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Corporate Insurance Newsletter December 2018

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UK

FCA publishes PS18/23: Claims management: how the FCA will regulate claims management companies

On 17 December 2018, the FCA published a policy statement, PS18/23, which sets out the conduct, rules and fees it will apply to claims management companies (CMCs) from April 2019. The policy statement confirms the approach the FCA will take to regulation following its June 2018 consultation paper, CP18/15 and its August 2018 consultation paper, CP18/23.

The FCA says that the vast majority of the 87 responses to CP18/15 supported its proposals. In general, it has implemented the consultation proposals, but has made some changes based on the feedback. These include:

- clarifying the requirements for lead generators when using the term "no win, no fee";
- reducing the amount of information CMCs need to set out on the services they will provide in the one-page summary document;
- making some changes to its pre-contractual and ongoing disclosure requirements;
- making some changes to its reporting requirements;
- introducing a lower minimum periodic fee of £500 for smaller firms with turnover up to £50,000 instead of the single minimum fee it had proposed of £1,000 for firms with turnover up to £100,000.

The final rules are set out in the following instruments:

- the Claims Management Instrument 2018, FCA 2018/56 and FOS 2018/6, which comes into force on 1 April 2019 except for part 1 of annex A, which comes into force on 1 January 2019;
- the Fees (Claims Management Companies) Instrument 2018, FCA 2018/59 and FOS 2018/8, which comes into force on 1 January 2019.

FCA publishes FG18/7: Fairness of variation terms in financial services consumer contracts under the Consumer Rights Act 2015

On 19 December 2018, the FCA published finalised guidance, FG18/7, on the fairness of variation terms in financial services consumer contracts under the Consumer Rights Act 2015.

The FCA had consulted on the draft guidance in its May 2018 guidance consultation, GC18/2, and has published a summary of feedback received. It says that it has made some revisions to the guidance in the light of feedback received.

The guidance outlines a number of non-exhaustive factors the FCA believes firms should have regard to when drafting and reviewing variation terms. These include and are not limited to the following:

- the validity of the reason(s) for using the variation term;
- the transparency of the variation term;
- provision for notice in the variation term;
- provision for the freedom to exit the contract should a consumer not wish to accept the variation.

The FCA expects firms to consider the guidance when they review their existing contracts and then they draft new ones. Firms should ensure that variation terms in their contracts are transparent and not unfair.

The loyalty penalty: CMA package of reforms

On 19 December 2018, the Competition and Markets Authority (CMA) announced the publication of its response to the super-complaint it received from Citizens Advice on 28 September 2018 which raised concerns that not enough has been done to tackle the loyalty penalty being paid by longstanding customers in five markets: mobile, broadband, cash savings, home insurance and mortgages. The CMA has also published an executive summary of its response, plus annexes and a glossary.

The CMA has set out a package of reforms, both across markets and specifically in relation to the five markets identified by Citizens Advice. It has also launched investigations in the anti-virus software market, as a first step in a wider programme of enforcement in this area.

The CMA will provide an update on its progress to the Consumer Forum in six months and an update will also be published on the CMA website.

Insurance fraud taskforce report 2017

On 20 December 2018, HM Treasury published the Insurance Fraud Taskforce report for 2017.

The Insurance Fraud Taskforce was set up in January 2015 to investigate the causes of fraudulent behaviour and recommend solutions to reduce the level of insurance fraud. The 2017 report sets out the progress made during 2017 on the original 26 recommendations by updating the 2016 progress report.

PRA publishes PS31/18: Solvency II: Equity release mortgages

On 10 December 2018, the Prudential Regulation Authority (PRA) published a policy statement, PS31/18, which provides feedback to responses to its July 2018 consultation paper, CP13/18, "Solvency II: equity release mortgages". Chapter 2 of the policy statement gives details of feedback to the consultation.

The PRA has also published an updated version of Supervisory Statement SS3/17 "Solvency II: Matching adjustment - illiquid unrated assets and equity release mortgages", which will come into effect on 31 December 2019.

Also on 10 December 2018, the PRA published the text of a Dear CEO letter on Solvency II equity release mortgages sent by its Executive Director, Insurance Supervision, David Rule. In his letter Mr Rule says that having considered the responses received to CP13/18, the core of the PRA's proposals is unchanged.

However, in response to the feedback received, the PRA has decided to make a number of changes to the proposals. These are listed in paragraph 1.6 of the policy statement. Mr Rule highlights two key points:

- the PRA is not taking forward the proposal to apply an equivalent of the effective value test (EVT) as a single approach to determining the illiquidity premium in the pre-Solvency II individual capital adequacy standards regime for the purposes of the transitional measure on technical provisions;
- the PRA reflected on the feedback that the new approach may make insurers' balance sheets more sensitive to interest rates. Its current thinking is that the minimum deferment rate should be updated periodically in line with movements in real interest rates, although it would always remain a positive rate. It believes a minimum deferment rate of 1% is appropriate currently.

Mr Rule says that the PRA intends to follow up with a consultation in the first quarter of 2019 on the ongoing assessment of the EVT, and how best to address excessive interest rate sensitivity that may arise over time. It also intends to include in that consultation principles for how the PRA thinks the EVT may be applied in stress by insurers using internal models to calculate their solvency capital requirement. Further details of this consultation are given in paragraph 1.9 of the policy statement.

FCA publishes CP18/40: Consultation on proposed amendment of COBS 21.3 permitted links rules

On 12 December 2018, the FCA published a consultation paper, CP18/40, on potential changes to its permitted links rules in the Conduct of Business (COBS) sourcebook 21.3. The proposed measures aim to address potential barriers to investment by retail investors in patient capital.

Patient capital refers to a broadly defined range of illiquid investments (including, for example, venture capital, infrastructure and corporate loans) intended to deliver long-term returns. These different elements of patient capital may have significantly different/higher risk profiles and this may in turn affect their suitability for retail investors.

The FCA is proposing amendments and additions to the permitted links rules in COBS 21.3 and relevant related rules in four broad areas, which it details in chapter 3 of the consultation paper:

- **clarification of existing requirements**: the FCA provides information around existing permitted links requirements to clarify its expectations in areas where the interpretation of its rules is perceived as a barrier to patient capital investment;
- **revised wording to broaden investment range**: for insurers which are able to meet conditions which provide an enhanced degree of investor protection, the FCA proposes to add additional conditional permitted links categories which supplement the existing range of permitted links (for example, a new category of conditional permitted immovables in addition to the existing category of "permitted land and property"- COBS 21.3.1R(2)(d) to facilitate investment in, for example, a wider range of permitted infrastructure projects);
- **new limits**: the FCA also proposes to set a new limit requiring that overall investments in illiquid assets in a linked fund should comprise no more than 50% of total assets for firms meeting the new conditions. The FCA says that the proposed changes will remove, and therefore allow these firms to exceed, the current limits for individual permitted links categories as long as they do not exceed the overall threshold limit. This is to enable flexibility in the choice of illiquid assets. For firms which do not meet the investor protection conditions, there will be no change to current limits;
- **risk mitigations**: the FCA proposes to introduce appropriate risk warnings to help consumers understand the investment and liquidity risks involved. It also proposes a requirement on firms using the greater flexibilities afforded by its proposed changes to ensure that investments in more illiquid or risky assets are only offered/taken up where it is suitable and appropriate. This includes firms taking responsibility for ensuring that linked policyholders are not prevented from exercising their rights under their unit-linked policies because of the nature of the assets to which their policy returns are linked.

Comments are requested by 28 February 2019. The FCA plans to publish a policy statement and, where relevant, make its final rules and guidance later in 2019.

The FCA has also published a discussion paper in order to explore the impact on its regulatory regime on investment in patient capital through authorised funds, see item below.

FCA publishes DP18/10: Patient capital and authorised funds

On 12 December 2018, the FCA published a discussion paper, DP18/10, which explores how UK authorised funds can be used to invest in patient capital.

The discussion paper sets out the relevant authorised funds rules, and outlines the existing opportunities to invest in patient capital. It invites feedback to help identify the barriers to investment in patient capital through authorised funds and how such barriers can be overcome.

The discussion paper does not propose any changes to the authorised fund rules. Instead, the FCA will consider responses and consult more widely with industry stakeholders to come to an informed view on whether any rule changes are necessary.

Comments are requested by 28 February 2019. The FCA will publish a feedback statement to set out the feedback received and next steps in 2019. Any proposals for change will be subject to further consultation in due course.

The FCA is also consulting on proposed amendments of the Conduct of Business sourcebook (COBS) 21.3 permitted links rules, which also relates to patient capital and should be read in conjunction with this discussion paper, see item above.

IDD: new FCA webpage on delivering clear, fair outcomes for consumers from the insurance sector

On 4 December 2018, the FCA published a new webpage on delivering clear, fair outcomes for consumers from the insurance sector under the Insurance Distribution Directive (IDD).

The IDD replaced the Insurance Mediation Directive on 1 October 2018. As a result, the FCA has a number of requirements in its Handbook which apply to firms distributing insurance.

The FCA expects firms to have already adapted their processes to meet the IDD requirements, but calls on them to continue considering how they can improve outcomes for their customers. The FCA says that it is taking a keen interest in the way firms are applying the IDD-related rules. The webpage, sets out some important areas which the FCA expects firms to have considered in relation to the rules and around which it focuses its supervision.

The FCA has previously published details of the difficulties firms found in complying with its renewal transparency rules, where it saw issues such as publishing the incorrect previous year's premium on renewal notices, or failing to display key information clearly. The FCA expects firms to have learned lessons from this, and to apply these when approaching regulatory change. Firms should place sufficient focus on systems, controls and resources to meet requirements. They should also ensure that accountability for responding to the changes and requirements is clearly allocated to appropriate individuals.

The FCA says that as part of its implementation of the IDD, it has introduced several changes to its rules which further define regulation and consumer protection in the insurance sector, including requirements to:

- identify customers' insurance demands and needs, and ensure that products offered are consistent with them;
- have in place product oversight and governance arrangements;
- adhere to the customer's best interests rule.

The FCA concludes the webpage by saying that the effective implementation of the IDD and its new rules by firms forms an important part of its focus on firms adopting a customer-centric culture. FCA supervision teams have been highlighting its significance when engaging with firms in recent months, and will continue to focus on how firms are complying with the new rules in a way that properly considers their customers.

BREXIT

Draft Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 published by HM Treasury

On 21 December 2018, HM Treasury published a draft version of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, together with updated explanatory information.

The Regulations will make amendments to UK primary and secondary legislation related to the framework for financial services regulation in the UK to ensure that it continues to operate effectively in a UK context once the UK leaves the EU, in any scenario.

The explanatory information explains most of the provisions in the Financial Services and Markets Act 2000 (FSMA) and related domestic legislation that will become deficient as a result of the UK's withdrawal from the EU and gives details of the fixes that will be necessary to address them. These relate to issues which include:

- definitions for regulated activities and entities used in FSMA, the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005;
- permission to carry on regulated activities;
- performance of regulated activities;
- control of business transfers;
- control over authorised persons;
- provision of financial services by members of the professions;
- supervision and enforcement by the Financial Conduct Authority and the Prudential Regulation Authority.

HM Treasury intends to lay the Regulations before Parliament before exit day. The Regulations will enter into force on exit day, with the exception of certain provisions specified in regulation 1(2) which will come into force on the day after the day on which the Regulations are made.

Draft Insurance Distribution (Amendment) (EU Exit) Regulations 2019 laid before Parliament

On 19 December 2018, a draft version of the Insurance Distribution (Amendment) (EU Exit) Regulations 2019 was laid before Parliament and published, together with a related draft explanatory memorandum.

The Regulations address deficiencies in retained EU law relating to the Insurance Distribution Directive (IDD) that arise from the UK leaving the EU. The IDD will not be retained EU law as it is a directive that has already been implemented in the UK through domestic legislation and Financial Conduct Authority rules.

The Regulations fix deficiencies in two Commission Delegated Regulations made under the IDD, namely: Commission Delegated Regulation (EU) 2017/2358 and Commission Delegated Regulation (EU) 2017/2359. They also transfer functions contained within the IDD from EU entities to appropriate UK bodies, replace cross references to EU legislation with the relevant UK measures which implemented those provisions, and remove other EU references which are no longer appropriate. These deficiencies are outlined in section 7 of the explanatory memorandum.

The Regulations will enter into force on exit day.

Draft Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2019: HM Treasury publishes explanatory information

On 19 December 2018, HM Treasury published explanatory information on the Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2019. The draft Regulations are still in development and will be published in due course.

The Regulations will make amendments to the Financial Services and Markets Act 2000 (Gibraltar) Order 2001 and the Financial Services and Markets Act 2000 to allow financial services firms incorporated and headquartered in the UK and Gibraltar to continue to provide services and establish branches between the UK and Gibraltar respectively. These changes are to address deficiencies in UK legislation as a result of the UK's withdrawal from the EU. Section 3.2 of the document details of the changes made by the Regulations.

HM Treasury will make another statutory instrument relating to Gibraltar intended to preserve the overall pre-Brexit regulatory position for Gibraltar, details of what this will include are given in the last but one paragraph of section 3.1 of the document.

FCA statement on the financial services contracts regime

On 17 December 2018, HM Treasury published a draft version of the Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019, together with explanatory information and an explanatory note and three annexes on the run-off regimes established by the Regulations, for details of these annexes see this webpage.

On the same date, the FCA published a statement on the financial services contracts regime (FSCR). The FSCR will provide a limited period of time during which EEA passporting firms can continue to service UK contracts entered into prior to exit, in order to wind down their UK business in an orderly fashion.

The FCA says that this legislation will be relevant where EEA firms which passport into the UK to carry on a regulated activity here fail to notify it that they wish to enter the temporary permissions regime or are unsuccessful in securing authorisation at the end of it, but still have regulated business in the UK to run off.

The FSCR is created solely to allow EEA firms to run off existing UK contracts and conduct an orderly exit from the UK market. EEA firms within this regime will not be able to write new UK business. They will be limited to regulated activities which are necessary for the performance of pre-existing contracts. EEA firms which wish to continue doing new business in the UK after exit and those firms wishing to have more flexibility in the regulated activities they are permitted to carry on will need to enter the temporary permissions regime and secure a UK authorisation. In addition, EEA firms managing UK authorised funds will not be able to continue to manage those funds under FSCR after exit day. Those firms should notify the FCA in order to enter the temporary permission regime to benefit from the transitional period. The same applies to trustees or depositaries of such funds.

The FSCR will automatically apply to EEA passporting firms that do not notify the FCA that they wish to enter the temporary permissions regime, but have pre-existing contracts in the UK which would need a permission to service. The FSCR will be time limited depending on the type of regulated activity being performed: it will apply for a maximum of 15 years for insurance contracts and 5 years for all other contracts. HM Treasury can extend these periods, if necessary, based on a joint assessment by the FCA and the PRA. Firms in the FSCR will have to keep authorisation in their home state and must notify the FCA if their authorisation is cancelled or varied.

The FSCR will provide two discrete mechanisms:

- supervised run-off: for EEA firms with UK branches or top-up permissions in the UK, and firms who entered the temporary permissions regime but did not secure a UK authorisation at the end;
- contractual run-off: for remaining incoming services firms.

The FCA says that it will publish a consultation paper on these early in 2019.

Preparing your firm for Brexit: FCA updates webpage

On 13 December 2018, the FCA announced that it has updated its preparing your firm for Brexit webpage to include further information on how firms may be affected by Brexit by building on information it has already made available to firms. This will help firms to consider the implications for their business and their customers, and to plan accordingly.

The FCA says that it expects that, by now, firms have considered the issues that it has previously highlighted. It has updated the webpage to follow up on some key areas:

- **contract continuity**: the FCA reminds firms which do business in the EEA under a passport that they need to consider how they will continue to service customers with existing contracts after Brexit;
- **execution of firms' contingency plans**: the FCA reminds firms that they should consider their clients' best interests when executing their plans;
- **data sharing**: the FCA reminds firms of the importance of considering whether they transfer personal data between the UK and EEA. It expects firms to consider what contingency plans may be necessary;
- **customer communications**: the FCA reminds firms of the importance of considering what communications to customers will be necessary to explain how Brexit might affect them.

The UK's economic relationship with the EU: the Government and Bank of England's withdrawal agreement analyses: House of Commons Treasury Select Committee report

On 11 December 2018, the House of Commons Treasury Select Committee published a report "The UK's economic relationship with the EU: The Government's and Bank of England's Withdrawal Agreement analyses".

In the report, the Select Committee considers the analyses of HM Treasury, the Bank and the FCA on the economic effects of the withdrawal agreement and political declaration for the future EU-UK relationship, as well as the consequences of leaving the EU without a withdrawal agreement. Chapter 6 of the report considers the impact on financial services following the evidence the Select Committee received from the FCA's Chief Executive, Andrew Bailey and the PRA's Chief Executive Officer, Sam Woods.

A related Select Committee press release gives a summary of the report, together with comments from the Chair of the Select Committee, Nicky Morgan.

Among the key conclusions of the report are that:

- the "White Paper" scenario in the Government analysis represents the most optimistic and generous reading of the political declaration, insofar as it is consistent with it at all. It certainly does not represent the central or most likely outcome under the political declaration, and therefore cannot be used to inform Parliament's meaningful vote on the withdrawal agreement;
- Parliament may prefer to draw from the range of the scenarios in the Government analysis, additionally informed by external analysis and comment, in order to assess the economic impact of the withdrawal agreement;
- the Select Committee is disappointed that the Government did not produce short-term analysis of its deal;
- the Government should have modelled the backstop;
- the Bank of England is confident that the financial services sector can withstand a no-deal Brexit.

INTERNATIONAL

UK-US bilateral agreement on insurance and reinsurance prudential measures signed

On 20 December 2018, HM Treasury published a joint statement from HM Treasury, the US Treasury and the Office of the US Trade Representative following the signing of the UK-US bilateral agreement on insurance and reinsurance prudential measures on 18 December 2018.

IAIS publishes report on 2018 G-SII identification process

On 14 December 2018, the International Association of Insurance Supervisors (IAIS) published a report on the 2018 identification process of global systemically important insurers (G-SIIs).

The IAIS participates in a global initiative with other standard setters, central banks and financial sector supervisors to identify global systemically important financial institutions. It focuses on identifying G-SIIs, insurers whose distress or disorderly failure would potentially cause significant disruption to the global financial system and economic activity.

The IAIS used the 2016 G-SII assessment methodology to complete the 2018 G-SII identification process.

IDD: EIOPA report on the evaluation of the structure of insurance intermediaries markets in Europe

On 13 December 2018, the European Insurance and Occupational Pensions Authority (EIOPA) published a report containing an evaluation of the structure of insurance intermediaries markets in Europe in accordance with Article 41(5) of the Insurance Distribution Directive (IDD). An annex giving a country-by-country analysis has also been published.

The report provides an overview of the status of the European intermediaries markets up to 31 December 2017, relating to data for the period from 2013 to 2017.

EIOPA says the evaluation confirms that the European insurance intermediation market is characterised by a very wide diversity of local distribution channels and different definitions adopted at the national level. Registration practices and reporting frameworks also vary amongst Member States, contributing to the diversity in terms of size of European intermediaries markets. This makes it difficult to draw conclusions at a European level.

The following key developments have been identified:

- there are significant variations in terms of size of insurance intermediaries markets;
- there has been a small decrease in the number of registered intermediaries at the European level. The causes for this range from more stringent regulatory requirements and the growth of alternative innovative distribution channels to such factors as the liquidation of some insurance undertakings;
- in most markets, the decrease of registered intermediaries has mainly affected natural persons and those operating as agents;
- a significant number of intermediaries are operating under Member State-specific categories;

between 2013 and 2017 the number of intermediaries' notifications to carry out cross-border business has increased. In many Member States they mostly concern passporting into neighbouring markets.

SOLVENCY II

EIOPA publishes opinion on non-life cross-border insurance business of a long-term nature

On 22 December 2018, the European Insurance and Occupational Pensions Authority (EIOPA) published an opinion on non-life cross-border insurance business of a long-term nature and its supervision. The opinion is addressed to national competent authorities (NCAs) and outlines EIOPA's expectations on the calculation of technical provisions and the governance for cross-border business.

The objective of the opinion is to ensure the appropriate application of the legal requirements and consistent supervisory practices with regards to the calculation of technical provisions and quantitative information on non-life long-term business with distinctive features or a high degree of local specificities.

EIOPA says that long-term non-life insurance business operated cross-borders is typically more uncertain than the majority of non-life business. Such business requires both the knowledge of the local market specificities and the actuarial skills for the calculation of the technical provisions and the management of the activity. EIOPA says that experience has shown that these activities attract players that do not possess the required knowledge and skills, potentially leading to localised under-pricing and under-reserving to the detriment of policyholders.

The opinion highlights the need for all parties involved to be aware of the local specificities when cross-border business is carried-out and outlines EIOPA’s expectations to undertakings and recommendations to the NCAs on three aspects:

- expectations on technical provisions with the focus on the best estimate calculation;
- expectations on governance, namely on the key functions and the administrative, management or supervisory body;
- recommendations on the supervisory review process and the collaboration between home and host NCAs.

The opinion also contains annexes which provide examples and quantitative information on technical provisions for specific non-life long-term insurance obligations. EIOPA may develop further annexes in the future to provide additional examples on technical provisions calculation and quantitative information on non-life long-term business with distinctive features or a high degree of local specificities.

EIOPA publishes annual report on the use of capital add-ons by NCAs

On 20 December 2018, EIOPA published its second annual report on the use of capital add-ons by national competent authorities (NCAs) under Solvency II.

The objective of the report is to contribute to a higher degree of supervisory convergence in the use of capital add-ons between supervisory authorities in the different Member States and to highlight any concerns regarding the capital add-ons framework. The analysis is based on 2017 year-end Solvency II data.

EIOPA publishes annual report on the use of limitations and exemptions from reporting

On 20 December 2018, EIOPA published its third annual report on the use of exemptions and limitations from the regular supervisory reporting during 2017 and the first quarter of 2018 by national competent authorities under Solvency II.

The report addresses the proportionality principle on the reporting requirements, from which the limitations and exemptions on reporting are just one of the existing proportionality tools.

EIOPA call for input on the reporting and disclosure review 2020

On 19 December 2018, EIOPA published a call for input on the Solvency II reporting and disclosure review 2020, with the aim of assessing if the requirements remain fit-for-purpose and in particular, if the requirements allow a risk-based and proportionate approach.

EIOPA expects to publicly consult the conclusions of this assessment during 2019 but wishes to give the opportunity to all stakeholders to provide input, general or specific, at an early stage of the discussions, on areas that could be further improved in both reporting and disclosure requirements. These areas are:

- **supervisory reporting**: this includes questions on consistency between financial sectors, the proportionality principle, internal models, reporting processes, narrative reporting, specific templates;
- **public disclosure**: this includes questions on the solvency and financial condition report, audit, and language and means of disclosure.

Submissions are requested by 21 February 2019.

EIOPA publishes report on group supervision and capital management of insurance and reinsurance undertakings

On 19 December 2018, EIOPA announced the publication of a report to the European Commission on group supervision and capital management with a group of insurance or reinsurance undertakings, and freedom to provide services and freedom of establishment under the Solvency II Directive.

In the report EIOPA concludes that the tools it has developed to strengthen group supervision and supervision of cross-border issues have contributed to substantial progress in the convergence of practices of national competent authorities, but significant challenges remain.

The report finds a number of gaps in the regulatory framework that lead to divergent supervisory practices, for example:

- in the definition of intra-group transactions;
- in the assessment of availability of eligible own funds at group level;
- in the treatment of insurance holding companies and mixed activity insurance holding companies in the scope of group supervision;
- in the inclusion of holding companies, which are not licensed insurance undertakings in the scope of group supervision.

EIOPA also identifies that effective supervision of insurance groups will benefit from a harmonised approach in a number of areas, for example, early intervention, recovery and resolution and the assessment of group own funds.

EIOPA says that the report should be read in conjunction with its December 2017 report to the Commission on the application of group supervision under the Solvency II Directive.

EIOPA report on results of 2018 insurance sector stress test

On 14 December 2018, EIOPA published a report on the results of its 2018 stress test for the European insurance sector, together with a factsheet and a set of frequently asked questions.

In this year's exercise 42 European (re)insurance groups participated representing market coverage of around 75 % based on total consolidate assets.

Overall, the exercise confirmed the significant sensitivity the significant sensitivity of the European insurance sector to severe but plausible market shocks. Groups seem to be vulnerable not only to low yields and longevity risks but also to a sudden and abrupt reversal of risk premia combined with an instantaneous shock to lapse rates and claims inflation. On aggregate, the sector is adequately capitalised to absorb the prescribed shocks.

Solvency II Delegated Regulation: EIOPA letter to European Commission on amending Delegated Regulation

On 7 December 2018, EIOPA published the text of a letter sent by its Chair, Gabriel Bernardino, to the European Commission Director-General, DG FISMA, Olivier Guersent, relating to the Commission's November 2018 consultation on a Commission Delegated Regulation amending the Solvency II Delegated Regulation.

Among other things, Mr Bernardino says that in preparation for the Solvency II 2020 review, EIOPA is conducting investigations on the treatment of illiquid liabilities and related investments. He advises the Commission to wait and take into account the outcome of EIOPA's analysis before it reduces the capital charge for a portfolio of long-term equity investments backing long-term liabilities.

Mr Bernardino also notes the Commission's proposal to modify the general provisions on the relevant risk-free interest rate term structure. He says that the current drafting raises practical issues, as the proposed definition of a "substantial change" is too wide for a well-functioning process, and puts at risk the market consistent valuation of technical provisions.