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UK

Institute and Faculty of Actuaries publishes guide to climate change for general insurers

On 15 August 2019, the Institute and Faculty of Actuaries published a [guide](#) which highlights how climate change will be a major source of risk and uncertainty for general insurers and makes some suggestions for best practice.

SMCR extension: FCA webpage on firm categorisation

On 1 August 2019, the Financial Conduct Authority (FCA) published a new [webpage](#) on the categorisation of firms under the senior managers and certification regime (SMCR) for FCA solo-regulated firms. The webpage summarises how firms can change their SMCR category and the process for reviewing a firm's SMCR categorisation.

Insurers' approach to criminal convictions: ABI updates good practice guide

On 31 July 2019, the Association of British Insurers (ABI) updated its good practice guide on insurers' approach to people with convictions and related offences. While [the ABI Good Practice Guide: Insurers' Approach to People with Convictions and Related Offences](#) is voluntary, ABI members are encouraged to regularly review their products and processes to ensure that their approach is consistent with it, as well as in compliance with relevant legislation and regulatory requirements.

FCA PS19/20: Optimising the SM&CR - final rules and feedback to CP19/4

On 26 July 2019, the FCA published its final rules on the extension of the senior managers and certification regime (SMCR) to FCA solo-regulated firms. The FCA made [near-final rules](#) on the SMCR in July 2018 (PS18/14) and consulted on some refinement to those rules in January 2019 (CP19/4). The latest policy statement ([PS19/20](#)) summarises the feedback it received to CP19/4, the FCA response to the feedback, and sets out its final rules. The final rules may still be amended by subsequent Handbook changes, for example those relating to the UK's exit from the EU.

In general, the FCA has implemented the proposed changes to the SMCR as consulted on in CP19/4. This includes:

- confirming that the head of legal function is excluded from the requirement to be approved as a senior manager;
- amending the intermediary revenue criterion for the Enhanced regime;
- clarifying the requirements and scope of the certification regime; and
- extending Senior Manager Conduct Rule 4 (SC4) to non-approved executive directors at limited scope firms.

Life insurers best practice in proxy modelling: PRA letter to Chief Risk Officers

The Prudential Regulation Authority (PRA) has published a [letter](#) (dated 14 June 2019) sent to the Chief Risk Officers of life insurers, on best practice in proxy modelling in which it shares the results from its recent proxy modelling survey. The PRA expects all relevant firms to consider the content of the letter and discuss and agree with their supervision team suitable next steps.

Fair treatment of vulnerable customers: FCA consults on guidance

On 23 July 2019, the FCA launched a consultation ([GC19/3](#)) on proposed Guidance for firms on the fair treatment of vulnerable customers. The proposed Guidance sets out the FCA's view of what the FCA Principles for Business require of firms to ensure that vulnerable consumers are consistently treated fairly across financial services sectors.

The draft Guidance contains three main sections which discuss:

- understanding the needs of vulnerable consumers;
- ensuring staff have the skills and capabilities needed; and
- converting that understanding into practical steps.

The Guidance will be consulted on in two stages. This first stage of the consultation closes on 4 October 2019. In the light of the feedback received from stage one, the FCA intends to consult on revised draft Guidance in a second stage.

Read our blog for further information, [FCA draft vulnerability guidance: embedding 'doing the right thing' in firms' culture](#).

PRA publishes CP16/19: Solvency 2 Group availability of subordinated liabilities and preference shares

On 22 July 2019, the PRA launched a consultation on the group availability of subordinated liabilities and preference shares under the Solvency II Directive ([CP16/19](#)). In the paper, the PRA sets out its proposals on the determination of the availability of subordinated liabilities and preference shares in group own funds, and its expectations of firms in presenting analysis to the PRA. Amendments to SS 9/15 'Solvency 2: Group Supervision' are set out in the Appendix. The consultation closes on 21 October 2019.

Fair pricing in financial services: FCA publishes FS19/4 - summary of responses and next steps

On 18 July 2019, the FCA published a feedback statement ([FS19/4](#)) in which it gives a summary of its responses to feedback on its October 2018 discussion paper (DP18/9). The discussion paper launched a debate on fair pricing in the broad context of financial services.

In FS19/4, the FCA:

- summarises the main themes in the submissions it received and, where appropriate, provides its responses;
- provides further clarification on how it will apply its framework in practice; and
- outlines how the FCA will approach the next stage of work, which will focus on operationalising its approach to fair pricing in retail markets. The FCA states that the first application of the fair pricing framework will be in the General Insurance Pricing Practices Market Study, on which it will publish findings later this year. The FCA will also begin the work required to formally embed its thinking on fair pricing into its regulatory approach. A part of that will involve contributing to the review of FCA Handbook principles, which will be the first strand of the FCA's review of its Handbook. The FCA intends to publish a discussion paper on the review of its principles in Q4 2019/20. It will report on the next phase of its fair pricing work at that time.

Travel insurance: FCA publishes CP19/23 on signposting for consumers with pre-existing medical conditions

On 15 July 2019, the FCA launched a consultation on proposals designed to help consumers with pre-existing medical conditions (PEMCs) gain better access to travel insurance products ([CP19/23](#)).

In its consultation, the FCA seeks views on introducing a new "signposting" rule, requiring firms to provide consumers with details of a directory of travel insurance firms that have the appetite and capability to cover consumers with more serious PEMCs. Firms will be required to signpost consumers in the following circumstances:

- when cover is declined or cancelled mid-term due to a PEMC;
- when cover is offered with an exclusion for a PEMC that cannot be removed; and
- where a consumer is offered cover with an additional loading to their base premium due to their PEMC.

In addition to signposting, the FCA will work with stakeholders to improve consumer understanding of the travel insurance market, including producing materials on PEMCs. This information will help consumers understand the implications of travelling with exclusions and how factors such as country of travel can impact medical costs and therefore travel insurance premiums.

The consultation closes on 15 September 2019.

Remuneration requirements: PRA publishes findings and expectations

The PRA has published a [letter](#), dated 12 July 2019, addressed to chairs of remuneration committees (RemCos) on the PRA's expectations concerning the implementation of the remuneration requirements under the Solvency II Delegated Regulation ((EU) 2015/35).

In the letter, the PRA sets out its expectations of firms and RemCos concerning:

- material risk takers;
- variable remuneration;
- ex-post risk adjustment; and
- the role of the RemCo.

The PRA is considering whether to provide further clarification on identifying MRTs and variable remuneration.

BREXIT

Extension of Article 50: BoE and PRA publish CP18/19 on changes to financial services legislation

On 25 July 2019, the PRA and the Bank of England (BoE) published a [joint consultation paper](#) on further amendments to financial services legislation following the extension of the Brexit deadline under Article 50(3) of the Treaty on European Union to 31 October 2019.

On 18 April 2019 the BoE and PRA published amendments to financial services legislation under the European Union (Withdrawal) Act 2018 (EUWA). This included final EU Exit Instruments covering changes to PRA rules, financial market infrastructure (FMI) rules (for which the BoE has responsibility) and binding technical standards (BTS). These EU Exit Instruments have, with limited exceptions, an effective date of "exit day" as defined in the EUWA. CP18/19 sets out minor amendments to the BoE's and PRA's EU Exit Instruments that are needed due to the extension of the Article 50 period and the consequent change of "exit day" in the EUWA to 31 October 2019. Also, additional provisions in EU law that apply before 31 October 2019 will need amending as they will now meet the definition of retained EU law.

CP18/19 is divided in to two sections:

- section A provides an update on how the BoE and PRA intend to use their temporary transitional powers; and

- section B contains proposals to fix deficiencies arising from the UK's withdrawal from the EU and for consequential changes due to the extension of the Article 50 period. Section B is split into two parts: Part 1 sets out the PRA's proposals relating to the PRA Rulebook and BTS within the PRA's remit that will be retained, or "onshored", in UK law. Part 2 sets out the BoE's proposals relating to BTS under the Central Securities Depositories Regulation.

The consultation closes on 18 September 2019.

Extension of temporary transition powers: FCA announcement

The FCA has [confirmed](#) that it intends to extend the proposed duration of the directions issued under the temporary transitional power (which apply in the event of a no-deal Brexit) to 31 December 2020. This is to reflect the extension of the Brexit deadline under Article 50(3) of the Treaty on European Union that was announced in April 2019. Other than the additional time, the FCA's approach remains unchanged.

The temporary transitional power is intended to minimise disruption for firms and other regulated entities if the UK leaves the EU without a withdrawal agreement. Under the power, firms do not generally need to prepare now to meet the changes to their UK regulatory obligations that are connected to Brexit.

There are specific areas where the FCA will not be granting transitional relief. In these areas, the FCA continues to expect firms and other regulated entities to take reasonable steps to comply with the changes to their regulatory obligations by exit day.

The FCA expects firms to use the additional time between now and the end of October to prepare to meet these obligations. If firms are not ready to meet these obligations in full, it will expect to see evidence of why this was not possible.

The FCA will publish further information before exit day on how firms should comply with post-exit rules. The extension is aligned with the end date intended by the BoE and the PRA.

INTERNATIONAL

European Commission sets out its equivalence policy with non-EU countries

On 29 July 2019, the European Commission published a [communication](#) setting out its overall approach to equivalence in the area of financial services. The communication also describes how the Commission and the European Supervisory Authorities (ESAs) monitor the situation in those countries after equivalence decisions have been taken, to ensure that the countries continue to fulfil the EU objectives.

Supervision of remuneration principles in insurance and reinsurance sector: EIOPA publishes draft opinion

On 25 July 2019, the European Insurance and Occupational Pension Authority (EIOPA) launched a [consultation](#) on a draft opinion on the supervision of remuneration principles in the insurance and reinsurance sector. EIOPA aims to improve supervisory convergence in the supervision of remuneration policies of insurance and reinsurance undertakings at the European level, without prejudice to the application of the relevant provisions of the Solvency II Directive and the Solvency II Delegated Regulation.

The consultation closes on 30 September 2019.

IAIS roadmap for 2019

The International Association of Insurance Supervisors (IAIS) has published its [roadmap](#) for 2019. The IAIS mission is to promote effective and globally consistent supervision of the insurance industry in order to develop and maintain fair, safe and stable insurance markets for the benefit and protection of policyholders, and contribute to global financial stability.

The roadmap serves to inform stakeholders of the IAIS' key activities and to facilitate greater awareness of and engagement with these activities.

The IAIS categorises its key activities for 2019 into four headings, detailed further in the report:

- standard setting;
- financial stability;
- implementation and assessment; and
- assessing and responding to emerging risks and opportunities.

Unfair Contract Terms Directive: European Commission publishes guidance

The European Commission has published [guidance](#) dated 22 July 2019 on the Unfair Contract Terms Directive (UCTD). In the UK, the UCTD is implemented by the Consumer Rights Act 2015. The guidance note is based on the case law of the European Court of Justice (ECJ), referring to existing rulings on unfair terms. The guidance seeks to clarify the ECJ's interpretation of key concepts and provisions of the UCTD. However, as the UCTD is a minimum harmonisation directive, practitioners must also take into account any local rules in the relevant member state when applying the UCTD. Accordingly, the guidance only provides a minimum standard but not a comprehensive picture of the application of the UCTD in individual member states, including the decisions of national courts.

As a complement to the guidance note, European businesses organisations have drawn up [recommendations](#) on how mandatory consumer information as well as terms and conditions can be presented to consumers in a more user-friendly and transparent way.

EIOPA publishes discussion paper on methodological principles of insurance stress testing

On 22 July, EIOPA published a [discussion paper](#) on the methodological principles of insurance stress testing. As part of their EU-wide stress test, EIOPA is tasked with developing common methodologies for assessing the effects of adverse economic and financial scenarios.

EIOPA sets out the main methodological principles and guidelines required for conducting and assessing an EU-wide stress test. In developing its methodological stance, EIOPA considers the following key elements:

- Stress test process, objectives, scope and scenario design;
- Shocks and their application in a stress test; and
- Data collection and validation.

Comments can be made on the discussion paper until 18 October 2019.

EIOPA report on national general good rules under the IDD

On 22 July, EIOPA published a [report](#) analysing national general good rules as required under the IDD.

The report provides a description of the types of rules in different member states, and Annex 3 sets out a country-by-country analysis of national general good rules. It also sets out EIOPA's findings from examining the different national general good provisions published by the NCAs in terms of their level of accessibility. Among other things, EIOPA found that there is still scope for improving the visibility and accessibility of the webpages on general good rules on some NCAs' websites.

To address the issues identified, EIOPA outlines a number of follow-up actions in the report. These include issuing recommendations on an individual basis to NCAs on how the information on general good rules should be published.

Outsourcing to cloud service providers: EIOPA consults on guidelines

On 1 July 2019, EIOPA issued a [consultation](#) on guidelines for outsourcing to the cloud.

EIOPA identified the need to develop specific guidance on outsourcing to cloud service providers in the context of the analysis performed to answer the European Commission FinTech Action Plan and following discussions and exchanges with stakeholders.

EIOPA's guidelines cover areas including the following:

- criteria to distinguish whether cloud services should be considered within the scope of outsourcing;
- principles and elements of governance of cloud outsourcing, including documentation requirements and the written notification requirement to supervisory authorities;
- pre-outsourcing analysis, including materiality assessment, risk assessment and due diligence on the service providers;
- management of access and audit rights, security of data and systems, sub-outsourcing, monitoring and oversight of cloud outsourcing and exit strategies; and
- principle-based instructions for national supervisory authorities on the supervision of cloud outsourcing arrangements including, where applicable, at group level.

The consultation closes on 30 September 2019. EIOPA intends that these guidelines apply from 1 July 2020 to all cloud outsourcing arrangements entered into or amended on or after this date.

Read our blog for further information, [EIOPA Cloud Outsourcing Guidelines Consultation](#)

SOLVENCY II

Q3 2019 reporting Implementing Regulation

On the 31 July 2019, [Commission Implementing Regulation \(EU\) 2019/1285](#) laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 30 June 2019 until 29 September 2019 under the Solvency II Directive was published in the Official Journal.

The Implementing Regulation, which was made under Article 77e(2) of the Solvency II Directive, sets out the technical information to be used by reinsurers and insurers when calculating technical provisions and basic own funds for reporting with reference dates in the third quarter of 2019.

The Implementing Regulation enters into force on 1 August 2019 and applies from 30 June 2019.

Solvency II group supervision: European Commission report

The European Commission has published a [report](#) on group supervision under the Solvency II Directive, addressed to the European Parliament and the Council. The report assesses the benefit of enhancing group supervision and capital management within a group of insurance or reinsurance undertakings, as required under Article 242(2) of the Solvency II Directive. It is divided into four parts:

- Chapter II analyses supervisory practices and challenges related to the determination of the scope and the exercise of supervisory powers over groups;
- Chapters III and IV assess challenges and legal uncertainties related to group solvency calculation, group governance and group reporting; and

- Chapter V provides a brief overview of developments in the fields of mediation of supervisory disputes and insurance guarantee schemes, which are not directly related to group supervision.

Generally, the Commission considers that the prudential group supervision framework is proving to be robust, laying emphasis on capital management and governance, and allowing for a better understanding and monitoring of risks at group level. However, some areas of the framework may not ensure harmonised implementation of the rules by groups and national supervisors. This has the potential to impact on both the level playing field and capital management strategies.

While the Commission identified a number of important issues that may need to be addressed, potentially including via legislative changes, it states that further analysis is needed on the impact of those potential changes in the rules. Therefore, the Commission deems it appropriate to include group supervision in the scope of the general review of the Solvency II Directive in 2020. The Commission has invited EIOPA to provide, by 30 June 2020, technical advice on the issues identified in this report, as well as other related issues that may be detrimental to policyholder protection, as part of the 2020 Review of the Solvency II Directive.

EIOPA submits final draft implementing technical standards (ITS) amending Solvency II reporting and disclosure requirements to European Commission

On 16 July, EIOPA published two draft Commission Implementing Regulations amending the Solvency II disclosure and reporting requirements, which have been submitted for endorsement:

- [EIOPA-BoS-19/091](#) amends and corrects Commission Implementing Regulation (EU) 2015/2450 laying down ITS with regard to templates for submitting information to supervisory authorities. Certain provisions shall apply from 1 January 2020.
- [EIOPA-BoS-19/092](#) amends and corrects Commission Implementing Regulation (EU) 2015/2452 laying down ITS on the procedures, formats and templates of the solvency and financial condition report. The Implementing Regulation states it shall apply from 1 January 2020.

EIOPA explains that the amendments align the reporting and disclosure requirements with recent amendments to the Solvency II Delegated Regulation.

An [impact assessment](#) of the draft reporting amendments and corrections imposed has also been published.

EIOPA consults on Solvency II 2020 review proposals for harmonisation of national insurance guarantee schemes

On 12 July 2019, EIOPA published a [consultation paper](#) (dated 9 July 2019) on the harmonisation of national insurance guarantee schemes (IGSs) in light of proposals for the Solvency II 2020 review (EIOPA-BoS-19-259).

The consultation hopes to obtain feedback on draft technical advice to the European Commission on the establishment of national IGSs in EU member states. In the consultation paper, EIOPA also expressed its view for every member state to have a national IGS in place for the protection of policyholders in the event of insurance failures.

EIOPA went further to outline draft recommendations on a set of harmonised features for national IGSs, including:

- **Eligible policies** - National IGSs should cover specific life and non-life policies, including policies where the failure of an insurer could lead to considerable financial or social hardship for policyholders and lines of business with a high market share in cross-border business in Europe.
- **Eligible claimants** - National IGSs should cover natural persons and micro and small-sized legal entities.

- **Coverage level** - There should be a harmonised minimum coverage level, although member states should have the flexibility to increase the level of coverage in their jurisdiction.
- **Funding** - IGSs should be funded on the basis of ex-ante contributions by insurers, possibly complemented by ex-post funding arrangements where there are capital shortfalls.

The deadline for responses is 18 October 2019. EIOPA will include the final version of the advice in its opinion on the 2020 Solvency II review, which will be published for consultation in the fourth quarter of 2019.

Solvency II supervisory reporting and public disclosure: EIOPA consults on increased proportionality

EIOPA has launched a [consultation](#) on supervisory reporting and public disclosure in the context of its work linked with the 2020 Solvency II Review.

EIOPA plans to consult on the review of supervisory reporting and public disclosure in two waves. This consultation is the first wave to assist it in responding to a Call for Advice from the European Commission on 11 February 2019.

This first consultation covers the following areas:

- general issues on supervisory reporting and public disclosure;
- individual Quantitative Reporting Templates and Annexes;
- the Solvency and Financial Condition Report and Narrative Supervisory Reporting; and
- financial stability reporting.

Later in the year, together with the other areas of the 2020 Solvency II Review, EIOPA will launch a second consultation addressing:

- Group Quantitative Reporting Templates;
- Regular Supervisory Reporting;
- technical aspects of the reporting and disclosure processes;
- data quality; and
- reporting and disclosure linked to other areas of the 2020 Solvency II Review, in particular (but not necessarily only) the Long-Term Guarantee templates.

EIOPA's final proposed policy will be included in the 2020 Solvency II Review Opinion.

The consultation ends on 18 October 2019.

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