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## UK

### **Access to protection insurance for people with pre-existing medical conditions or disabilities: AIWG agreement**

The British Insurance Brokers' Association (BIBA) [announced](#) on 20 January 2020, that, in collaboration with insurers, protection insurance groups and brokers, charities and other stakeholders, a new [voluntary agreement](#) has been reached to help people with disabilities or medical conditions access protection insurance. The "Access to Insurance Working Group" formed in October 2018 with the aim of improving access to protection insurance for consumers with chronic health conditions and disabilities. The key aim of this agreement, entered into by members of the Working Group, is to develop a signposting system for consumers, supporting consumer groups and charities so they can easily access guidance and advice about insurance from protection specialists.

The agreement is voluntary and does not create legal obligations, rather, it sets out how the parties will cooperate to deliver the AIWG's objectives.

The agreement is effective from 21 January 2020 and does not have an expiry date. The Access to Insurance Committee will formally review the agreement no later than January 2022 and subsequently on a three-year basis.

### **Use of cloud services by banks and insurers: BoE article**

The Bank of England (BoE) published on 17 January 2020, a Bank Overground article, "[How reliant are banks and insurers on cloud outsourcing?](#)", presenting data from a survey of the use of cloud services by banks and insurers.

The BoE surveyed the 30 largest banks and 27 largest insurers that it supervises to understand how they use the cloud. The survey shows that banks and insurers mainly use cloud outsourcing to run software and access additional processing capacity (Software-as-a-Service or SaaS) or to support IT infrastructure (Infrastructure-as-a-Service or IaaS). The survey indicates that banks use cloud outsourcing more widely than insurers. For both banks and insurers, the use of SaaS outweighs the use of IaaS.

The results of the survey will be used to inform and adjust the BoE's supervisory approach to cloud oversight.

### **PRA publishes PS1/20 on longevity risk transfers**

On 9 January 2020, the PRA published a policy statement, [PS1/20](#), on simplification of pre-notification expectations relating to longevity risk transfers. PS1/20 gives feedback to responses the PRA received to its earlier consultation on the issue, CP3/19, and the Appendix contains the PRA's final policy in an updated version of supervisory statement, [SS18/16](#), "Solvency II: longevity risk transfers". After considering the single response it received to CP3/19, the PRA has made two clarifications to its proposed policy in CP3/19:

- to amend the headings used in the reporting template, providing more clarity on how firms should complete them, including explanatory footnotes; and
- to change the phrasing on how firms should include basis risk in their risk assessments of longevity risk transfers.

The policy came into effect on 9 January 2020. From this date, firms are expected to notify the PRA of new longevity risk transfers in accordance with the revised SS18/16.

### **Insurance market data: PRA call for feedback on proposal to publish quarterly**

On 15 January 2020, the PRA published a [call for feedback](#) on its proposal to publish quarterly, aggregated data relating to the UK insurance market. At present, it does not release a regular

publication of UK insurance data externally. However, the PRA recognises the value of UK insurance data produced in a timely and structured publication, based on the regular submission of data by firms within the scope of the Solvency II Directive across the various sectors of the market.

The content of the initial publication will be based on Solvency II quantitative reporting templates (QRTs) and, where relevant, supplemented with PRA data collections. The schedule for publication will be at a timely point following the submission and quality checking of quarterly and annual data, with the intention of publishing the information when it is of most relevance.

The PRA has published the call for feedback to inform potential users of this data and the proposed content and presentation. It invites feedback that may help to shape the publication. Comments can be made until 16 March 2020. The PRA intends to publish the first insurance data release in the new format during the first half of 2020.

### **Loyalty penalty: FCA update on Citizens Advice super-complaint to CMA**

In response to the Citizens Advice super-complaint on the loyalty penalty, the Competition and Markets Authority (CMA), in December 2018, made several recommendations relating to the cash savings, home insurance and mortgage markets. The FCA published on 9 January 2020, an [update](#) on its website where it consolidates summaries of the work it has been undertaking that address the CMA recommendations.

Among other things, the FCA states that it plans to publish updates on its work relating to fair pricing in financial services and its consultation on guidance for firms on the fair treatment of vulnerable customers (GC19/3) in the first quarter of 2020.

### **FCA policy development update**

The FCA has updated its [policy development update webpage](#) for January 2020, setting out information on recent and future FCA publications.

### **Financial Services Duty of Care Bill 2019-20 reintroduced to Parliament**

The Financial Services Duty of Care Bill 2019-20 has been reintroduced to the House of Lords. The Bill requires the Financial Conduct Authority (FCA) to make rules for authorised persons to owe a duty of care to consumers in their regulated activities.

The Bill was originally introduced in the 2017-19 parliamentary session as a private members' bill and so had to be reintroduced for the 2019-20 session. The Bill received its first reading in the House of Lords on 9 January 2020. A date for the second reading of the Bill is yet to be scheduled.

### **Wholesale GI firms: FCA Dear CEO letter on non-financial misconduct**

On 6 January 2020, the FCA published a [Dear CEO letter](#), sent to the CEOs of wholesale general insurance (GI) firms, setting out its expectations for them to be proactive in tackling non-financial misconduct in the sector. The FCA states that it expects CEOs to identify what drives this behaviour and, where appropriate, modify those drivers to shape proper conduct.

In the letter, the FCA focuses on four key drivers of culture that it believes can lead to healthy cultures and reduce the potential for harm:

- leadership;
- purpose;
- approach to rewarding and managing people; and

- governance, systems and controls.

The FCA expects all firms to review the letter and share it with their senior executive committee and board (or equivalent). If firms identify gaps or shortcomings between its expectations and their current arrangements, it expects firms to act promptly to address them.

The FCA will carry out further supervisory work to assess the extent to which firms are meeting its expectations and, through this, will work to improve standards of behaviour and hold firms and senior managers to account for their cultures.

## **Personal and commercial lines insurers: FCA portfolio strategy letter**

On 8 January 2020, the FCA published a portfolio strategy [letter](#) that it has sent to the boards of firms in the personal and commercial lines insurer (PL&CL) portfolio on identifying and remedying the key risks of harm PL&CL firms could pose to their consumers and the markets in which they operate.

The FCA expects firms to make significant improvements to their governance and operational controls, including how they engage with, plan for and implement all relevant regulatory changes. In particular, firms should have reviewed their customer journeys and made any necessary amendments to meet regulatory requirements introduced by the UK implementation of the Insurance Distribution Directive. It also expects firms to implement effective strategies to mitigate the risks of harm posed to consumers and markets.

The FCA identifies key drivers of harm in this sector, giving detailed examples and indicates that it will prioritise its supervisory work in the following areas:

- poor oversight of, and poor remuneration practice in, distribution chains;
- the risk of consumers being provided with unsuitable or poor value products;
- poor pricing practices;
- ineffective management of some regulatory change; and
- poor operational controls.

The FCA also expects firms to consider what action they may need to take to be ready for the end of the Brexit transition period.

The FCA intends to write again to PL&CL insurers in spring 2021 with an updated view of the key risks posed by firms in the portfolio, the extent to which these risks are being mitigated and its updated supervisory plans.

## **BREXIT**

### **European Union (Withdrawal Agreement) Act 2020**

The European Union (Withdrawal Agreement) Bill 2019-20 (WAB) has received [Royal Assent](#) and is enacted as the [European Union \(Withdrawal Agreement\) Act 2020](#) (WAA). The WAA implements the Withdrawal Agreement into UK law.

### **Financial services equivalence post-Brexit: HM Treasury letter**

The Department for Exiting the European Union (DExEU) has published a [letter](#) dated 27 January 2020, from John Glen, Economic Secretary to the Treasury, to Lord Kinnoull, European Union Committee Chair, on equivalence in financial services in the light of the UK's withdrawal from the EU.

In the letter, Mr Glen makes points including the following:

- the UK ambition is for a future relationship with the EU that respects both parties' autonomy, while providing confidence and protecting financial stability. The government believes that a deep and comprehensive future relationship with the EU remains the best way to further these shared goals, including through arrangements that encourage the EU and the UK to work together constructively to stabilise the current equivalence framework;
- the government believes that there is sufficient time for assessing equivalence with respect to the EU and UK under their existing frameworks by the end of June 2020, in line with the time frame set out in the Political Declaration. The government's priority is to seek equivalence across all of the EU equivalence regimes (around 40); and
- the government has had discussions with a number of jurisdictions to ensure there is regulatory continuity of financial services market access arrangements which the UK currently benefits from as a result of being a member of the EU. However, before making an equivalence decision, HM Treasury will ensure there is equivalence of regulatory and supervisory outcomes in the third country, and that the decision supports a globally integrated UK financial services sector. Mr Glen then explains the process in place for the UK to make such equivalence decisions.

### **Financial Services (Consequential Amendments) Regulations 2020**

The Financial Services (Consequential Amendments) Regulations 2020 ([SI 2020/56](#)), together with an [explanatory memorandum](#), have been published. SI 2020/56 is made under the WAA to amend several EU exit instruments previously made under the European Union (Withdrawal) Act 2018 (EUWA 2018). Specifically, it delays the application of a number of financial services temporary permission and transitional regimes so that they apply by reference to the end of the transition period, referred to as the "Implementation Period" (IP) (IP completion day) rather than "exit day" (31 January 2020). All other characteristics of the regimes, such as their scope and duration, remain unchanged.

If they were not delayed, the temporary and transitional regimes would start on exit day and run in parallel to the IP, which would result in significant legal uncertainty for the industry and would constitute a breach of the of the UK's commitments under the Withdrawal Agreement to apply EU law during the IP.

The Regulations come into force immediately before exit day.

### **Data protection and financial services: European Commission slides on future EU-UK relationship**

On 10 January 2020, the European Commission published [slides](#) outlining internal preparatory discussions on the future EU-UK relationship relating to personal data protection (adequacy decisions) and cooperation and equivalence in financial services. The slides relate to the Commission's work in preparing negotiating directives for the EU for the negotiations on the future EU-UK relationship.

In the area of data protection, the Commission states that personal data protection for the future partnership will be based on Commission adequacy decision(s) if conditions are met and there are provisions in the EU-UK agreement on cooperation between regulators. The Commission will endeavour to finalise the adequacy assessment by the end of 2020 and will prioritise assessment in the context of law enforcement. The Commission sets out the necessary steps for an adequacy decision and timeline.

In the area of financial services, the slides set out the Commission's proposed approach to cooperation and equivalence. On equivalence, the Commission notes that, under the political declaration, the EU and the UK are to endeavour to conclude equivalence assessments before the

end of June 2020. It suggests that the EU should make equivalence decisions in protection of its own interests and that its autonomy on equivalence should not be restricted by any free trade agreement.

The Commission states that the assessment of UK legislation and supervision should be based on a risk-based and proportional approach and, as for other third countries, the higher the possible impact on EU markets and interests, the more granular the assessment.

## INTERNATIONAL

### **PRIIPs Regulation: EU trade associations concerns about ESAs KID reform consultation**

On 22 January 2020, Insurance Europe published a [letter](#) written jointly with the Association of Mutual Insurers and Insurance Co-operatives in Europe (amice), the European Banking Federation (EBF) and the European Fund and Asset Management Association (EFAMA), to the European Commission. The associations raise serious concerns with the review by the European Supervisory Authorities (ESAs) of the RTS under the Packaged Retail and Insurance-based Investment Products Regulation (PRIIPs Regulation). In the associations' view the ESAs' current approach to amending the PRIIPs key information document (KID) is fundamentally flawed and will not meet the PRIIPs Regulation's aim of providing information that is fair, clear and not misleading. The associations set out their concerns in the letter.

Separately, the ESAs have [published](#) the non-confidential responses to their consultation (which closed on 13 January 2020) on proposed amendments to the KID.

### **Climate-related disclosures: IAIS consults on draft issues paper on implementation of TCFD recommendations**

The International Association of Insurance Supervisors (IAIS) is [consulting](#) on a [draft issues paper](#) on the implementation of the recommendations of the Financial Stability Board (FSB) Task Force on Climate-related Financial Disclosures (TCFD). The issues paper was developed jointly with the Sustainable Insurance Forum (SIF).

In June 2018, the SIF and the IAIS released a joint issues paper on "Climate Change Risks to the Insurance Sector". Recognising the important role of the TCFD recommendations in establishing a framework for climate risk-related disclosures for the insurance sector, the SIF and IAIS have now developed this issues paper. The paper draws on the results of a SIF survey on implementation of the TCFD recommendations and guidance, which was conducted during the first half of 2019 and stakeholder input received during a workshop which took place in September 2019.

The paper provides an overview of practices that supervisors have considered in the development of climate related disclosure requirements within their markets. The paper is primarily meant to be descriptive and is not intended to create supervisory expectations. However, the IAIS states that the speed at which supervisory practices relating to climate risk are evolving, both within individual jurisdictions and through the activities of coalitions, reflects the need to consider responses at the global level. In this context, the SIF and IAIS recognise the value of developing further materials to support supervisors in their efforts to assess climate risks, including in relation to the IAIS Insurance Core Principles. This paper is intended to lay the groundwork for the development of future work, such as an IAIS application paper.

The consultation period ends on 5 February 2020. A [consultation tool](#) sets out the questions on which responses are sought. Stakeholders are invited to join a [webinar](#) for further background on the draft issues paper.

## SOLVENCY II

### European Commission speech on Solvency II 2020 review

On 29 January 2020, the European Commission published a speech, given by Valdis Dombrovskis, Commission Executive Vice President, on the review of the Solvency II Directive. In his speech, Mr Dombrovskis explains that the 2020 review is being carried out to ensure that the Solvency II regime is fit for purpose in all economic environments. He notes the importance of the regime being regularly evaluated and updated, especially given the challenges faced, including climate change and sustainability, digitalisation, new technologies and cyber security.

Among other things, the Commission:

- Plans to assess how insurers integrate climate and environmental risks, and how best to reflect this in the EU rules. It will also continue to look at how insurers can strengthen resilience to risks and natural disasters caused by climate change.
- Will continue to explore ways to remove barriers to insurers wanting to invest in companies that create jobs and growth.
- Is considering the Solvency II long term guarantee measures. In particular, whether these measures still work well in an extended period of low interest rates, and whether they could work better to remove disincentives to long term investment.
- Knows that supervisors are keen to have extensive data available to them but is considering whether they really use it all and whether reporting burdens could be lightened.
- Is looking at gaps in EU insurance law. There is no EU wide resolution regime for insurers in the event of distress, and no minimum EU rules on insurance guarantee schemes. It is "testing the water" with a proposal for dealing with insolvency in the motor insurance sector and has asked EIOPA for advice on insurance recovery and resolution.

### EIOPA annual report on limitations and exemptions from reporting

On 28 January 2020, EIOPA published its [annual report](#) on the use on the use of exemptions and limitations from the regular supervisory reporting during 2018 and Q1 2019 by national competent authorities under Solvency II.

EIOPA reports that:

- 13 NCAs (the same number as in 2018) granted limitations under Article 35(6) of the Solvency II Directive to 838 solo undertakings for Q1 reporting in 2019, compared with 791 in Q1 2018;
- five NCAs (the same as 2017) granted limitations and exemptions from reporting using item-by-item templates under Article 35(7) to 136 solo undertakings for annual reporting in 2018 (139 in 2017);
- five NCAs (three in 2018) granted limitations for quarterly reporting to 37 groups in Q1 2019 (33 in Q1 2018);
- two NCAs (three in 2017) granted limitations and exemptions from reporting on an item-by-item basis for annual reporting to six groups in 2018 (seven groups in 2017).

The report addresses the proportionality principle on the reporting requirements, in respect of which the limitations and exemptions on reporting are one of several proportionality tools. It reflects the nature, scale and complexity of the risks inherent to a business.

EIOPA will continue to monitor the use of exemptions and limitations over time and publish the results. The evidence gathered so far is also being used as input to the Solvency II 2020 review, in which additional measures relating to the proportionality principle will be proposed in the context of supervisory reporting requirements.

## **FMLC response to EIOPA consultation**

The Financial Markets Law Committee (FMLC) published on 15 January 2020, its [response](#) to EIOPA's October 2019 consultation paper on its draft opinion setting out technical advice on the 2020 review of the Solvency II Directive. The FMLC comments on some uncertainties in EIOPA's proposals under the headings of:

- freedom to provide services and freedom of establishment;
- expected profits in future premiums; and
- long-term guarantee measures.

EIOPA intends to publish its final opinion on technical advice for the European Commission in June 2020.

## **Solvency II Delegated Regulation on look-through approach and risk weights for flood risk: European Commission adopts corrections**

The European Commission has adopted a [Delegation Regulation](#) correcting the Solvency II Delegated Regulation ((EU) 2015/35). The explanatory memorandum explains that corrections are required following certain previous amendments to the Delegated Regulation under Delegated Regulation (EU) 2019/981.

The Delegated Regulation will now be considered by the European Parliament and the Council. If there are no objections, it will enter into force 20 days after publication in the OJ and will apply retroactively from 8 July 2019.

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