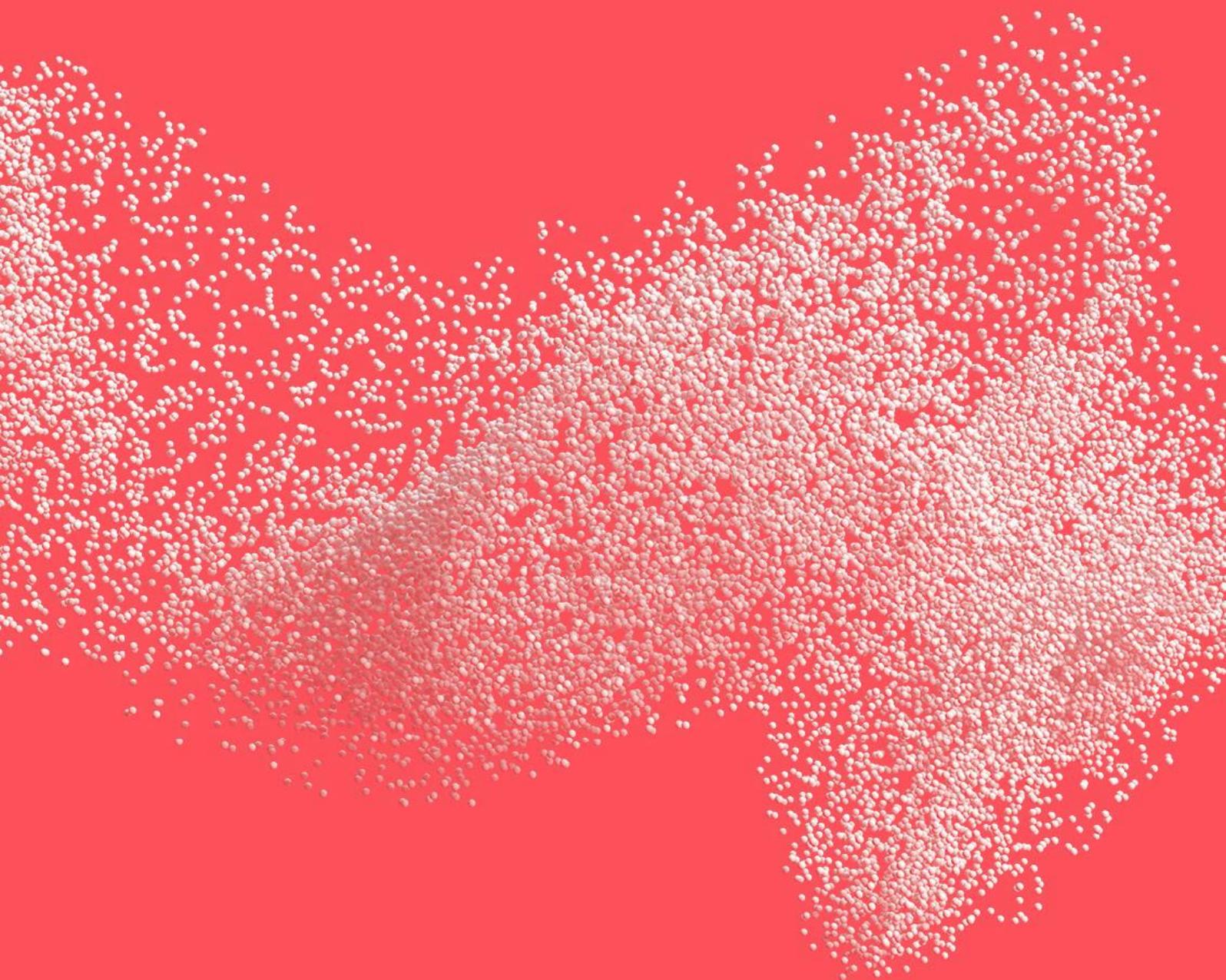


Financial Services Alerter

SEPTEMBER 2020



FCA publishes statement on key workers and working from home

On 24 September 2020, the Financial Conduct Authority (FCA) published a [statement](#) containing information about the COVID-19 pandemic, key workers, and working from home. The FCA urges employers to issue letters to all individuals they identify as key workers, should it be necessary for these individuals to provide evidence in the future. The FCA also updated its [statement](#) relating to work travel and responsibilities of senior managers under the Senior Managers and Certification Regime (SM&CR). Senior managers are expected follow changes in the applicability of local and national lockdown restrictions and to review and update employee working arrangements.

FCA publishes CP on approach to international firms

On 23 September 2020, the Financial Conduct Authority (FCA) published a [Consultation Paper](#) (CP) setting out its approach to international firms providing or seeking to provide financial services that require authorisation. The FCA is not proposing Handbook rule changes in the CP but rather wishes to ensure that firms understand the minimum standards and factors that it will consider in making an assessment.

FCA publishes CP on handbook changes

On 22 September 2020, the Financial Conduct Authority (FCA) published a [Consultation Paper](#) (CP) proposing handbook changes following its general insurance market study. The CP focuses on the following issues:

- pricing
- product governance
- auto-renewal and;
- reporting requirements.

The deadline for responses is 25 January 2021 and the FCA intends to publish a Policy Statement in Q2 2021.

FCA publishes speech on new UK financial regulation model

On 21 September 2020, the Financial Conduct Authority (FCA) published a [speech](#) on the evolution of a new model for financial regulation in the UK. The speech focuses on:

- COVID 19
- reform of the FCA and;
- the future of regulation.

FCA publishes call for input on consumer investments market

On 15 September 2020, the Financial Conduct Authority (FCA) published a [call for input](#) on the consumer investments market to consider areas where the consumer investment market is not working well for customers and to seek views on what changes the FCA can make to improve protections and outcomes in this market. The following issues are addressed:

- making the mass market work well
- higher risk investments
- fair compensation and;
- competition and innovation.

The deadline for responses is 15 December 2020.

FCA publishes webpage on temporary relief for publishing fund reports and accounts

On 9 September 2020, the Financial Conduct Authority (FCA) published a [webpage](#) extending the deadline for publishing fund reports and accounts. The FCA intends to end the temporary relief in annual and half-yearly fund reports and accounts and sets out guidance for firms in the following instances:

- Funds with an annual or half-yearly accounting date on or before 31 August 2020.
- Funds with an annual or half-yearly accounting date on or before 31 September 2020.
- Funds with an annual or half-yearly accounting date after 30 September 2020.

FCA publishes statement on its second survey of firms' financial resilience

On 10 September 2020, the Financial Conduct Authority (FCA) published a [statement](#) announcing that it will survey firms to understand the change in their financial resilience in light of COVID 19. The survey will be emailed to the relevant firms between 16 and 22 September 2020 and its completion is mandatory. FCA encourages firms with queries to contact the FCA's Contact Centre.

FCA, PRA and BoE publish statement announcing the appointment of new Complaints Commissioner

On 9 September 2020, the Financial Conduct Authority (FCA) published a [statement](#) announcing that the Prudential Regulatory Authority (PRA) and Bank of England (BoE) had appointed Amerdeep Somal as the Complaints Commissioner (CC). Ms Somal will be responsible for overseeing the investigations into complaints made against the FCA, PRA and the BoE. The CC role is independent from the three organisations.

FCA publishes a webpage on general insurance value measures

On 8 September 2020, the Financial Conduct Authority (FCA) published a [webpage](#) on the fourth set of data in its general insurance value measures pilot. The FCA is concerned about the value of personal accident and key cover add-on insurance. The FCA publishes the data in order to encourage firms to compete on broader elements of product value than just price.

FCA publishes market issue 65

On 7 September 2020, the Financial Conduct Authority (FCA) published [issue 65](#) of Market Watch on conduct and transaction reporting issues. In it, the FCA reminds firms of its confidentiality information requirements, urges them to safeguard legally privileged documentation and highlights the need for firms to take note of their transaction reporting observations and review their transaction reports for completeness and accuracy.

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FCA publishes Dear CEO letter on supervision strategy

On 4 September 2020, the Financial Conduct Authority (FCA) published a [Dear CEO letter](#) on its supervision strategy for personal and commercial lines of insurance intermediaries' portfolios. The FCA sets out its view on the key risks such as, insufficient or unclear information and inappropriate sales tactics that firms could pose to consumers and markets. The following were identified by the FCA as common themes in the drivers of harm:

- ineffective governance and oversight of business
- business models that provide poor control over sales, conflicts of interests and renewals and;
- incentive arrangements that do not support positive conduct.

FCA publishes webpage on digital sandbox pilot

On 2 September 2020, the Financial Conduct Authority (FCA) published a [webpage](#) on its pilot of a digital sandbox to support innovative firms tackling challenges caused by COVID-19. The sandbox will promote the development of proofs of concept in a digital testing environment around three use cases:

- detecting and preventing fraud and scams
- supporting the financial resilience of vulnerable consumers and;
- improving access to finance for small and medium-sized enterprises.

FCA publishes final notice

On 1 September 2020, the Financial Conduct Authority (FCA) published a [final notice](#) to Julian Rifat a former senior trader at Moore Europe Capital Management LLP. The FCA bans Mr Rifat from performing any function relating to any regulated activity carried on by an authorised person, exempt person or exempt professional firms after he was convicted of insider dealing.

PRA publishes webpage on 2020 annual assessment of category 5 credit unions

On 9 September 2020, the Prudential Regulatory Authority (PRA) published a [webpage](#) setting out the findings of its 2020 assessment of [category 5 credit unions](#). The PRA concludes that such firms have no capacity to cause disruption to the UK financial system by failing or by carrying on their business in an unsafe manner. The PRA also set out its expectations concerning credit risk for large credit unions and its expectations concerning bad debt provisions and calculation of regulatory capital, for small unions.

PRA publishes Dear CEO letter

On 1 September 2020, the Prudential Regulatory Authority (PRA) published a [Dear CEO letter](#), urging firms to be operationally ready for the temporary permissions regime (TPR). From 31 December 2020, the TPR will take immediate effect and firms that have submitted a valid notification or a Part 4A application will automatically enter the regime. Firms are encouraged to engage with the PRA on a pro-active basis and contact the PRA if they do not have a specific PRA supervisor.

OCC publishes final report containing recommendations to the FCA

On 1 September 2020, the Office of the Complaints Commissioner (OCC) published a [final report](#) in relation to a complaint made about the Financial Conduct Authority (FCA). The complaint relates to the FCA's failure to comply with the Equality Act 2010, the Public Sector Equality Duty 2011 and make reasonable adjustments for mental ill consumers. The FCA was unable to investigate the complaint because these issues are not covered by its complaints scheme.

BoE publishes PS on fees regime for FMI supervision

On 16 September 2020, the Bank of England (BoE) published a [Policy Statement](#) (PS) on the fees regime for the supervision of financial market infrastructure (FMI) that will apply for the 2020/21 fee year. The PS sets out:

- final fee rates
- how the BoE will apportion the surplus and shortfalls from 2019/2020 FMI fee year and;
- amendments to the special project fee.

BoE publishes webpage on its research agenda

On 1 September 2020, the Bank of England (BoE) published a webpage setting out its agenda for research identifying key areas for new research, with priority topics for 2021. 2021 topics include:

- Monetary toolkit
- Open economy and prudential framework
- Future of finance
- Transformed world

BoE publishes webpage on TPR

On 1 September 2020, the Bank of England (BoE) published a webpage on the temporary permissions regime (TPR), highlighting key requirements for UK branches of firms and more generally, highlighting its approach to the TPR. The webpage contains information on the following areas:

- BoE's supervisory approach to firms
- Threshold conditions
- Senior Managers and Certification Regime (SM&CR)
- Financial Services Compensation Scheme (FSCS) protection and;
- Status Disclosures

CMA publishes statement on 2002 SME undertakings

On 8 September 2020, the Competition and Markets Authority (CMA) published a [statement](#) addressing the non-compliance of Lloyds Bank with the [behavioural undertakings](#) on the supply of banking services to SMEs. Lloyds has agreed to become compliant to a number of measures, including:

- writing to clients to inform them that if they opened a Business Current Account (BCA), they have the ability to switch to another provider, at any time.
- reminding customers that retain the BCA, of any other available options they may have, two months prior to any newly introduced charges.

EC publishes inception impact assessment on ELTIF Regulation review

On 16 September 2020, the European Commission (EC) published a [webpage](#) on its inception impact assessment on the review of the Regulation on European long-term investment funds (ELTIFs). The review will focus on the perceived limitation of the ELTIF regime relating to:

- eligible assets and investments, the modification of borrowing limits and;
- the appropriateness test and lowering entry thresholds.

The deadline for providing feedback to the EC is 14 October 2020.

EC publishes report on MLD4 obligations regarding trusts and similar legal arrangements

On 16 September 2020, the European Commission (EC) published a [report](#) on the Fourth Money Laundering Directive (MLD4) and all trusts and similar legal arrangements governed under their laws. Article 31(10) of MLD4 provides that the EC must assess whether member states have duly notified, trusts and similar legal arrangements governed under their national law and made them subject to the obligations of MLD4.

EC adopts Delegated Regulation on CCP colleges under EMIR

On 1 September 2020, the European Commission (EC) adopted a [Delegated Regulation](#) with draft regulatory technical standards (RTS) for central counterparty (CCP) colleges under EMIR 2.2. The Draft RTS reflect changes to Article 18(6) of EMIR, which came into force on 1 January 2020.

ESMA publishes final report on MiFID II third-country firm regime

On 28 September 2020, the European Securities and Markets Authority (ESMA) published a [final report](#) containing draft regulatory technical standards (RTS) and implementing technical standards (ITS) relating to the provision of investment services and activities under MiFID II. ESMA consulted on the ITS in January 2020 and both the RTS and ITS have already been submitted to the European Commission for adoption.

ESMA publishes CP under MiFID

On 25 September 2020, the European Securities and Markets Authority (ESMA) published a [Consultation Paper](#) (CP) on the functioning of organised trading facilities (OTF) under MiFID II. ESMA makes a number of proposals including:

- amending Article 1(7) and Article 4(19) of MiFID II
- clarifying the categorisation of software providers and bulletin boards and;
- requesting information on the operation of internal crossing systems by fund managers.

The consultation period closes on 25 November 2020 and ESMA intends to publish a final report for submission to the European Commission by March 2021.

ESMA publishes CP on fees under BMR

On 25 September 2020, the European Securities and Markets Authority (ESMA) published a [Consultation Paper](#) (CP) on fees for benchmarks administrations under the Benchmarks Regulation (BMR). The CP sets out ESMA's proposed technical advice on supervisory fees to be paid to ESMA, distinguishing between:

- one-off recognition fees paid by third country administrators
- one-off authorisation fees paid by administrators of critical benchmarks
- annual supervisory fees paid by third country administrators and;
- annual supervisory fees paid by administrators of a critical benchmark.

The consultation period closes on 6 November 2020 and ESMA intends to publish a final report and submit technical advice to the European Commission by 31 January 2021.

ESMA publishes a statement on the review of MiFIR transparency requirements

On 1 September 2020, the European Securities and Markets Authority (ESMA) published a [statement](#) announcing a [call for evidence](#) on transparency requirements for equity and non-equity instruments under the Market in Financial Instruments Regulation (MiFIR). The deadline for responding to the call for evidence is 31 October 2020.

FMLC publishes statement on ESA consultation on RTS ESG Disclosures

On 2 September 2020, the Financial Markets Law Committee (FMLC) published a [statement](#) responding to the European Supervisory Authorities (ESAs) draft regulatory technical standards (RTS) under the Sustainable Finance Disclosure Regulation (SFDR). The FMLC explains that different disclosure publications under the SFDR will create uncertainty as the draft RTS diverge from the Taxonomy Regulation, in some areas. FMLC urges the ESAs to ensure that the RTS are closely aligned to the objectives set out in the Disclosure Regulation.

ECB publishes statement on Cyber Information and the Intelligence Sharing Initiative

On 15 September 2020, the European Central Bank (ECB) published a [statement](#) on documentation and guidance relating to the framework for the Cyber Information and Intelligence Sharing Initiative (CIISI-EU). The guidance and documentation give insights on the protocols used, the roles and responsibilities of the CIISI-EU and provide an overview of the different stages:

- CIISI-EU: Cyber information and intelligence sharing: a practical example.
- CIISI-EU terms of reference.
- CIISI-EU community rulebook.

EBA publishes opinion on definition of credit institutions

On 18 September 2020, the European Banking Authority (EBA) published an [opinion](#) on the definition of credit institution under Article (4)(1)(1)(a) of the Capital Requirements Regulation (CRR). The EBA is concerned that there are divergent interpretations of the term credit institution across the EU, adversely impacting the uniform application of the law.

EBA publishes response to EC call for advice on future EU AML and CTF framework

On 10 September 2020, the European Banking Authority (EBA) published its [response](#) comprising of an [opinion](#) and a [report](#) to the European Commission's (EC) March 2020 call for advice on the future of EU Anti-money Laundering (AML) and Counter-terrorist Financing (CTF) framework. The EBA stresses that importance of tackling divergent national approaches and gaps in the EU money laundering and terrorist financing defences. The EBA is committed to providing technical input to support the implementation of the action plan.

EBA publishes annual report on resolution colleges

On 1 September 2020, the European Banking Authority (EBA) published an [annual report](#) on resolution colleges setting out its observation on their functioning during 2019. The report distinguishes colleges as active forums for resolution plans to be developed in cross-border banking.

Council of the EU publishes statement on Delegated Regulations supplementing EMIR

On 11 September 2020, the Council of the EU published a [statement](#) announcing that it had decided not to object to three Delegated Regulations supplementing EMIR on tiering, comparable compliance and fees for third-country (TC) concerning counter-parties (CCPs). These reflect changes made to EMIR by EMIR 2.2. The Delegated regulations will now be published in the Official Journal of the EU (OJ) and enter into force on the day following their publication.

FATF publishes report on ML and TF associated with VAs

On 14 September 2020, the Financial Action Task Force (FATF) published a report on virtual assets (VAs): red flag indicators of money laundering (ML) and terrorist financing (TF). Key indicators identified in the report include:

- technology that increases anonymity, such as peer-to-peer exchanges websites, tumbling or anonymity-enhanced cryptocurrencies
- countries with weak or absent national measures for VAs
- transaction patterns
- transaction size
- sender and recipient profiles and;
- source of funds and wealth.

AFME publishes roadmap for transition to sustainable finance

On 10 September 2020, the Association for Financial Markets in Europe (AFME) published a [roadmap](#) on governance, conduct and compliance in the transition to sustainable finance. AFME encourages firms to seek to establish and embed a strategy and approach in relation to sustainable finance. The roadmap sets out 15 key principles that firms may wish to consider when altering their corporate purpose and objectives.

ECON publishes report on development of CMU

On 23 September 2020, the European Parliament's Economic and Monetary Affairs Committee (ECON) published a [report](#) on the Capital Markets Union (CMU), focusing on improved access to capital market finance and retail investor participation. ECON voted to adopt the report on 11 September 2020 and the European Parliament will consider it in its plenary session between 5 and 8 October 2020.

ECON publishes report on Digital Finance

On 23 September 2020, the European Parliament's Economic and Monetary Affairs Committee (ECON) published a [report](#) containing recommendation to the European Commission (EC) on digital finance. The report focusses on the regulatory and supervisory challenges in the area of financial services and in particular in relation to the emerging risks associated with cryptoassets. ECON voted to adopt the report on 11 September 2020 and the European Parliament will consider it in its plenary session between 5 and 8 October 2020.

ISDA publishes letter on IBOR Fallbacks Protocol and Supplement

On 22 September 2020, the International Swaps and Derivatives Association (ISDA) published a [letter](#) on the timing of the IBOR Fallbacks Protocol and IBOR Fallback Supplement. The Fallback Protocol and Supplement will not take effect before the second half of January 2021. The three-month period between the launch date and the effective date to allow most of the market to agree the new fallbacks in their existing non-cleared derivatives transactions.

ISDA publishes paper on impact of Brexit on MiFIR derivatives trading obligation

On 14 September 2020, the International Swaps and Derivatives Association (ISDA) published a [paper](#) analysing the impact of Brexit on the derivatives trading obligation (DTO) and the characterisation of the OTC derivatives in the EU and the UK. ISDA sets out an analysis of the EU DTO and the UK DTO and potential conflicts between the EU DTO and the UK DTO arising from cross-border trading and trading via branches.

NGFS Publishes statement on ERA by financial institutions

On 10 September 2020, the Network for Greening the Financial System (NGFS) published a [statement](#) on environmental risk analysis (ERA) by financial institutions. NGFS outlines how environmental risks are transmitted to financial risks and identifies a number of barriers to the wider adoption of ERA faced by the financial services industry.

IAIS publishes survey on prudential treatments for investments

On 7 September 2020, the International Association of Insurance Supervisors (IAIS) published a [survey](#) on prudential treatments for investments in infrastructure and strategic equity. The purpose of the survey is to gather information on investments in the space and provide an opportunity for stakeholders to share their experience. Responses to the survey should be submitted to the IAIS by 7 December 2020.

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