEECH BY SARAH PRITCHARD

On 5 September, Sarah Pritchard, FCA Executive Director for Markets and International, delivered a [speech](#) at the Financial Crime Summit, London, entitled A Targeted and Outcomes-Based Approach to Tackling Financial Crime. In this she emphasised that combating financial crime is a priority in the FCA's 3-year strategy, advocating for a partnership approach that involves data sharing across sectors. She emphasised the need for targeted interventions and vigorous enforcement to prevent larger issues. The speech highlighted the importance of innovative, data-led strategies and collaboration with various partners, pointing to recent successes in reducing fraud and improving standards, while also stressing that the fight against financial crime must remain a collective effort to ensure ongoing progress.

## LIKE LONDON'S ROMAN WALL, FINANCIAL RULES MUST ADAPT - SPEECH BY SARAH PRITCHARD

On 24 September, Sarah Pritchard, delivered a [speech](#) at the FT Financial Advice Forum in London.

She emphasised the unique opportunity to redefine regulations for the benefit of both consumers and firms, necessitating open dialogues about risk. She also encouraged firms to proactively leverage data and digital technology to innovate and cater to consumer needs, underlining the FCA's commitment to considering stakeholder feedback.

## FCA - ANNUAL REPORT AND ACCOUNTS 2023/24

The FCA has published its [2023/24 Annual Report and Accounts](#) showing how it has delivered in the second year of its [three-year strategy](#) to reduce and prevent serious harm, set and test higher standards and promote competition.

Nikhil Rathi, CEO, summarised the following actions taken during the year by the FCA:

- ▶ Better use of analytics and data to spot and prevent harm faster. We're being tougher on those that cause harm and using our supervision and enforcement powers more assertively.
- ▶ Clearly setting out the standards firms must meet and holding them to account to make sure they do.

The FCA recognises the vital role it plays in helping to create the conditions for growth, particularly through promoting effective competition. Competition should be a force for good and encourage better outcomes for consumers when firms compete on service, quality, price and innovation. The FCA has therefore [published](#) its first report regarding its actions to support the international competitiveness and growth of the UK economy in the medium to long term.

The FCA has also published a Report setting out its performance in relation to [performance metrics](#) from the past 12 months of its strategy. This demonstrates that the FCA achieved a green ranking for 75.5% of the 51 of its operating service metrics in 2023/24, compared to 68.5% in 2022/23.

## FCA REPORT: OUR POSITIVE IMPACT 2024

On 5 September, the FCA [released](#) a report titled "Our Positive Impact 2024", which sets out the FCA's efforts to be accountable to the public, staff, shareholders, and businesses.

## FCA - PRESCRIBED PERSONS ANNUAL REPORT 2023/24

On 5 September, the FCA [released](#) a report detailing whistleblowing disclosures made under the Prescribed Persons Regulations 2017, spanning from April 2023 to 31 March 2024. The main goals are to:

- ▶ shield consumers from misconduct;

- ▶ uphold the integrity of the UK financial system; and
- ▶ foster effective competition for the benefit of consumers.

### **FCA REPORT: OUR CLIMATE-RELATED FINANCIAL DISCLOSURE 2023/24**

On 5 September, the FCA [published](#) a report on its climate-related financial disclosure for the financial year 2023/24. The report sets out the FCA's view on the risks to its cash flow from climate-related financial risks and the risks affecting its regulatory function.

### **ANTI-MONEY LAUNDERING SUPERVISION BY THE LEGAL AND ACCOUNTANCY PROFESSIONAL BODY SUPERVISORS: PROGRESS AND THEMES FROM OUR 2023/2024 SUPERVISORY WORK**

On 23 September, the FCA's Office for Professional Body Anti-Money Laundering Supervision (OPBAS) [published](#) a report on the progress and themes from its 2023/2024 supervisory work for the Legal and Accountancy Professional Body Supervisors (PBSs).

The report outlines OPBAS' supervisory efforts, including a range of cross-cutting and sectoral project work OPBAS has undertaken over the last year to strengthen understanding and management of risk across the UK AML landscape.

The report finds that although most PBSs continue to comply with the requirements set out in the Money Laundering Regulations 2017 (MLRs), pockets of ineffectiveness remain. The risk-based selection methodology for PBS assessments, combined with the assessments' full-sourcebook scope, makes detecting such pockets more likely. In the 2023/24 supervisory cycle, this has included issuing supervisory directions to two PBSs.

### **APPOINTED REPRESENTATIVE OVERSIGHT: GOOD PRACTICE AND AREAS FOR IMPROVEMENT**

On 6 September, the FCA [published](#) its findings on how principals are implementing new rules for overseeing appointed representatives (ARs). FCA

found that principals had made some effort to comply with its new rules. However, according to its in-depth assessments, not all principals could show they had undertaken an adequate annual review or self-assessment covering all the points set out in SUP 12.6A. FCA has also given examples of good practice and areas for improvement for firms to consider in the following areas:

- ▶ self-assessments;
- ▶ annual reviews;
- ▶ monitoring, oversight, and acting out of scope;
- ▶ approach to onboarding ARs; and
- ▶ termination, offboarding, and orderly wind-down.

### **PRICE AND VALUE OUTCOME: GOOD AND POOR PRACTICE UPDATE**

On 18 September, the FCA [published](#) an update collating insights from the first year of the implementation of the price and value outcome, intended to help firms improve the way they think about fair value assessments. The key messages to firms are:

- ▶ Outcomes of the Consumer Duty should be considered holistically;
- ▶ Effectively identifying target markets helps in assessing impacts on different customers;
- ▶ An analysis of cross-subsidies, where relevant in a firm's business model, can be helpful in identifying where different consumer groups may be at risk of not receiving fair value;
- ▶ Evidence is vital in fair value assessment, but firms should be proportionate in their approach; and
- ▶ Prompt action should be identified and taken if fair value assessments show consumers are at risk of not receiving fair value.

### **MARKET STUDY: PURE PROTECTION MARKET**

The FCA has [announced](#) that it plans to initiate a market study in 2024/25 to investigate the sale of pure protection insurance products due to concerns about market competition. These

products, which include term assurance, critical illness cover, income protection insurance, and whole-of-life insurance, are designed to provide financial support to policyholders and their families in case of death or financial incapacity. The FCA is worried that current commission arrangements may not benefit policyholders and that some products may offer poor value. The study will examine consumer engagement, market competition, and potential conflicts of interest in commission structures. Sheldon Mills, FCA's Executive Director of Consumers and Competition, emphasised the importance of these products meeting consumer needs and providing fair value.

The FCA seeks feedback on its Terms of Reference and will engage with stakeholders to gather insights before launching the study. Feedback is to be received by 11 October 2024.

#### **REFORMS TO FINANCIAL SERVICES RETAIL-DISCLOSURE REQUIREMENTS**

On 19 September, HM Treasury and the FCA [announced](#) plans to reform UK retail disclosure rules, with plans temporarily to exempt investment trusts from EU-inherited requirements. The reforms aim to replace the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation with a new Consumer Composite Investments (CCI) framework, tailored to the UK market. The new regime will address industry concerns and improve cost disclosure. Full implementation is expected in 2025, subject to legislation and FCA consultation.

#### **GUIDANCE: APPLYING TO VARY PERMISSIONS, LIMITATIONS OR REQUIREMENTS**

On 20 September, the FCA updated its [guidance](#) on how to apply to vary permissions, limitations or requirements. The fees information has also been updated.

#### **KEEPING YOUR FIRM'S DETAILS UP TO DATE**

On 2 September, the FCA [updated](#) its "Keeping your firm's details up to date" guidance. This is an area that will need to be attested within 60 days of financial year end. Failure to comply will

lead to a £250 fine. The FCA may also take enforcement action.

#### **REGULATION ROUND-UP**

On 26 September, the FCA published its monthly Regulation Round-up. All relevant topics are noted either last month or above.



# EIOPA

We continue to monitor EIOPA's activity and draw your attention to it, where we believe it to be necessary or helpful. This will, we hope, assist those firms operating in the EU.

## THE ROLE OF REINSURANCE IN PROMOTING HEALTHY MARKETS - SPEECH BY PETRA HIELKEMA

On 5 September, Petra Hielkema, Chair of EIOPA, delivered a [speech](#) at the 17<sup>th</sup> ABIR International Insurance Regulatory Dialogue: Regulation of Reinsurance – International Reinsurance Fostering Competition.

This was entitled: The role of reinsurance in promoting healthy markets. The speech described how reinsurance enhances risk management, fosters innovation, and contributes to market resilience, particularly in response to evolving challenges such as climate change and macroeconomic volatility. She stressed the importance of collaboration between supervisors and reinsurers.

## EIOPA ARTICLE: LEVERAGING INSURANCE TO SHORE UP EUROPE'S CLIMATE RESILIENCE

On 3 September, EIOPA [published](#) an article on the new report by the Climate Resilience Dialogue, convened by the European Commission. This interdisciplinary report aligns closely with EIOPA's own sustainable finance priorities, namely:

- ▶ harnessing the power of insurance;
- ▶ reducing the cost of insurance via burden sharing;
- ▶ improving risk assessment through data and knowledge sharing; and
- ▶ reducing risks while bringing consumers along.

## EIOPA STAFF PAPER: A SIMPLE AND LONG-TERM EUROPEAN SAVINGS PRODUCT: THE FUTURE PAN-EUROPEAN PENSION PRODUCT

On 11 September, EIOPA [published](#) a Staff Paper on the Future of Pan-European Pension Product

(PEPP). This sets out the reasons behind the limited uptake of the PEPP and suggests improvements to its design to overcome supply-side, demand-side, and structural barriers hindering its broader adoption. This paper also contributes to the ongoing discussion on the PEPP future by presenting EIOPA views on:

- ▶ the necessity for a simple and long-term saving product;
- ▶ the key challenges faced by the PEPP;
- ▶ possible solutions to enhance the PEPP; and
- ▶ future work on the PEPP.

## EIOPA-BOS-24/232 GUIDELINES ON FINANCIAL STABILITY REPORTING

On 11 September, EIOPA issued [guidelines](#) for reporting to national supervisory authorities for financial stability purposes.

This document is dated 14 September 2015. The guidelines, which have been effective from 1 January 2016, aim to ensure a consistent and uniform approach in data collection for macroprudential analysis. They apply to individual insurance and reinsurance undertakings, insurance third country branches, and participating insurance and reinsurance groups, among others. The guidelines detail the criteria for identifying reporting entities, submission deadlines, and the required data formats and representations.

## EIOPA-BOS-24-318 CONSULTATION ON SUPERVISING THE LIQUIDITY RISK MANAGEMENT OF IORPS

On 26 September, EIOPA [released](#) a consultation paper regarding the draft Opinion on supervising the Institutions for Occupational Retirement Provision Directive's (IORPs) liquidity risk management. The goal is to improve oversight consistency, protect pension fund members and beneficiaries, and enhance the stability of IORPs and the wider financial system.

Comments should be submitted on 20 December 2024.

### **EIOPA-BOS-24-310 RFR TECHNICAL DOCUMENTATION THE METHODOLOGY TO DERIVE EIOPA'S RISK-FREE INTEREST RATE TERM STRUCTURES**

EIOPA has [released](#) revised technical documentation for determining the risk-free interest rate term structures (RFR). This documentation includes an overview of the modifications and their specifics, particularly concerning the evaluation of the currencies and financial instruments utilised in forming the RFR data.

The updated technical RFR documentation is now scheduled to become applicable on 1 January 2025.

### **MONTHLY UPDATE OF THE SYMMETRIC ADJUSTMENT OF THE EQUITY CAPITAL CHARGE FOR SOLVENCY II -- END-AUGUST 2024**

On 4 September, EIOPA released the [technical](#) information regarding the symmetric adjustment of the equity capital charge for Solvency II as of the end of August 2024.

### **EIOPA PUBLISHES MONTHLY TECHNICAL INFORMATION FOR SOLVENCY II RELEVANT RISK-FREE INTEREST RATE TERM STRUCTURES - END-AUGUST 2024**

On 4 September, EIOPA [published](#) technical information on the relevant RFR with reference to the end of August 2024. The RFR information has been calculated on the basis of the Technical Documentation.

# CORPORATE GOVERNANCE

## FRC PUBLISHES THEMATIC REVIEWS INTO OFFSETTING IN THE FINANCIAL STATEMENTS AND IFRS 17 INSURANCE CONTRACTS

On 5 September, the FRC [published](#) two thematic reviews on UK company reporting, focusing on:

- ▶ offsetting in financial statements; and
- ▶ IFRS 17 Insurance Contracts.

The reviews highlight common issues with offsetting, such as the inappropriate presentation of cash flows and financial instruments, which can obscure a company's true financial risks.

The FRC also evaluated the first year of IFRS 17 disclosures, finding overall good quality but noting areas for improvement, particularly in judgements, estimates, and alternative performance measures.

## TECHNICAL ACTUARIAL STANDARD 200: INSURANCE

On 19 September, the FRC [published](#) version 2.0 of Technical Actuarial Standard 200 (TAS 200) for the insurance sector. Revisions include changes to support practitioners in considering the implications for actuarial work relating to the FCA's Consumer Duty principle.

## ANNUAL REVIEW OF CORPORATE REPORTING 2023/24

On 24 September, the FRC [published](#) the Annual Review of Corporate Reporting for 2023/24.

The FRC found some evidence of a widening gap in reporting quality between FTSE 350 and other companies.

The top ten issues raised in substantive questions raised with companies in the 2023/24 monitoring cycle, in ranking order were:

- ▶ Impairment of assets;
- ▶ Cash flow statements;
- ▶ Financial instruments;

- ▶ Revenue;
- ▶ Presentation of financial statements and related disclosures;
- ▶ Strategic report and other Companies Act 2006 matters;
- ▶ Judgements and estimates;
- ▶ Income taxes;
- ▶ Fair value measurement; and
- ▶ TCFD and climate-related narrative reporting.

## UKEB ISSUES DRAFT COMMENT LETTERS ON IASB EXPOSURE DRAFTS

On 27 September, the FRC, on behalf of the UK Endorsement Board, [issued](#) draft comment letters for public consultation on the International Accounting Standards Board's exposure drafts concerning climate-related risks and amendments to IFRS 19, as well as a Draft Endorsement Criteria Assessment on amendments to financial instrument classification and measurement.

Stakeholders are invited to provide feedback on these documents, with deadlines for comments set for 11 November 2024 for the first two drafts, and 10 January 2025 for the financial instruments amendments.

The amendments to financial instruments are set to be effective for reporting periods beginning on or after 1 January 2026.

## CONSULTATION ON POOR CONDUCT AND BEHAVIOURS FRAMEWORK

Lloyd's has [announced](#) that it is launching a [consultation](#) with the aim of modernising its framework for dealing with poor conduct and behaviours, including both financial and non-financial misconduct, within the Lloyd's market.

There are several changes proposed by Lloyd's that aim to ensure that its new framework aligns better with the existing internal HR and disciplinary processes of Firms, whilst also providing more clarity on the types of conduct which are considered unacceptable, including how and when intervention will be necessary.

It is also hoped that the results of this consultation will improve Lloyd's own decision-making processes, so that decisions can be made in a more timely and consistent manner, whilst also preserving necessary procedural safeguards.

Consultation responses should be received by no later than 16 December 2024.

# INFORMATION COMMISSIONER'S OFFICE

We continue to monitor material being issued by the Information Commissioner's Office (ICO) with a view to highlighting high-level matters that may be relevant to readers.

## ICO AND NCA SIGN MEMORANDUM OF UNDERSTANDING FOR FURTHER COLLABORATION ON CYBER SECURITY

On 5 September, the ICO signed a [Memorandum of Understanding \(MoU\)](#) with the National Crime Agency (NCA) setting out how both organisations will cooperate to improve the UK's cyber resilience.

The aim is to ensure that organisations across the country can better protect themselves from criminals who steal data and hold it to ransom.

The MoU reaffirms the ICO's commitment to providing relevant, up-to-date information sharing on cyber security matters, to support improved cyber security, and to provide guidance on how change can be implemented.

The ICO will work more closely with the NCA to ensure organisations are signposted to relevant bodies, such as the National Cyber Security Centre, and are empowered to report cyber-crime at the earliest opportunity.

## REPRIMAND: BONNE TERRE LIMITED T/A SKY BETTING AND GAMING

On 2 September, the ICO issued notification of a [Reprimand](#) in relation to Bonne Terre Limited trading as Sky Betting and Gaming.

It was found that personal data was being processed by certain third-party tracking technologies which were deployed on Visitors' browsers, when they accessed SkyBet before they interacted with the Consent Management Platform (CMP). This occurred from 10 January 2023 to 3 March 2023. Bonne Terre confirmed to the Commissioner that all processing of personal

data by marketing cookies was on the basis of the Visitors' consent, meaning that Bonne Terre and the AdTech Vendors were relying on the Article 6(1)(a) UK GDPR lawful basis of consent for the processing of Visitors' personal data for the marketing purposes set out in the CMP. However, in the course of the Investigation, the Commissioner identified that certain third-party marketing cookies were being deployed before Visitors had provided their consent, resulting in the processing of individuals' personal data without consent or any other valid lawful basis.

MediaMath, a demand side platform contracted by Bonne Terre, used a pixel embedded within SkyBet to facilitate the setting of approximately 40 third-party marketing cookies, which were placed on Visitors' devices before the Visitors set their preferences within the CMP (i.e. before consent could have been obtained). As a result of the above practices, Visitors' personal data was made available to and processed by AdTech Vendors without Visitors' valid consent in breach of the requirement for the processing of personal data to be lawful and fair under Articles 5(1)(a), 6(1)(a) and 7(1) UK GDPR.

# ENFORCEMENT ACTION

## PRA / FCA REGULATORY FINES ROUND-UP

We have identified key relevant enforcement action during September and in this respect, fines announced by the PRA / FCA were:

Liam Patrick George Martin	<p>The FCA has issued a <a href="#">Decision Notice</a> and imposed a financial penalty of £128,356. It has made an order prohibiting Mr Martin from performing any function in relation to any regulated activity carried on by an authorised person, exempt person, or exempt professional firm.</p> <p>This comes after the FCA's findings that Mr Martin acted recklessly in his role as a qualified Pension Transfer Specialist, at St Martin's Partners LLP (SMP) which is detailed in this notice.</p> <p>This was published on the FCA website on 6 September 2024.</p>
Adrian Stuart Westbrook Douglas	<p>The FCA has issued a <a href="#">Decision Notice</a> and imposed a financial penalty of £128,356 and made an order prohibiting Mr Douglas from performing any function in relation to any regulated activity carried on by an authorised person, exempt person, or exempt professional firm.</p> <p>The FCA found that Mr Douglas, a qualified Pension Transfer Specialist, failed to gather sufficient information before advice was provided to clients on the appropriateness of transferring out of their Defined Benefit Pension Schemes. The Pension Transfer Model did not properly take account of clients' financial circumstances and objectives, their attitude to risk and their capacity for loss. Additionally, the pension transfer model did not seek to understand the nature, risks and fees of the actual onward investment and instead was designed so that SMP's advisers, including Mr. Douglas, would base their analysis and advice on a generic onward investment across those clients who were subject to the Pension transfer model.</p> <p>This was published on the FCA website on 6 September 2024.</p>
Alec John Cuthbert	<p>The FCA has issued a <a href="#">Final Notice</a> and imposed a financial penalty of £91,693. It has made an order prohibiting Mr Cuthbert from working on any project related to any regulated activity run by an authorised person, exempt person, or exempt professional business.</p> <p>Following an FCA investigation, it was discovered that Mr. Cuth Herbert had not complied with the Statement of Principle 1 and had not demonstrated integrity in performing his accountable roles at SMP as CF4 (Partner) and CF10 (Compliance Oversight). Mr. Cuthbert must have been aware of the obvious risk associated with SMP's design and implementation of the Pension Transfer Model, but he neglected to take the necessary precautions and failed to give those risks due consideration.</p> <p>This was published on the FCA website on 6 September 2024.</p>

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