FIG Bulletin

Recent developments
06 March 2017 to 10 March 2017

Hogan Lovells

Contents

1. Financial Conduct Authority and Payment Systems Regulator

1.1 PS17/4: Handbook changes to reflect the introduction of the Lifetime ISA

On 7 March 2017, the Financial Conduct Authority (FCA) published a policy statement, PS17/4, which summarises the feedback it received to its November 2016 consultation paper, CP16/32, on the Handbook changes to reflect the introduction of the Lifetime Individual Savings Account (LISA) and publishes the final rules.

The LISA, which was announced in the March 2016 Budget, will be available to investors from 6 April 2017 and is intended to help adults under the age of 40 to save or invest flexibly for two purposes: to provide a deposit for a first home and/or to save for retirement.

As a result of feedback to CP16/32, among other things, the FCA has agreed that it should amend the risk warnings set out in CP16/32 to address two further specific risks:

- the risk that investors may also lose out on employer's pension contributions where they have a personal pension and there is an employer matching contribution structure in place;
- the risk that investors may not consider the impact of taking out a LISA on means-tested state benefits as opposed to saving in a pension.

Appendix 1 to the policy statement contains the final rules, the Conduct of Business and Client Assets (Lifetime Individual Savings Account) Instrument 2017, FCA 2017/12. The rules come into force on 6 April 2017.

1.2 CP17/7: Insurance Distribution Directive implementation - consultation paper I

On 3 March 2017, the FCA published a consultation paper, CP17/7, on implementation of the Insurance Distribution Directive (IDD). This is the first of two consultation papers setting out the FCA's proposals for implementing the IDD.

This consultation paper covers the FCA's proposals for the following areas:

- application of the IDD (see chapter 2);
- professional and organisational requirements (see chapter 3);
- complaints handling and out-of-court redress (see chapter 4);
- changes to conduct of business rules (for non-investment insurance contracts) (see chapter 5);
- the regulatory regime for ancillary insurance intermediaries (see chapter 6).

The proposals will require changes to a number of different parts of the FCA Handbook, including the Senior Management Arrangements Systems and Controls sourcebook and the Insurance Conduct of Business sourcebook. The proposed Handbook amendments are set out in appendix 4 to the consultation paper in a draft instrument, the Insurance Distribution Directive (Non-Investment Insurance Contracts Conduct of Business, Knowledge and Redress) Instrument 2017.

The FCA says that the IDD replicates many existing UK domestic provisions, and it proposes to rely on them to implement the certain provisions of IDD where appropriate. In some cases the FCA's existing UK provisions go beyond the IDD minimum requirements. It does not propose to change these. Finally, where the IDD goes beyond the FCA's existing rules it has generally proposed to copy out the IDD provisions into its Handbook, although there are some areas where the FCA proposes to go beyond the IDD minimum requirements. This is mainly in regards to ancillary insurance intermediaries (see chapter 6).

Comments are requested by 5 June 2017. The FCA aims to publish its rules in a policy statement by September 2017.

The FCA will publish its second consultation paper later in 2017. As well as its approach to the implementation of the insurance product information document requirements, it will cover the FCA's approach to the conduct of business requirements for life business, including insurance-based investment products. It will also cover product oversight and governance. The proposals the FCA implements from both consultations will take effect on 23 February 2018.

HM Treasury is also consulting on implementation of the IDD. The FCA says that its second consultation paper will also consider matters based on the draft legislation in HM Treasury's consultation. These will mainly relate to the areas of registration (including any necessary revisions to the FCA's Perimeter Guidance manual, passporting, and sanctions).

1.3 CP17/6: Quarterly Consultation Paper No 16

On 3 March 2017, the FCA published a consultation paper, CP17/6, the sixteenth in its series of quarterly consultation papers which consult on miscellaneous amendments to the FCA Handbook.

CP17/6 proposes to make changes to:

- the Decision Procedure and Penalties manual and the Enforcement Guide (EG) reflecting the FCA's powers following the Bank Recovery and Resolution Order 2016 (see chapter 2 and appendix 2);
- the Market Conduct sourcebook (MAR) relating to the European Securities and Markets Authority's guidelines on commodity derivatives (see chapter 3 and appendix 3);
- the Supervision manual and the EG arising from the extended Immigration Act 2014 (as amended by the Immigration Act 2016) (see chapter 4 and appendix 4);
- the Prospectus Rules sourcebook (PR) 1.2.3R in anticipation of the Prospectus Regulation coming into force and minor amendments to the Listing Rules sourcebook LR Appendix 1, PR Appendix 1 and the Glossary (see chapter 5 and appendix 5);
- the Recognised Investment Exchange sourcebook (REC) 3.9 and MAR 5.6, and minor amendments to REC 2.3 (see chapter 6 and appendix 6);
- the Conduct of Business sourcebook and the Mortgages and Home Finance: Conduct of Business sourcebook to improve firms' communication with consumers (see chapter 7 and appendix 7);
- the FCA's regulatory reporting requirements (see chapter 8 and appendix 8).

Comments are requested by 3 April 2017 for chapter 5 question 1, and by 3 May 2017 for chapters 2, 3, 4, 5 (questions 2 and 3), 6, 7 and 8.

1.4 Use of dealing commission: FCA summary of findings from review

On 3 March 2017, the FCA published a press release summarising the findings from a review that analysed dealing commission expenditure across 31 investment managers (covering asset managers, wealth managers and host-authorised corporate director providers) between 2012 and 2015.

The FCA has found that the majority of firms it visited are still falling short of its expectations. This includes how firms:

- assess whether a research good or service received is substantive;
- attribute a price or cost to substantive research if they receive it in return for dealing commission;
- record their assessments to demonstrate they are meeting Conduct of Business sourcebook 11.6.3R and are not spending more of their customers' money than necessary.

The FCA identified poor practices at the majority of firms it visited and several could not demonstrate meaningful improvements in terms of how they spend their customers' money through their dealing commission arrangements. At the extreme end, the FCA says that some continued to use dealing commission to purchase non-permissible items, such as corporate access and market data services, contrary to the FCA's rules.

Full details of the FCA's findings are given in the press release.

The FCA says that given its findings and the implementation of the Markets in Financial Instruments Directive II, it will continue to focus on the use of dealing commission. Where it identifies breaches of its rules or principles, it will consider appropriate action, including more detailed investigations into specific firms, individuals or practices.

The FCA has also recently completed a follow-up review looking at how investment managers oversee their best execution obligations, see item 1.5 below.

1.5 How investment managers deliver best execution for the clients: FCA outlines findings from supervisory work

On 3 March 2017, the FCA published a press release outlining its findings from supervisory work looking at how investment managers deliver best execution for their clients.

The FCA says that it was concerned to find that most firms had failed to take on board the findings of its 2014 thematic review on best execution and payment for order flow. Details of the FCA's findings are given in the press release. The FCA also found similar concerns during a 2016 review which looked how investment managers oversee their use of dealing commission (see item 1.4 above).

The FCA says that it will be revisiting best execution in 2017 to see what steps investment management firms have taken to assess gaps in their approach to achieving best execution and how they can evidence that funds and client portfolios are not paying too much for execution.

If it finds that firms are still not fulfilling their best execution obligations, it will consider appropriate action, including more detailed investigations into specific firms, individuals or practices.

1.6 FCA Policy development update

On 3 March 2017, the FCA published a webpage containing its latest Policy development update, current as of 3 March 2017. This contains information on the FCA's recent and upcoming publications. The webpage is updated on the first Friday of each month.

1.7 FinTech: FCA and JFSA exchange of letters on co-operation framework

On 9 March 2017, the FCA announced that it has exchanged letters with the Financial Services Agency of Japan (JFSA) on a co-operation framework to support innovative FinTech companies. The letter from the JFSA to the FCA and the letter from the FCA to the JFSA have also been published.

The exchange of letters between the JFSA and the FCA will provide a regulatory referral system for innovator businesses from Japan and the UK seeking to enter the other's market. The authority that receives an innovator business referral will provide support to the innovator businesses by reducing regulatory uncertainty and time to market. In addition, the exchange of letters will encourage the regulators to share information about financial services innovation in their respective markets, reduce barriers to entry in a new jurisdiction and further encourage innovation in both countries.

1.8 Access and governance report on payment systems: PSR update on progress and areas for ongoing focus

On 9 March 2017, the Payment Systems Regulator (PSR) published its second report on access to payment systems and the governance of payment system operators in the UK. The PSR's first report was published in December 2015. A factsheet summarising the key findings of the report has also been published, together with an annex on the operators' progress in 2016.

The PSR says that the last 12 months have been encouraging and it expects the operators and indirect access providers (IAPs) to build on this success in 2017. The report outlines the progress that has been made in realising five key outcomes:

- **choice in accessing payment systems and services**: there has been a significant improvement in the choice of access options available to payment service providers (PSPs). The payment system operators have been working to make it easier for PSPs to become direct participants in payment systems. The PSR also expects the entry of three new firms providing indirect access to payment systems in 2017 and this will give PSPs that choose indirect access a greater choice of IAP;
- **time to gain access to payment systems**: the operators have improved their processes for new PSPs joining as direct participants, reducing the time and complexity of joining. The PSR also expects that implementing the recommendations of the Payments Strategy Forum on simplifying access will further reduce the time and complexity of joining payment systems;
- **value for money**: the cost of getting direct access appears to be reducing, or is lower than expected. The PSR also expects the new IAPs mentioned above to increase competition in the provision of indirect access, which could lead to lower prices;
- **quality of service provided**: for PSPs who choose indirect access, there have been improvements in the quality and availability of technical access to Faster Payments (FPS);
- **engagement and transparency**: the operators and IAPs have taken steps to increase transparency of information and to engage with service-users.

The report explains where the PSR wants to see further improvements that it thinks are necessary, and hopes to see progress in the following work over the next year:

- **work for operators**: the PSR expects the operators to finish their work in developing access models and solutions that facilitate the development of aggregators by the end of the year. It also expects them to be ready to progress applications for direct access for non-bank PSPs, if the Bank of England amends its settlement account policy and necessary legislative changes are made;
- **work for IAPs**: the PSR would like the IAPs to reflect on feedback about the visibility and impact of the voluntary code of conduct they have developed, and consider what work they can do to improve PSPs' awareness of and confidence in the code. The PSR also expects the IAPs to address a number of quality-related issues affecting PSPs who choose indirect access;
- **work for the PSR**: the PSR will continue to closely monitor developments in the provision of access. There will be a number of changes this year, including the implementation of the second Payment Services Directive and the potential consolidation of three operators (the operators of Bacs, FPS and Cheque and Credit). The PSR plans to review its existing directions later in the year to ensure they properly reflect these changes and remain effective.

2. Bank of England and Prudential Regulation Authority

2.1 Watching the watchers: forward-looking assessment and challenge of a central bank's own financial risks - speech by Andrew Hauser

On 7 March 2017, the Bank of England's Executive Director, Banking, Payments and Financial Resilience, Andrew Hauser, spoke at the GARP 18th Annual Risk Management Convention which was held in New York.

In his speech, Mr Hauser said that in recent years central banks have taken exceptional actions to stabilise economies and financial systems. While these actions have delivered vital policy outcomes, they have also led to entirely appropriate demands for central banks to demonstrate the highest levels of professionalism, transparency and accountability in their management of what are, ultimately, public exposures.

Mr Hauser explains how the Bank of England has responded to these developments: setting out the new framework, structures and tools that it has put in place to monitor and challenge its own financial risk and illustrating them with some practical case studies.

2.2 Internal ratings based capital approach: PRA update

On 3 March 2017, the Prudential Regulation Authority's (PRA) Director of Bank, Building Societies and Credit Union, Martin Stewart, spoke at the British Bankers' Association conference "The Challenger and Specialist Banks' Landscape in the UK".

In his speech, among other things, Mr Stewart discussed the internal ratings based (IRB) capital approach. He said that:

- a consultation paper amending the PRA supervisory statement, SS11/13, on the IRB approach to encourage small and mid-tier banks and building societies to consider applying for the IRB approach to credit risk, will be published by the end of March 2017. Last week's FIG Bulletin reported on a PRA note, dated 24 February 2017, stating its intention to do this.
- the PRA will publish extensive information on its website and engage with firms in the pre-application process;
- the PRA will propose extensive revisions to its assessment process, into ten modules, so that a firm is clear where it is at all times within the PRA's assessment work;
- the PRA will be setting out its expectations for banks and building societies who in developing IRB models for residential mortgages want to augment limited internal data with external data sources, and how additional margins of conservatism will need to be overlaid on the external data.

3. Banking

3.1 ICE LIBOR evolution: ICE Benchmark Administration report and further consultation

On 24 January 2017, ICE Benchmark Administration (IBA) published an additional consultation relating to of the evolution of the London Interbank Offered Rate (LIBOR) (also known as ICE LIBOR).

IBA has designed a waterfall with three levels of submission methodologies to ensure that LIBOR panel banks use funding transactions where available. In line with testing results and following further analysis, IBA proposed to refine the output statement by adjusting Level 2 (transaction-derived data) of the waterfall. Level 2.3 relates to parallel shift, this is where, if a bank has no transactions in one tenor but one neighbouring tenor has a transaction-based rate, a rate could be constructed by the bank using the day-on-day change in value of the transaction-based tenor.

On 3 March 2017, IBA published a feedback statement on the additional consultation paper. It says that all but one of the respondents to the consultation paper endorsed the removal of parallel shift from Level 2 of the waterfall. The respondent which did not agree with removing parallel shift from Level 2 urged IBA to allow it to be used in Level 3. Accordingly, IBA has removed parallel shift from Level 2 and confirms that it may be used in Level 3.

IBA announced in the consultation paper that, in order to give banks enough time to make their necessary pre-submission checks, the publication time of ICE LIBOR would move from 11.45 to 11.55 London time. This will take place with effect from 27 March 2017.

4. Brexit

4.1 UK trade options beyond 2019: House of Commons International Trade Select Committee report

On 7 March 2017, the House of Commons International Trade Select Committee published a report on UK trade options beyond 2019.

The report examines the different potential models for UK international trade after the UK leaves the EU. The report considers the UK's relationship with the World Trade Organization (WTO), the free trade agreement (FTA) the Government plans to strike with the EU, the implications of the UK falling back on trading with the EU under WTO rules alone and the UK's future trading relationship with non-EU countries. Paragraphs 80 to 92 of the report consider trade in financial services.

Among other things, the Select Committee recommends that, in the FTA, the Government should:

- seek the nearest achievable approximation to the EU system of passporting;
- provide clarity on how complex disputes in the financial services sector will be resolved without the involvement of the European Court of Justice of the EU.

The Select Committee also says that with regard to the phased process of implementation which the Government envisages, it must take particular account of the need to avoid the sudden ending of passporting in financial services. Any such transitional arrangements will need to include fully worked-out arrangements for dispute resolution.

4.2 A Brexit roadmap for the UK speciality commercial insurance sector: LMG report

On 9 March 2017, the London Market Group (LMG) published a report containing its recommendations to the UK Government in its Brexit negotiations. The LMG represents the International Underwriting Association of London, Lloyd's, the Lloyd's Market Association and the London & International Insurance Brokers' Association.

The report highlights three objectives:

- **regulatory equivalence under Solvency II**: the need for a guarantee that the London insurance market will be considered to have regulatory equivalence with the EU;
- **a right for UK insurers and reinsurers to have unimpeded access to the EU market**: a new trade deal with the EU, which gives both UK and EU insurers, reinsurers and brokers continued rights to undertake cross border activity;
- **early agreement of an implementation period with market access rights**: it is important to agree at the start of the negotiations an implementation period to move to the new agreement, during which the industry's current market access rights would be retained. Uncertainty over whether insurance policies will be enforceable is already affecting the decisions of the London insurance market's clients.

The report also discusses domestic reforms which the LMG would like the Government to consider in relation to regulation and access to talent. It also contains a section on company decision making and contingency planning with a time line.

5. European Union

5.1 PRIIPs KIDs: European Commission adopts Delegated Regulation on proposed amendments to RTS

On 8 March 2017, the European Commission adopted a Commission Delegated Regulation, together with related annexes, supplementing the Regulation on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards (RTS) with regard to the presentation, content, review and revision of key information documents (KIDs) and the conditions for fulfilling the requirement to provide such documents.

As has previously been reported in the FIG Bulletin, the RTS were first adopted by the Commission in a Delegated Regulation in June 2016, however, in September 2016, the European Parliament objected to the Delegated Regulation. In November 2016, the Commission put forward amendments to the original Delegated Regulation and asked the European Supervisory Authorities (ESAs) for their opinion on the amendments. The ESAs responded in a letter dated 22 December 2016, saying that, following discussions, they were not in a position to provide an agreed opinion on the amended draft RTS.

As the ESAs did not adopt an opinion in the six week period allowed for this, the Commission may adopt RTS with the amendments it considers relevant. The Commission's amendments to the Delegated Regulation concern multi-option PRIIPs, performance scenarios, comprehension alert and presentation of administrative costs in relation to biometric components of insurance-based investment products.

The Delegated Regulation will enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It will apply from 1 January 2018. Article 14(2) will apply until 31 December 2019.

Article 14(2) states that by way of derogation from article 14(1), PRIIP manufacturers may use the key investor information document drawn up in accordance with Articles 78 to 81 of the UCITS IV Directive to provide specific information for the purposes of Articles 11 to 13 of the Delegated Regulation where at least one of the underlying investment option referred to in article 14(1) is a UCITS or non-UCITS fund referred to in Article 32 of the PRIIPs Regulation.

5.2 CRR: European Commission report on use of Article 459 powers

On 8 March 2017, the European Commission published a report on market developments potentially requiring the use of Article 459 of the Capital Requirements Regulation (CRR) in the past year. It is based on an assessment provided by the European Systemic Risk Board (ESRB).

Pursuant to Article 459 of the CRR, the Commission may impose, for a period of one year, stricter requirements concerning the level of banks' own funds, large exposures, or public disclosure, under specific conditions, in particular upon the recommendation or the opinion of the ESRB or the European Banking Authority (EBA). The required conditions are that these measures are necessary to address changes in the intensity of micro-prudential and macro-prudential risks which arise from market developments in the EU or outside the EU affecting all Member States, and that the instruments of the CRR/ the CRD IV Directive are not sufficient to address these risks.

The Commission says that it has not yet seen any circumstances that would warrant the use of Article 459, considering in particular that this Article allows only for tightening measures, the priority of the other CRR/CRD IV instruments and the fact that measures under Article 459 may only be imposed where the respective market developments affect all Member States. In accordance with this assessment, neither the ESRB nor the EBA have recommended to the

Commission to take action under Article 459 at this stage.

The Commission will continue to monitor relevant market developments, in close co-operation with the ESRB.

5.3 FinTech: speech by Olivier Guersent

On 7 March 2017, Olivier Guersent, Director General of the European Commission's DG FISMA, spoke at the Swiss Finance Council's 2017 event. In his speech, Mr Guersent discussed the ongoing work being carried out in the Commission by its FinTech Task Force. He also looked at the main changes and challenges for the industry, some of the initiatives already on the way and what may be the next steps.

5.4 CRR: EBA final draft RTS on disclosure of encumbered and unencumbered assets

On 3 March 2017, the European Banking Authority published a final report containing its final draft regulatory technical standards (RTS) on the disclosure of encumbered and unencumbered assets as mandated under Article 443 of the Capital Requirements Regulation (CRR). Section 3 of the report contains a draft Commission Delegated Regulation containing the draft RTS.

The draft RTS are addressed to institutions and provide three disclosure templates and a box for narrative information to be filled in by the institutions in respect of the importance of encumbrance in their funding model. These templates have been published as an annex to the report. The following information will be required:

- encumbered and unencumbered assets in carrying amount and fair value by broad category of asset type, with the carrying amount of unencumbered assets broken down by asset quality (template A);
- collateral received by an institution, by broad category of product type (template B);
- carrying amount of encumbered assets/collateral received and associated liabilities (template C);
- narrative information on the importance of asset encumbrance for an institution (template D).

Institutions will have to disclose information in accordance with these templates, and provide some additional details on the importance of encumbrance in their individual funding model.

Smaller institutions that do not have material levels of asset encumbrance, as well as investment firms, are exempt from disclosing information on the quality of encumbered and unencumbered assets, so as to avoid incurring disproportionate costs. Also, in order to facilitate the disclosure of the quality criteria for large institutions, the requirements only need to be implemented one year after the entry into force of the Delegated Regulation.

The EBA consulted on the draft RTS in April 2016 and section 4.2 of the final report contains a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments, and the actions taken to address them, if deemed necessary.

5.5 CRR: EBA final guidelines on LCR disclosure

On 8 March 2017, the European Banking Authority (EBA) published a final report containing its final guidelines on liquidity coverage ratio (LCR) disclosure, made under Article 435 of the Capital Requirements Regulation (CRR).

The final guidelines provide harmonised disclosure templates and tables for LCR disclosure without altering the general disclosure framework provided for in the CRR. In particular, they envisage a fully-fledged quantitative LCR disclosure template, in line with that proposed by the standard developed by the Basel Committee on Banking Supervision, for systemic credit institutions and a simplified one (including only the LCR figure, the amount of the liquidity buffer and that of net outflows) for the rest of the credit institutions which will apply them.

Items in the LCR disclosure template are calculated as simple averages of monthly reporting observations based on the implementing technical standards on LCR reporting. The LCR disclosure template is complemented by explanatory notes, both qualitative and quantitative, of the disclosed LCR items. The guidelines also provide a table for the disclosure of risk management objectives and policies for liquidity risk.

The guidelines, which are consistent with the EBA Pillar 3 Guidelines in terms of scope and date of application, apply to credit institutions covered by the LCR Delegated Regulation and identified as globally and other systemically important institutions. Other credit institutions should apply the guidelines at the discretion of the relevant competent authority or on a voluntary basis.

The guidelines will be translated into the official EU languages and published on the EBA website. The deadline for competent authorities to confirm whether they comply with the guidelines will be two months after the publication of the translations. The guidelines will apply from 31 December 2017.

The EBA consulted on the guidelines in May 2016 and annex 5 to the report contains a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary. Based on the feedback to the consultation paper, the EBA has published a mapping template between the LCR reporting and disclosure templates in the form of an excel-based tool. This not part of the guidelines and, therefore, does not have any legal value for disclosure purposes.

5.6 CRR: EBA opinion on improving the decision-making framework for supervisory reporting requirements

On 8 March 2017, the European Banking Authority (EBA) published an opinion to the European Parliament, the Council of the European Union and the European Commission proposing that the decision-making framework for adopting supervisory reporting requirements be made more efficient and fit-for-purpose by replacing the Commission's implementing technical standards (ITS) with decisions adopted directly by the EBA. The opinion is made under the Capital Requirements Regulation (CRR).

The EBA says that the current endorsement process of the ITS on supervisory reporting poses challenges for financial institutions and supervisors alike due to systemic and significant delays in the adoption process, which disrupt the ability to update reporting requirements on a predictable schedule. Such delays often create mismatches between reporting requirements and the underlying obligations to which they relate. Consequently, they result in the EBA not being able to develop its risk analyses based on reliable data, competent authorities not having the necessary tools to supervise institutions appropriately and financial institutions being disproportionately burdened with duplication of reporting requirements.

In order to improve the decision making process, the EBA proposes that supervisory reporting requirements are adopted directly through its own implementing technical decisions, rather than via ITS. The opinion also proposes that full EU institutional and stakeholder accountability is maintained through mechanisms including consultation and cost-benefit analysis, a streamlined scrutiny right for the Commission, a regular report on the reporting compliance burden, and the possibility of extending the scope of the Board of Appeal review to cover such decisions.

5.7 Consistency of RWAs: EBA reports

On 3 March 2017, the European Banking Authority (EBA) published two reports relating to assessments of the consistency of risk-weighted assets (RWAs).

The reports are:

- Results from the 2016 high default portfolios exercise: this report sets out the results of the supervisory benchmarking exercise for residential mortgage, small and medium-size enterprise (SME) retail, SME corporate and corporate-other portfolios (collectively referred to as high default portfolios), which covered the entire population of banks authorised to use credit risk internal models for calculating own funds requirements. The aim of the exercise was not only to assess the overall level of variability in RWAs, but also examine and highlight the different drivers of the dispersion observed;
- Results from the 2016 market risk benchmarking exercise: this report sets out the results of a supervisory benchmarking exercise that assessed the level of variability observed in market-risk-weighted assets produced by banks' internal models.

5.8 Introduction of IFRS 9: EBA opinion on transitional arrangements and credit risk adjustments

On 6 March 2017, the European Banking Authority (EBA) published an opinion addressed to the European Commission, the European Parliament, the Council of the European Union and to all competent authorities across the EU on transitional arrangements and credit risk adjustments to mitigate the effect of International Financial Reporting Standard (IFRS) 9 on prudential ratios.

The opinion focuses on the main elements that should be considered when designing the transitional arrangements. In particular, the EBA is of the view that no neutralisation of the initial impact of IFRS 9 should be allowed during the phase-in regime, starting on 1 January 2018 and supports a "static" approach for amortising over four years the one-off impact of IFRS 9. Institutions, if they wish, may opt to recognise the full impact of IFRS 9 as of day one.

In addition, the EBA believes that all IFRS 9 provisions should be considered as specific credit risk adjustments in the context of the current EBA regulatory technical standards (RTS) on credit risk adjustments, despite the fact that amendments or clarifications to the RTS may be needed in the future.

The EBA recently launched a second exercise focusing on the impact of IFRS 9 on regulatory own funds, its interaction with prudential requirements and the progress made by institutions in its implementation. It expects the results of this to be available in the second quarter of 2017.

5.9 Solvency II: EIOPA request for information for its long-term guarantees report

On 3 March 2017, the European Insurance and Occupational Pensions Authority (EIOPA) published a request that insurance and reinsurance undertakings from the EEA and subject to Solvency II provide the following information as part of EIOPA's long-term guarantees report:

- impact of the symmetric adjustment mechanism to the equity risk charge on the financial position of undertakings;
- impact of the extrapolation of risk-free interest rates on the financial position of undertakings;
- losses due to bond defaults and downgrades of bonds in matching adjustment portfolios.

Results need to be submitted to national supervisory authorities by 15 June 2017, who will then report to EIOPA by 16 July 2017.

6. Financial regulation

6.1 Spring Budget 2017

On 8 March 2017, the Chancellor of the Exchequer, Philip Hammond, delivered the Spring Budget 2017. An overview of tax legislation and rates has also been published.

The following items may be of interest:

- **consumers and markets Green Paper** (see paragraph 5.9 of the Budget Statement): the Government will shortly publish a Green Paper to examine markets that are not working efficiently or fairly. The Budget sets out the initial steps the Government will take to make a difference for consumers, including:

    - legislating at the earliest opportunity to allow consumer enforcement bodies, such as the Competition and Markets Authority, to ask the courts to order civil fines against companies that break consumer law. This will be a strong and effective deterrent, and will enable consumer bodies to take tough action against firms that mislead or mistreat consumers;

    - developing proposals to protect consumers from facing unexpected payments when a subscription is renewed or when a free trial ends;

    - considering how to make terms and conditions clearer, simpler and shorter for consumers to engage with, building on the call for evidence on terms and conditions published in 2016.

- **insurance premium tax (IPT)** (see paragraph 3.38 and paragraph 1.27 of the overview): the Government will legislate to introduce anti-forestalling provisions and increase the standard rate of IPT to 12% from 1 June 2017, as announced in the Autumn Statement 2016. An HM Revenue & Customs (HMRC) policy paper on anti-forestalling, draft clause on anti-forestalling (with related draft explanatory notes) and a draft clause on the standard rate (with related draft explanatory notes) have also been published;
- **qualifying recognised overseas pension schemes (QROPS) - introduction of transfer charge** (see paragraph 3.46 and paragraph 1.14 of the overview): The Government will introduce a 25% charge on transfers to QROPS. This charge is targeted at those seeking to reduce the tax payable by moving their pension wealth to another jurisdiction. Exceptions will apply to the charge allowing transfers to be made tax-free where people have a genuine need to transfer their pension, including when the individual and the pension are both located within the EEA. An HMRC policy paper on the QROPS regime, policy paper on the QROPS charge on transfers (with related HMRC guidance),and draft legislation (with related draft explanatory note) have also been published;
- **research and development (R &D) tax review** (see paragraph 3.12 and paragraph 2.13 of the overview): to further support investment, the Government will make administrative changes to the R & D expenditure credit to increase the certainty and simplicity around claims and will take action to improve awareness of R&D tax credits among small and medium-sized enterprises. The Government will continue to keep the competitiveness of the UK environment for R&D under review to ensure that the UK is profoundly pro-innovation;
- **VAT split payment model** (see paragraph 3.49 and paragraph 2.28 of the overview): building on the measures introduced in the 2016 Budget, on 20 March 2017, the Government will publish a call for evidence on the case for a new VAT collection mechanism for online sales. This would harness technology to allow VAT to be extracted directly from online transactions at the point of purchase. This is often referred to as a "split payment"

model. This is the next step in tackling the non-payment of VAT by some overseas traders selling goods online to UK consumers.

6.2 Spring Budget 2017: Chancellor's letter on recommendations for the FCA

On 8 March 2017, as part of the Spring Budget 2017, the Chancellor of the Exchequer, Philip Hammond, published the text of a letter sent to the Financial Conduct Authority's (FCA) Chief Executive, Andrew Bailey, containing recommendations for the FCA.

Among other things, the letter sets out the following matters about aspects of the Government's economic policy to which the FCA should have regard:

- **competition**: the Government is keen to see more competition in all sectors of the industry, particularly retail banking. This includes minimising barriers to entry and ensuring a diversity of business models within the industry;
- **growth**: the Government wishes to ensure financial services markets make a positive contribution to sustainable economic growth in the UK economy in the medium and long term, through the facilitation of finance for productive investment and as a productive sector of the UK economy;
- **competitiveness**: the Government wishes to ensure that the UK remains an attractive domicile for internationally active financial institutions, and that London retains its position as the leading international financial centre. The Government considers that achieving this aim will support its aims for sustainable economic growth;
- **innovation**: the Government is keen to see innovation in the financial services sector and how this can support the wider economy, through new methods of engaging with consumers of financial services and new ways of raising capital. This includes recognising differences in the nature and objectives of business models, promoting effective competition and ensuring burdens are proportionate;
- **trade**: the Government aims to encourage trade and inward investment to the UK that can help boost productivity and growth across the UK economy. This can be supported by improved competition opening the UK to new ways of doing things and being seen as an attractive place to do business;
- **better outcome for consumers**: the Government wants to see financial services work in the best interests of the consumers and businesses they serve. This includes securing better outcomes for all consumers through improved competition in the interests of consumers and having regard to the needs of different consumers who use or may use financial services.

6.3 Spring Budget 2017: Chancellor's letter on the remit and recommendations for the FPC

On 8 March 2017, as part of the Spring Budget 2017, the Chancellor of the Exchequer, Philip Hammond, published the text of a letter sent to the Governor of the Bank of England, Mark Carney, on the remit and recommendations for Financial Policy Committee (FPC).

Among other things, the letter makes recommendations regarding support for the Government's policy towards the financial services industry. The letter says that the Government is committed to UK financial services being effectively regulated and to securing a financial sector that is globally competitive, sustainable and secure over the long-term. Financial stability, to which the FPC contributes by identifying, monitoring and addressing systemic risks, is an essential prerequisite for achieving that ambition. Subject to achieving that, the FPC should act in a way that supports the Government's overall strategy for financial services, covering, in particular:

- **competition and innovation**: the Government is keen to see more competition and innovation in all sectors of the industry, particularly retail banking. This includes minimising barriers to entry and ensuring a diversity of business models within the industry;
- **competitiveness**: the Government wishes to ensure that the UK remains an attractive domicile for internationally active financial institutions, and that London retains its position as the leading international financial centre. In its assessment of the costs and benefits of its policy actions, the FPC should, wherever practical and relevant, take these considerations into account.

6.4 Spring Budget 2017: Chancellor's letter on recommendations for the PRC

On 8 March 2017, as part of the Spring Budget 2017, the Chancellor of the Exchequer, Philip Hammond, published the text of a letter sent to the Governor of the Bank of England, Mark Carney, on recommendations for the Prudential Regulation Committee (PRC). The PRC is responsible for the exercise of the Bank of England's functions as the Prudential Regulation Authority (PRA).

Among other things, the letter sets out matters about aspects of the Government's economic policy to which the PRC should have regard. The letters says that when the PRC considers how to advance the objectives of the PRA and apply the regulatory principles it should, where relevant and practical, take various considerations into account, in its assessment of the costs, burdens and benefits of potential rules or policies. These considerations are the same as set out in the letter to the FCA, see item 6.2 above.

6.5 Dormant assets: Independent Dormant Assets Commission report

On 3 March 2017, the Department for Culture, Media and Sport published a report, produced by the independent Dormant Assets Commission, on tackling dormant assets.

The Commission was set up in December 2015 to look at whether the current dormant asset scheme, which includes funds in banks and building societies, could be extended to other financial services. These include insurance products, stocks and shares, and pensions that have been classed as dormant. The report contains the Commission's principal findings and over 50 recommendations.

The key recommendations made by the Commission include the following:

- the current scheme should be expanded to include a much wider range of UK-domiciled financial products, including additional bank accounts, unclaimed proceeds from life insurance and pensions products, and non-cash assets (such as dormant holdings in investment funds, shares and bonds). The Commission recognises that certain assets recommended for inclusion are held through trust structures, and that legislative change may be required to facilitate trustees transferring assets to the scheme. Certain financial products do not lend themselves to inclusion at this stage, although the Commission recommends some of these should be revisited in the future;
- the existing definition of dormancy in the Dormant Bank and Building Society Accounts Act 2008, used in the current scheme for bank and building society accounts, cannot be universally applied. Dormancy should be defined by some or all of: customer inactivity over time, lack of proactive action at a trigger date (for example, maturity date), and loss of contact with customers over an extended time

frame despite a reasonable level of attempted reunification activity by a firm;
- that customers should continue to be able to reclaim lost assets at any time;
- participation by firms in an expanded scheme should continue to be voluntary. However, if participation levels are low, the Government should consider the reasons behind this, and whether moving to mandatory participation in the scheme in the future would be appropriate;
- the expanded scheme should retain the core principles of the current scheme but the way the scheme is managed should be revised to allow it to cope with the wider range of assets envisaged.

The Commission has now stood down to allow the Government to consider the recommendations made and determine the next steps. The Commission expects that the Government will provide a formal response to the report and says that it is likely that a legislative framework will not be introduced before 2018 and that it will take a period of time thereafter, which may extend to years, before new dormant assets start to flow into an expanded scheme.

6.6 Common financial services questions: House of Commons Library briefing paper

On 6 March 2017, the House of Commons Library published a briefing paper which looks at a broad range of financial services and financial institutions issues. These include dormant bank accounts, the Financial Ombudsman Service, the main financial regulators, the Financial Services Compensation Scheme and competition in banking.

7. Insurance

7.1 Group corporate governance: IAIS consults on application paper

On 3 March 2017, the International Association of Insurance Supervisors (IAIS) published for consultation a draft application paper on group corporate governance.

The draft application paper aims to provide good supervisory practices and examples to address challenges specific to the governance of insurance groups. It is also intended to create a common understanding amongst supervisors on how to assess or evaluate the governance frameworks of insurance groups. While it provides material for the practical application of existing principles, standards and guidance on group governance, it does not set new standards.

The IAIS says that the draft paper is relevant for all groups, but is particularly useful for the supervisors of internationally active insurance groups, as they usually have more complex structures and require heightened co-ordination between the group-wide and other involved supervisors.

The draft paper relies on the main conclusions of an October 2014 IAIS issues paper on group corporate governance. It provides supervisory responses and best supervisory practices for the five main areas where insurance groups face challenges, as identified in the issues paper. These are:

- setting objectives and strategies;
- allocation of oversight and management responsibilities;
- policies and processes;
- risk management and compliance; and
- control functions.

The IAIS will hold a public background call on 20 March 2017 to discuss the draft application paper and receive public feedback. Comments on the draft paper are requested by 3 April 2017.

7.2 Revised ICPs and ComFrame material integrated with ICPs: IAIS consultation

On 3 March 2017, the International Association of Insurance Supervisors (IAIS) published for consultation a draft package of measures on revised insurance core principles (ICPs) and draft ComFrame material integrated with ICPs.

ComFrame is a common framework for the supervision of internationally active insurance groups (IAIGs), which has been underway in the IAIS since 2010. It aims to provide a set of international supervisory requirements focusing on effective group-wide supervision of IAIGs. These requirements are building upon those in the IAIS ICPs. Adoption of ComFrame is scheduled for the end of 2019. In June 2016, the IAIS decided to restructure the ComFrame-specific material and integrate it directly into the relevant ICPs on which it builds, which has resulted in a streamlining of ComFrame material.

The consultation covers the following:

- introduction: to ICPs and ComFrame and assessment methodology;
- governance: ComFrame-specific material integrated with ICP 5 (Suitability of persons), ICP 7 (Corporate governance) and ICP 8 (Risk management and internal controls);
- supervisor and supervisory measures: revised ICP 9 (Supervisory review and reporting) and revised ICP 10 (Preventive measures, corrective measures and sanctions) as well as ComFrame-specific material integrated with ICP 9 and ICP 10 (with ICPs 10 and 11 (Enforcement) combined into one ICP, (that is, ICP 10));
- supervisory co-operation and co-ordination: revised ICP 3 (Information sharing and confidentiality requirements) as well as revised ICP 25 (Supervisory co-operation and co-ordination) and ComFrame-specific material integrated with ICP 25;

- resolution: revised ICP 12 (Exit from the market and resolution) and ComFrame material integrated with ICP 12;
- ICP 26 (Cross-border co-operation and co-ordination on crisis management) has been restructured and, consequently, part of it has been moved to ICP 25 and the rest to ICP 12. It is intended that all the requirements in ICP 26 are retained in other ICPs.

The IAIS says that the only changes in substance result from developments since the 2014 ComFrame draft (such as feedback from field testing and the development of material on resolution, recovery and crisis preparation). ComFrame standards and ComFrame parameters have been merged into a single level that builds on the ICP standards. In the consultation material, ComFrame text appears in blue boxes under the relevant ICP material. Numbering of ComFrame has been adjusted to follow the ICPs presentation and structure. More details on the technical aspects of the integration of the ComFrame material with ICPs can be found in the IAIS February 2017 newsletter.

The IAIS will hold two public background calls via teleconference on 15 and 20 March 2017 to discuss the consultation package. Comments on the consultation package are requested by 1 June 2017.

7.3 ABI and BIBA review code of good practice regarding support for potentially vulnerable motor and household customers at renewal

In January 2016, the Association of British Insurers and the British Insurance Brokers' Association (BIBA) published a voluntary code of good practice to support potentially vulnerable motor and household customers at renewal.

On 3 March 2017, the ABI and BIBA published a report reviewing the joint code of good practice the report outlines some of the steps ABI member firms have taken during the initial 12 month implementation period of the code. Eight broad areas of good practice are identified and outlined, including implementation of vulnerability policies, staff training, support to vulnerable customers, the product review process, long-standing products, renewal communications changes, pricing transparency, and prior year premium disclosure.

The ABI says that it will continue to encourage the implementation of measures aimed at supporting the needs of vulnerable customers and welcomes the Financial Conduct Authority's continued focus in this area. The ABI will review the continued suitability and application of the code of good practice and make a recommendation as to whether it should continue in its current or an amended form no later than 1 November 2018.

8. Investment Funds

8.1 Authorised funds: Investment Association guidance updated

On 6 March 2017, the Investment Association (IA) published an updated version of its guidance for members on the regulation of authorised funds.

The IA says that the document is designed for use by investors who are considering investment in a UK-authorised fund and who wish to understand in more detail the UK regulatory regime for authorised funds. Unlike unregulated schemes, the operation of UK authorised funds is governed by comprehensive regulation, a summary of which is provided by the guide.

The guidance is in four sections:

- section 1 provides a summary of the types of authorised fund structures available;
- section 2 explains the governance structure of UK funds;
- section 3 provides further information about the operation of UK funds;
- section 4 describes how funds are taxed in the UK.

The IA invites authorised fund managers to use the guidance, supplemented with fund and management company specific information, to inform potential investors, or to use relevant parts of the guidance within their own literature.

9. Securities markets

9.1 EURIBOR: EMMI position paper setting out the legal grounds for the proposed reforms

On 9 March 2017, the European Money Markets Institute (EMMI) published a position paper setting out the legal grounds for the proposed reforms to the Euro Interbank Offered Rate (EURIBOR).

Over the past three years EMMI has been in the process of reforming the EURIBOR benchmark. EMMI has been working towards a transaction-based benchmark methodology and the introduction of four clarifications to the EURIBOR specification to ensure that EMMI complies with its legal obligations and to ensure that the EURIBOR benchmark remains representative of the market condition.

The position paper is based on EMMI's October 2015 consultation paper on the evolution of EURIBOR, the revised roadmap setting out EMMI's path forward on the evolution of EURIBOR from the current quote-based determination methodology to a fully transaction-based methodology, and guidelines for the pre-live verification program for a transaction-based EURIBOR, both of which were published in June 2016.

The position paper sets out EMMI’s analysis with respect to the legal grounds for the proposed reforms, the different transition paths that may be used and EMMI’s stakeholder outreach program.

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