

UK

- Speech by David Rule, PRA on annuities
- LMA publishes Brexit Binding Authority Sunset Endorsement
- Claims management regulation: HM Treasury consults on secondary regulations
- PRA publishes CP11/18: Solvency II: changes to reporting format
- PRA publishes CP10/18: Solvency II: updates to internal model output reporting
- FCA publishes new webpage on the basic advice regime under MiFID II and IDD
- PRA publishes Dear CEO letter on capital extractions by insurance firms in run-off
- PRA publishes CP9/18: Solvency II: internal models - modelling of the volatility adjustment
- PRA publishes CP8/18: Solvency II: external audit of the public disclosure requirement
- FCA's 2018/19 business plan
- PRA business plan 2018/19
- General insurance: FCA warns that it will take action against firms who fail to implement renewal rules

INTERNATIONAL

- EU-US bilateral agreement on insurance and reinsurance prudential measures: notice of entry into force and Council of the European Union decision approval of the agreement published in the Official Journal
- IDD: Commission Delegated Regulation delaying application date published in the Official Journal

SOLVENCY II

- Commission Implementing Regulation on mapping credit assessments of ECAs published in the Official Journal
- Solvency II Delegated Regulation: draft European Commission Delegated Regulation amending securitisation calculations
- European Commission report on the application of Title III

UK

Speech by David Rule, PRA on annuities

On 26 April 2018, the Bank of England published the text of a [speech](#) given by its Executive Director, Insurance Supervision, David Rule, at the Westminster and City Bulk Annuities - The Expanding Market conference. The subject of the speech was the bulk purchase annuity market.

In his speech Mr Rule considered the growth in large annuity transfers from back books, and from pension schemes. He discussed the risks facing annuity providers investing in illiquid assets, especially equity release mortgages, in their matching adjustment portfolios. He also explained what it means for the Prudential Regulation Authority's supervisory priorities for life insurers.

LMA publishes Brexit Binding Authority Sunset Endorsement

On 24 April 2018, the Lloyd's Market Association (LMA) published a new [Brexit Binding Authority Sunset Endorsement](#) for use in conjunction with LMA model binding authority agreements, together with a related LMA [bulletin](#).

The LMA has drafted the model clause to assist in managing the transition of binding authority business to Lloyd's Brussels Subsidiary (LBS) in respect of Brexit.

The model clause prohibits the binding of business with an EEA regulatory risk location after 31 December 2018, in line with Lloyd's guidance published in March 2018 in [market bulletin Y5166](#). A regulatory risk location can be derived from a number of factors, and the LMA would recommend use of Lloyd's risk locator tool to ensure that risks are correctly underwritten by Lloyd's underwriters or LBS.

The model clause may be used on any binding authority agreement terminating after 31 December 2018, which has a territorial scope encompassing EEA business. However, the LMA reminds managing agents that there are multiple ways to manage the transition to LBS:

- ensure that the expiry date of the binding authority agreement is on or before 31 December 2018 at the point of placing;
- ensure that cancellation provisions are flexible enough to enable cancellation of the binding authority agreement with notice mid term;
- use of the Brexit Binding Authority Sunset Endorsement.

The LMA considers that the first option is likely to be the cleanest option available to managing agents in administering their binding authority portfolio, although the second and third options may provide greater commercial flexibility as Brexit negotiations continue.

The LMA says that the Sunset Endorsement may also be used on any binding authority which has a territorial scope including both EEA and non-EEA risks.

Claims management regulation: HM Treasury consults on secondary regulations

On 23 April 2018, HM Treasury published a [technical consultation](#) on the [draft secondary regulations](#) that will enable the transfer of claims management regulation to the Financial Conduct Authority (FCA), with a focus on the scope of regulation and the FCA's consultation requirements.

HM Treasury says that the regulations being consulted on will only form part of the final statutory instrument. The final statutory instrument will also include the temporary permissions regime, transitional provisions to put the framework for the transfer in place, as well as consequential provisions.

The consultation also seeks comments on the design of a temporary permissions regime to help firms adapt to the FCA regime.

Comments are requested by 1 June 2018.

PRA publishes CP11/18: Solvency II: changes to reporting format

On 20 April 2018, the Prudential Regulation Authority (PRA) published a consultation paper, [PRA CP11/18](#), which proposes changes to the file type and reporting format for a number of regular insurance reporting submissions in order to align with Solvency II Quantitative Reporting Templates and international data standards.

The consultation paper details the proposals to change the reporting format from Microsoft Excel workbooks to XBRL (eXtensible Business Reporting Language) standards for:

- National Specific Templates (NSTs);
- internal model outputs (IMO);
- market risk sensitivities; and
- standard formula reporting for firms with approved internal model (model drift).

The PRA does not propose changes to the underlying content of the above reports. The PRA is consulting separately on the content of NSTs in its January 2018 consultation paper, [CP2/18](#), on changes in insurance reporting requirements and IMO in CP10/18, which was also published on 20 April 2018, see below.

Comments are requested by 1 June 2018.

PRA publishes CP10/18: Solvency II: updates to internal model output reporting

On 20 April 2018, the PRA [announced](#) the publication of a consultation paper, [CP10/18](#), which proposes updates to Supervisory Statement (SS) 25/15, "Solvency II: regulatory reporting, internal model outputs", and SS26/15, "Solvency II: own risk and solvency assessment and the ultimate time horizon - non-life firms".

The proposals follow the analysis of the year-end 2016 PRA internal model output request, feedback from individual firms and the PRA's January 2018 [package](#) of insurance reporting reforms.

The PRA proposes changes to reporting of internal model outputs for the following templates and LOG files, links to these are given in the press release:

- internal model risk outputs (life) (IM.01) (SS25/15);
- internal model counterparty risk (IM.02) (SS25/15 and SS26/15); and
- internal model outputs (non-life) (IM.03.01 to IM.03.11 and MO.03.01 to MO.03.11) (SS25/15 and SS26/15).

Comments are requested by 13 July 2018.

FCA publishes new webpage on the basic advice regime under MiFID II and IDD

On 19 April 2018, the FCA published a new [webpage](#) containing an update on the basic advice regime under the MiFID II Directive and the Insurance Distribution Directive (IDD).

The update explains the impact of the FCA's implementation of MiFID II and the IDD on the basic advice regime and includes important information for firms selling stakeholder products using basic advice. It includes sections giving information on products in scope of MiFID II and products in scope of the IDD.

The FCA says that firms selling stakeholder products using basic advice should read the update to make sure they understand the impact of MiFID II and the IDD, and comply with the FCA's standards. The update also directs firms to further information which the FCA has previously published on providing streamlined advice to consumers.

PRA publishes Dear CEO letter on capital extractions by insurance firms in run-off

On 12 April 2018, the PRA published the text of a [Dear CEO letter](#) on capital extractions by insurance firms in run-off.

The letter says that the PRA frequently reviews capital extraction requests from insurance firms in run-off. During the last two years it has observed that the quality of the accompanying information for some of these requests has been inadequate, in particular in the provision of information relating to stress tests and reserving.

The PRA is writing to firms to remind them that they should closely consider [Supervisory Statement \(SS\) 4/14](#) on capital extractions by run-off firms within the general insurance sector when preparing a request for capital extraction for submission to the PRA. The letter seeks to provide further clarity on these expectations and is not intended to supersede SS4/14.

The letter says that as, typically, firms in run-off have limited ability to generate new capital, the PRA expects firms to be prudent and ensure that policyholders would maintain an adequate level of protection following any suggested capital extraction. The PRA also expects firms to demonstrate clearly in their application how the board has satisfied itself that the request is appropriate and meets the expectations in SS4/14. The letter gives examples of the types of information the PRA would expect to accompany a firm's capital extraction request.

The PRA concludes the letter by encouraging firms to engage with it before making a capital extraction request, to avoid any unnecessary delays.

PRA publishes CP9/18: Solvency II: internal models - modelling of the volatility adjustment

On 11 April 2018, the PRA published a consultation paper, [CP9/18](#), setting out a proposal to consider applications from internal model firms that include a dynamic volatility adjustment (DVA) under the Solvency II Directive.

The consultation paper sets out the PRA's draft expectations of internal model firms when determining the risks that might arise from the DVA when calculating the solvency capital requirement (SCR). The PRA is consulting on the possibility of allowing firms to apply DVA in internal models when calculating the SCR. The consultation paper highlights the areas that the PRA proposes firms to consider in their internal model and model change applications when seeking approval to apply the DVA.

The PRA proposes a new supervisory statement (SS) "Solvency II: internal models - volatility adjustment in the modelling of market risk and credit risk stresses" (see appendix 1), and amendments to SS17/16 "Solvency II: internal models - assessment, model change and the role of non-executive directors" (see appendix 2).

Comments are requested by 11 July 2018.

PRA publishes CP8/18: Solvency II: external audit of the public disclosure requirement

On 11 April 2018, the PRA published a consultation paper, [CP8/18](#), on the external audit of the public disclosure requirement under the Solvency II Directive.

The consultation paper sets out the PRA's proposal to amend the rule that requires the external audit of parts of the solvency and financial condition report (SFCR), under Rule 2 of the External Audit part of the PRA Rulebook. The SFCR is the key public disclosure under Solvency II and is intended to enhance transparency and comparability, through the disclosure of essential information on the solvency and financial condition of a firm.

The PRA estimates that the proposed amendments would remove the SFCR external audit requirement from the end of 2018 for more than 150 smaller UK Solvency II firms (including mutuals) and groups. The PRA considers that this change would improve the proportionality of the requirement.

The PRA proposes that any amendments would be effective for financial years ending on or after 15 November 2018.

Comments are requested by 11 July 2018.

FCA's 2018/19 business plan

On 9 April 2018, the FCA published its [business plan 2018/19](#) setting out its key priorities for the coming year. The FCA says that these priorities reflect the high level of resources it needs to dedicate to the UK's withdrawal from the EU, given its impact on both FCA regulation and the firms it regulates.

Alongside this work, the FCA will focus on seven cross sector priority areas, based on assessments of where there is the greatest harm or potential for harm, and where intervention can have the greatest impact. The priority areas are:

- firms culture and governance which should drive behaviours and produce outcomes likely to benefit consumers and markets;
- high-cost credit, building on the significant impact already made in the market;
- tackling financial crime, including fraud, scams and anti-money laundering, to make the UK financial services sector a hostile place for criminals and a safe place for consumers;
- data security, resilience and outsourcing, as technology plays a pivotal role in delivering financial products and services;
- innovation, Big Data, technology and competition which are driving change in markets;
- the treatment of existing customers to ensure that they do not get less attention or receive poorer outcomes than new customers;
- long-term savings, pensions and intergenerational differences, which reflects the changing UK population and their financial needs.

The FCA has also published its [sector views 2018](#), which highlight the issues and developments it has identified in the seven sectors it regulates. The FCA says that each sector view helps it to determine its priorities for a sector, its resourcing decisions and its operational plans.

PRA business plan 2018/19

On 9 April 2018, the PRA published its [business plan 2018/19](#), setting out its strategy and work plan for the coming year and its budget for 2018/19.

The PRA's strategic goals for 2018/19 include:

- to have in place robust prudential standards comprising the post-crisis regulatory regime;
- to ensure that firms are adequately capitalised, and have sufficient liquidity, for the risks they are running or planning to take;
- to ensure that banks and insurers have credible plans in place to enable them to recover from stress events, and that it has a credible resolution strategy to manage a firm's failure, proportionate to the firm's size and systemic importance, in an orderly manner;
- to deliver a smooth transition to a sustainable and resilient UK financial regulatory framework following the UK's exit from the EU.

The PRA says that this year it has published its strategy and business plan alongside the consultation paper on its fees and levies for the year ahead. The aim is to improve transparency by setting out what the PRA will be doing in the year ahead, as context for the fees and levies consultation.

As well as the consultation paper, the PRA has published a [letter](#) from the Governor of the Bank of England and Chair of the Prudential Regulation Committee, Mark Carney, to the Chancellor of the Exchequer on the adequacy of PRA resources and the independence of PRA functions, together with the PRC's related [annual report](#) to the Chancellor of the Exchequer as required under paragraph 19 of Schedule 6A to the Bank of England Act 1998 (as amended). It relates to the period 1 March 2017 to 28 February 2018. The letter gives the information that in future this will be published as part of the PRA's annual report.

General insurance: FCA warns that it will take action against firms who fail to implement renewal rules

On 3 April 2018, the FCA [announced](#) that it will take action against general insurance firms who are failing to properly implement rules introduced to increase transparency and encourage shopping around at renewal time.

The rules, introduced in April 2017, require firms to clearly show the insurance premium a customer paid last year alongside their proposed renewal premium. They also require firms to show a prominent, clear and straightforward message to encourage customers to shop around. The FCA has found that firms are still failing to properly implement the rules despite its October 2017 [warning](#) about failings.

The FCA says that RAC has become the latest firm to agree to contact affected customers after the FCA found that the firm was failing to display the prior and current year premiums, and shopping around message as key information in its breakdown policy renewal documentation.

INTERNATIONAL

EU-US bilateral agreement on insurance and reinsurance prudential measures: notice of entry into force and Council of the European Union decision approval of the agreement published in the Official Journal

On 9 April 2018, a [notice](#) confirming the entry into force of the [bilateral agreement](#) between the EU and the US on insurance and reinsurance measures was published in the Official Journal of the European Union.

The notice gives the information that EU and the US have notified each other of the completion of the procedures necessary for the entry into force of the agreement. Consequently, pursuant to Article 8 of the agreement, it entered into force on 4 April 2018.

The Council of the European Union's [decision](#) approving the agreement was published in the Official Journal on 6 April 2018.

IDD: Commission Delegated Regulation delaying application date published in the Official Journal

On 6 April 2018, the [text](#) of Commission Delegated Regulation (EU) 2018/541 of 20 December 2017 amending [Commission Delegated Regulation \(EU\) 2017/2358](#) of 21 September 2017 supplementing the Insurance Distribution Directive (IDD) with regard to product oversight and governance requirements for insurance undertakings and insurance distributors and [Commission Delegated Regulation \(EU\) 2017/2359](#) of 21 September 2017 supplementing the IDD with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products as regards their dates of application was published in the Official Journal of the European Union.

The proposal to postpone the application date of the Delegated Regulations from 23 February 2018 to 1 October 2018 is intended to align with the proposal to delay the application date of the IDD itself.

Commission Delegated Regulation (EU) 2018/541 will enter into force on the twentieth day following that of its publication in the Official Journal.

SOLVENCY II

Commission Implementing Regulation on mapping credit assessments of ECAs published in the Official Journal

On 25 April 2018, the text of the [Commission Implementing Regulation \(EU\) 2018/633](#) of 24 April 2018 amending [Commission Implementing Regulation \(EU\) 2016/1800](#) laying down implementing technical standards with regard to the allocation of credit assessments of external credit assessment institutions (ECAIs) to an objective scale of credit quality steps in accordance with Article 109(a)(1) of the Solvency II Directive was published in the Official Journal of the European Union. The Implementing Regulation will enter into force on the twentieth day following publication in the Official Journal.

Solvency II Delegated Regulation: draft European Commission Delegated Regulation amending securitisation calculations

On 17 April 2018, the European Commission published a [draft Commission Delegated Regulation](#) which amends the [Solvency II Delegated Regulation](#) as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised (STS) securitisations held by insurance and reinsurance undertakings.

The Solvency II Delegated Regulation contains detailed implementing rules for the Solvency II Directive, including risk calibrations for the calculation of capital charges for specific asset categories.

The Commission has established a new EU framework for STS in the Securitisation Regulation, [Regulation \(EU\) 2017/2402](#), and the Capital Requirements Regulation Amendment Regulation, [Regulation \(EU\) 2017/2401](#), which were published in the Official Journal of the European Union on 28 December 2017. The Regulations entered into force on 17 January 2018 and will apply from 1 January 2019.

As the Securitisation Regulation amends the Solvency II Directive, this requires a number of changes to the Solvency II Delegated Regulation to ensure alignment and consistency. The amendments proposed concern:

- certain definitions regarding securitisation which need to be aligned to those used in the Securitisation Regulation;
- the abolition of provisions on due diligence and risk retention;
- the adoption of a new calibration for STS securitisations; and
- transitional provisions for current investments in securitisation.

The text of the draft Delegated Regulation says that it will apply from 1 January 2019.

European Commission report on the application of Title III

On 5 April 2018, the European Commission published a [report](#) on the application of Title III of the Solvency II Directive.

Title III of Solvency II concerns the supervision of insurance and reinsurance undertakings in a group and uses an innovative supervisory model which assigns a key role to a group supervisor, while recognising and maintaining an important role for the solo supervisor.

Solvency II also contains provisions on institutions for occupational retirement provision (IORPs). In particular, subject to certain conditions, life insurers' occupational retirement provision business is

exempt from full application of the solvency capital requirement in Solvency II for a transition period. An amendment to Solvency II, made by the IORP II Directive extended this period from the end of 2019 to the end of 2022.

Solvency II requires the Commission to report to the European Parliament and Council on the group supervision provisions in Title III and on the transition period for IORPs operated by life insurance undertakings. For the sake of convenience, the present report fulfils these two (unrelated) requirements in a single document.

The Commission concludes that as Solvency II is due for general evaluation in 2020, and given the importance of a stable regulatory framework, only one area of the group supervision regime requires legislative amendments at this stage. This is the area of group internal models, where divergences among Member States have been identified. The Commission says that the European Insurance and Occupational Pensions Authority (EIOPA) needs enhanced powers to bring about convergence.

However, given the urgency of the matter and the opportunity provided by the Commission's [package of proposals](#) to review the functioning and financing of European supervisory authorities, which was adopted in September 2017, action has already been taken on this. The package included a legislative proposal to amend Solvency II so as to mitigate and prevent divergences in the supervision and approval of group internal models. Article 2 of the proposal includes amendments to Solvency II to:

- give EIOPA a greater role in ensuring supervisory convergence in the area of internal model applications (at solo and group level) and with respect to information-sharing on such applications; and
- allow EIOPA to issue opinions in this regard and assist in the settlement of disputes between supervisory authorities, at their request, on its own initiative or, in certain circumstances, at the request of concerned undertakings.

The amendments also provide that EIOPA should prepare annual reports on this matter. The Commission says that this will allow close monitoring of the situation on internal model applications, including the bringing to light of outstanding concerns as regards supervisory convergence in this area.

With regard to the transition period for the occupational retirement provision business of life insurance undertakings, the Commission says that it may take a decision nearer the end of that period (that is, the end of 2022) concerning its possible extension. If a decision is taken to extend the period, a legislative proposal could be introduced in good time before the end of 2022.

Hogan Lovells has offices in:

Alicante	Dusseldorf	London	Northern Virginia	Silicon Valley
Amsterdam	Frankfurt	Los Angeles	Paris	Singapore
Baltimore	Hamburg	Luxembourg	Perth	Sydney
Beijing	Hanoi	Madrid	Philadelphia	Tokyo
Brussels	Ho Chi Minh City	Mexico City	Prague	Ulaanbaatar
Budapest*	Hong Kong	Miami	Rio de Janeiro	Warsaw
Caracas	Houston	Milan	Riyadh*	Washington DC
Colorado Springs	Jakarta*	Moscow	Rome	Zagreb*
Denver	Jeddah*	Munich	San Francisco	
Dubai	Johannesburg	New York	São Paulo	
			Shanghai	

"Hogan Lovells" or the "firm" is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses. The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members.

For more information about Hogan Lovells, the partners and their qualifications, see www.hoganlovells.com.

Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney Advertising.

©Hogan Lovells 2016. All rights reserved.

*Associated offices