



Summary of regulatory developments

Updates for December 2020

This memo identifies and summarises any regulatory updates published during December 2020 that may be of relevance to life insurance companies.

The following table summarises the relevant updates identified in December.

REGULATORY ITEMS IDENTIFIED IN DECEMBER THAT MAY BE OF RELEVANCE TO LIFE INSURANCE COMPANIES

| Date | Description |
|--------|---|
| 2-Dec | The Prudential Regulation Authority (PRA) has proposed an approach to the publication at the end of the transition period in Policy Statement (PS) 24/20: Solvency II technical information |
| 2-Dec | The European Insurance and Occupational Pension Authority (EIOPA) launches discussion paper on a methodology for integrating climate change in the standard formula |
| 3-Dec | EIOPA publishes its fifth annual analysis on the use and impact of long-term guarantees measures and measures on equity risk |
| 7-Dec | EIOPA highlights the change in the status of Simple, Transparent and Standardised (STS) securitisation transactions at the end of the UK transition period |
| 7-Dec | PRA advises on recovery planning |
| 15-Dec | PRA publishes letter from Anna Sweeney and Charlotte Gerken on "Insurance Supervision: 2021 Priorities" |
| 15-Dec | EIOPA publishes "Sensitivity analysis of climate-change related transition risks" |
| 16-Dec | EIOPA updates representative portfolios to calculate volatility adjustments to the Solvency II risk-free interest rate term structures for 2021 |
| 17-Dec | EIOPA publishes "Opinion on the 2020 review of Solvency II" |
| 18-Dec | EIOPA discusses integrating sustainability into the supervisory framework at the fourth sustainable finance roundtable |

REGULATORY ITEMS IDENTIFIED IN DECEMBER THAT MAY BE OF RELEVANCE TO LIFE INSURANCE COMPANIES

| Date | Description |
|--------|--|
| 18-Dec | EIOPA publishes "Brexit Consumer Guide: Practical information for consumers with a life insurance policy or pension from the UK" |
| 18-Dec | EIOPA outlines key financial stability risks and vulnerabilities for the insurance and pension sectors and recommends that any dividend distributions should not exceed thresholds of prudence |
| 18-Dec | PRA nonbinding materials: The PRA's approach after the UK's withdrawal from the EU |
| 18-Dec | PRA approach to interpreting reporting and disclosure requirements and regulatory transactions forms after the UK's withdrawal from the EU |
| 18-Dec | The Financial Conduct Authority (FCA) update on Senior Managers and Certification Regime (SM&CR) and coronavirus: Expectations for solo-regulated firms, December 2020 update |
| 21-Dec | FCA introduces rule to enhance climate-related disclosures |
| 22-Dec | EIOPA publishes its Q&A on regulation |
| 22-Dec | FCA publishes final Brexit instruments and Temporary Transitional Power (TTP) directions |
| 23-Dec | EIOPA consults on the Own Risk and Solvency Assessment (ORSA) in the context of COVID-19 |
| 28-Dec | PRA and Bank of England (BoE) amendments under the European Union (Withdrawal) Act 2018: Changes before the end of the transition period |
| 31-Dec | FCA comments on regulatory change for firms as Brexit transition period ends |

Updates for December 2020

This section highlights articles of interest to life companies released in December 2020.

EIOPA

- The European Insurance and Occupational Pension Authority (EIOPA) [launches discussion paper on a methodology for integrating climate change in the standard formula](#)

This discussion paper is a follow-up to EIOPA's "Opinion on Sustainability Within Solvency II," issued in September 2019, which concluded that there is a need to consider if and how climate change-related risks could be better captured in the Solvency II framework under the natural catastrophe risk submodule.

The frequency and severity of natural catastrophes is expected to increase due to climate change. Improved climate projections provide evidence that weather extremes such as heat waves, heavy precipitation, droughts, top wind speeds and storm surges will rise in many European regions. To ensure the financial resilience of (re)insurers covering natural catastrophes, the Solvency Capital Requirements (SCRs) for natural catastrophe underwriting risk need to remain appropriate in light of climate change.

In line with that, EIOPA proposes different methodological steps and process changes to integrate climate change in the calculation of natural catastrophe risk and invites all interested stakeholders to provide comments by 26 February 2021.

- EIOPA publishes its fifth annual analysis on the use and impact of long-term guarantees measures and measures on equity risk

The analysis carried out by EIOPA in the annual reports on long-term guarantees measures and measures on equity risk since 2016 has served as a basis for the Opinion on the 2020 review of Solvency II, to be delivered by the end of 2020 with regulatory proposals to improve the design of the measures.

Similar to previous years' analyses, this year's results show that most of the measures are widely used. The volatility adjustment (VA) and the transitional measure on technical provisions (TMTP) are particularly widely used. The average SCR ratio of undertakings using the voluntary measures is 247% and would drop to 204% if the measures were not applied. This confirms the importance of these measures for the financial position of (re)insurers.

- EIOPA highlights the change in the status of Simple, Transparent and Standardised (STS) securitisation transactions at the end of the UK transition period

The Joint Committee of the European Supervisory Authorities (ESAs) wishes to highlight the impact in the change of status of STS securitisation transactions after the end of the transition period on 31 December 2020.

For a securitisation transaction to qualify as an STS securitisation, the securitisation requires that the originator, sponsor and securitisation special purpose vehicle (SSPE) be established in the Union. Accordingly, those securitisation transactions currently labelled as "STS securitisations" will lose the STS status where one or all the securitisation parties (originator, sponsor and/or SSPE) are established in the UK after the end of the transition period.

- EIOPA publishes "Sensitivity analysis of climate-change related transition risks"

The report explores current holdings of corporate bonds and equity that can be related to key sectors relevant to climate policy such as fossil fuel extraction, carbon-intensive industries, vehicle production and the power sector. It also quantifies potential climate-change-related transition risks and presents insights into possible impacts on these investments as economies transition away from fossil fuel-dependent energy production and carbon-intensive production.

The sensitivity analysis is part of EIOPA's broader sustainability agenda to integrate environmental, social and governance (ESG) risk assessment in the regulatory and supervisory framework.

- EIOPA updates representative portfolios to calculate volatility adjustments to the Solvency II risk-free interest rate term structures for 2021

EIOPA will start using these updated representative portfolios for the calculation of the VA as at the end of March 2021, which will be published at the beginning of April 2021.

EIOPA publishes the updated representative portfolios now, i.e., three months in advance in order to allow (re)insurers sufficient time to prepare for this change.

- EIOPA publishes "Opinion on the 2020 review of Solvency II"

EIOPA is of the view that, overall, the Solvency II framework is working well and no fundamental changes are needed at this point in time, but a number of adjustments are required to ensure that the regulatory framework continues as a well-functioning risk-based regime. The proposals from EIOPA include the following:

- Adjustments to the treatment of interest rate risk, reflecting the steep fall of interest rates experienced during recent years and the existence of negative interest rates. EIOPA also recommends changes to the interest rate curves used by insurers to value liabilities, specifically in respect of the method of extrapolating risk-free rates to better reflect market reality.
- Improvements to the volatility adjustment to better align the design to its objectives, increase its effectiveness in curbing short-term volatility and in particular reward insurers for holding illiquid liabilities.

- Refinements to the calculation of the risk margin of insurance liabilities and recognising diversification over time, thereby reducing its volatility and size, in particular for long-term liabilities.
 - Revise the criteria for the ability to hold equity long-term, by making a link with long-term illiquid liabilities with the aim to better reflect risks and further encourage long-term investments in a sound and prudent way.
- [EIOPA discusses integrating sustainability into the supervisory framework at the fourth sustainable finance roundtable](#)

EIOPA stressed the importance for insurers and pension funds to manage sustainability risks as part of their risk management, as well as to contribute to reducing risks to sustainability for society. Integrating sustainability considerations may require adjustments in product design as well as regulation and supervision. A particular challenge lies in ensuring proportionate approaches, as evidenced by the complexity and breadth of regulatory initiatives on sustainable finance disclosure requirements. Better risk assessment will allow industry, regulators and society to identify opportunities brought by sustainability challenges. EIOPA's analyses of the insurance protection gap for natural catastrophes and transition risks aim to contribute to this.

- [EIOPA publishes "Brexit Consumer Guide: Practical information for consumers with a life insurance policy or pension from the UK"](#)

EIOPA issued a [one-page guide](#) targeted for consumers that have life insurance policies or pensions from the United Kingdom (UK) who currently reside in the EU or are considering moving from the UK to the EU. The fact that the UK left the EU on 31 January 2020, with a transitional period which ran until 31 December 2020, may have had an impact on how the policies and pension of consumers are serviced in the future.

- [EIOPA outlines key financial stability risks and vulnerabilities for the insurance and pension sectors and recommends that any dividend distributions should not exceed thresholds of prudency](#)

Although financial markets have gradually stabilised after the initial sharp drop in asset prices, the recent new lockdowns in most European countries triggered by the second wave of the COVID-19 pandemic have caused uncertainty and medium-term risks for the economies.

European insurers have been able to withstand the dramatic situation as the Solvency II regime helped them to better align capital to risk, build up resilience and enhance their risk management practices.

EIOPA strongly recommends insurers to maintain extreme caution and prudence within their capital management. Any dividend distributions, share buy-backs or variable remunerations should not exceed thresholds of prudency. Institutions should ensure that the resulting reductions in the quantity or quality of their own funds remain at levels appropriate to the current levels of risk.

- [EIOPA publishes its Q&A on regulation](#)

Updates include the following:

- (EU) No 2015/2011: Lists of regional governments and local authorities, exposures to be treated as to central government. Question [2217](#).
- (EU) No 2015/35: Supplementing Dir 2009/138/EC: Taking up and pursuit of the business of insurance and reinsurance (SII). Question [2224](#).
- (EU) No 2017/2358: Product oversight and governance requirements for insurance. Question [1670](#).
- (EU) No 2016/97: Insurance Distribution Directive. Question [1728](#).
- (EU) No 2009/138: Solvency II Directive (insurance and reinsurance). Question [1600](#).

- [EIOPA consults on the ORSA in the context of COVID-19](#)

The statement promotes convergence by guiding firms through common supervisory expectations on the ORSA as a result of the current COVID-19 pandemic, taking into account that the impact on each individual firm can differ depending on its specific risk profile. A proper balance between flexibility and acknowledgement of the ORSA as a firm's own exercise and clarification of supervisory expectations, in particular in specific circumstances, should be kept.

EIOPA believes that the current situation calls for an ad hoc/nonregular ORSA in the cases where the pandemic impacts the risk profile of the undertaking materially, in particular in those cases where the performance of the regular ORSA has not allowed the undertaking to assess and to take into account the impact of the pandemic.

FCA

- [FCA update on SM&CR and coronavirus: expectations for solo-regulated firms, December 2020 update](#)

In [April 2020](#), the FCA set its expectations to help solo-regulated firms apply the SM&CR following the exceptional circumstances arising from the coronavirus pandemic (COVID-19). Additional flexibility was offered to impacted firms.

As firms have adapted to the effect of the pandemic over the past few months, the FCA now expects firms' application of the SM&CR rules to return to normal. Firms should be aware that some of the previously available provisions will end on 7 January 2021 and that the relevant modifications by consent will end after 30 April 2021.

- [FCA introduces rule to enhance climate-related disclosures](#)

The FCA has published [Policy Statement \(PS\) 20/17](#) and final rule and guidance promoting better climate-related financial disclosures for UK premium-listed commercial companies.

Companies will be required to include a statement in their annual financial reports which set out whether their disclosures are consistent with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD), and to explain if they have not done so. The rule will apply for accounting periods beginning on or after 1 January 2021.

Alongside PS20/17, the FCA is issuing a Technical Note clarifying existing disclosure obligations in EU legislation and the FCA Handbook.

- [FCA publishes final Brexit instruments and Temporary Transitional Power \(TTP\) directions](#)

The FCA made final changes to its Handbook and Binding Technical Standards as a result of the UK's exit from the EU to ensure that a functioning regulatory and legal framework for financial services will continue to be in place after the end of the transition period.

The final onshoring-related instruments are largely unchanged from the versions consulted on in Consultation Paper ([CP](#) 20/18), and these changes are outlined in [Handbook Notice 83](#).

The FCA also published the [Temporary Transitional Power \(TTP\) directions](#). The TTP applies transitional provisions to financial services legislation for a temporary period. The TTP will be applied on a broad basis from the end of the transition period until 31 March 2022.

- [FCA comments on regulatory change for firms as Brexit transition period ends](#)

As of 31 December 2020, the transition period ended and EU law no longer applies in the UK. For many financial firms, this means changes to existing systems and services:

- [Passporting](#) between the UK and European Economic Area (EEA) states has ended and the [temporary permissions regime \(TPR\)](#) has now come into effect for those firms that entered.

This allows EEA-based firms that had been passporting into the UK to continue new and existing regulated business within the scope of their previous permissions for a limited period, while they seek full authorisation from the FCA where required. It also allows EEA-domiciled investment funds that market in the UK under a passport to continue temporarily marketing in the UK.

- The government has created the [financial services contracts regime](#) (FSCR). This allows, for a limited period, EEA-passporting firms not in the TPR to continue to service UK contracts in order to conduct an orderly exit from the UK market.
- The extent to which UK firms can continue to provide services to customers in the EEA depends on local law and local regulators' expectations.
- To help firms adapt to some of the new regulatory rules, the Treasury has given the FCA new powers to make transitional provisions, known as the [Temporary Transitional Power](#) (TTP).
- The FCA is now the UK regulator of UK-registered and certified [credit rating agencies](#) (CRAs). Any UK legal entity that wishes to issue credit ratings publicly or by subscription will now need to be registered or certified with the FCA.

PRA

- The PRA's [proposed approach to the publication at the end of the transition period \(PS24/20\): Solvency II technical information](#)

This PRA [Policy Statement \(PS\)](#) provides feedback to responses to CP5/20. This PS is relevant to all UK Solvency II firms and effective from 31 December 2020.

The PRA received four responses to CP5/20. Respondents raised a range of operational concerns with the PRA's proposed implementation and publication dates for the technical information. Responses included several requests for clarification, including concerning the PRA relevant currencies and the expected publication dates of the information.

- PRA [advises on recovery planning](#)

The PRA's [Supervisory Statement \(SS\) 9/17](#) sets out its expectations on the content of recovery plans. Firms should undertake recovery planning so that they are ready for periods of financial stress, can stabilise their financial positions and can recover from financial losses. Firms should have a number of recovery options, and maintain and test their plans.

General considerations include recovery capacity, indicators, scenario testing, a recovery plan information template, fire drills, governance and the communication plan. Thought should be given to the relevance of the recovery plan to the firm, the interaction between group and subsidiary plans, the approach to recovery planning for groups containing a ring-fenced body and the interaction with other relevant regimes and requirements.

- PRA [publishes letter from Anna Sweeney and Charlotte Gerken on "Insurance Supervision: 2021 Priorities"](#)

Over the course of 2020, the PRA has advised insurance firms as they have worked through the COVID-19 pandemic. The sector faces an uncertain economic environment and a number of longer-term risks.

This letter is directed to CEOs of PRA-regulated insurance firms. It states that the PRA's overarching aim is that the insurance sector continues to provide financial protection and security to its customers. The letter highlights supervisory priorities for 2021 including:

- Financial resilience
- Credit risk
- The operational impact of COVID-19
- Risks resulting from the end of the transition period
- Climate change

These sector-wide priorities complement firms' supervisory work plans.

- PRA [nonbinding materials: The PRA's approach after the UK's withdrawal from the EU](#)

The [Supervisory Statement \(SS\) 1/19](#) delivers the general approach being taken to ensure there is a functioning legal framework when the UK leaves the EU. In particular, it elaborates on how firms should interpret existing nonbinding materials, including approach documents, statements of policy (SoPs) and SSs. The SS is relevant to all PRA-regulated firms operating, or intending to operate, in the UK.

In general, the PRA has not made line-by-line amendments to nonbinding materials. However, after the end of the transition period, firms should read and interpret these materials in light of the UK's withdrawal from the EU, as well as the amendments that have been made to related legislation under the European Union (Withdrawal) Act 2018 (the Act). This includes changes to the PRA Rulebook and Binding Technical Standards. Chapter 3 outlines the key changes to legislation after the transition period, including:

- Passporting under EU financial services legislation is no longer available in the UK
- Functions carried on by EU authorities that exist solely to support the EU single market are no longer applicable
- References to preferential treatment of EU assets are no longer relevant and firms should have reference to the third-country treatment of those assets
- Firms should interpret any reference to the EEA consolidated group to the UK consolidated group (for insurance groups, firm-specific consolidation waivers remain available)

Firms should also interpret these materials in light of the use of any relevant transitional relief, including that provided by the Bank of England and the PRA under the TTP.

- PRA [approach to interpreting reporting and disclosure requirements and regulatory transactions forms after the UK's withdrawal from the EU](#)

This [Supervisory Statement \(SS\) 2/19](#) sets out the approach the PRA expects firms to take when interpreting EU-based references found in reporting and disclosure requirements and regulatory transactions forms after the UK's withdrawal from the EU.

- Chapter 2 outlines a general approach on this issue, which is in line with the approach taken more widely when nationalising European requirements.
- Chapters 3, 4 and 5 detail an expected approach on certain more specific issues. In any instance where the approach set out in Chapters 3, 4 and 5 conflicts with the approach set out in Chapter 2, the approach set out in Chapters 3, 4 and 5 should take priority.
- Chapter 6 sets out how the guidance included in this SS interacts with the general transitional relief.
- Appendix 1 outlines which European Binding Technical Standards (BTS) and which parts of the PRA Rulebook are in scope of this guidance.

- PRA and the Bank of England's [amendments under the European Union \(Withdrawal\) Act 2018: Changes before the end of the transition period](#)

This PRA Policy Statement (PS) 30/20 contains:

- The final PRA Rulebook (EU Exit) Instrument (Appendix 1)
- The PRA transitional direction (Appendix 2)
- Related guidance documents (Appendices 4-7).

This PS is relevant to all firms authorised and regulated by the PRA. Some of the changes are also relevant to firms authorised and regulated by the FCA and to the Financial Services Compensation Scheme (FSCS). This PS and the accompanying materials may also be relevant to firms applying to the PRA or FCA for authorisation.

The PRA's transitional direction is applicable after the 31 December 2020 (when the UK's transitional period has ended). Most provisions of the PRA Rulebook (EU Exit) Instrument have now also commenced. However, a small number of provisions will take effect at later dates.



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