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Corporate Insurance Newsletter February 2019

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UK

FCA publishes FS19/1: PRIIPS call for input feedback statement

On 28 February 2019, the Financial Conduct Authority (FCA) published a feedback statement, FS19/1, on its July 2018 call for input seeking views and evidence on market participants' initial experiences of the requirements introduced by the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation and the related PRIIPs regulatory technical standards (together the PRIIPs legislation). The PRIIPs legislation took effect in January 2018.

The FCA received 103 responses to the call for input. In the feedback statement the FCA summarises the responses received, its responses to the feedback received and outlines options to address areas of concern.

The FCA says that it believes that the concerns raised about uncertainty about scope and unintended effects of compliance with PRIIPs requirements are particularly serious and may risk causing consumer harm if not addressed. In these areas, it is seeking and encouraging swift and effective action from EU institutions. It will consider the extent to which domestic interpretive guidance from the FCA could mitigate its concerns around performance scenarios, summary risk indicators and the scope of the PRIIPs legislation.

FCA publishes MS17/2.2: Wholesale insurance brokers market study final report

On 20 February 2019, the FCA published the final report of its wholesale insurance brokers market study. The study was launched in November 2017 to assess how competition was working in the sector. The FCA has also published seven annexes to the final report and a related research report. Links to these are given on the market study webpage.

The FCA launched the market study in response to evidence it had heard from practitioners of potential competition concerns in the wholesale insurance brokers market and to its own analysis in the market. To assess these concerns the FCA looked at the role insurance brokers play, how well competition is working and how the market is developing.

The FCA says that, overall, it has not found evidence of significant levels of harm to competition that merit the introduction of intrusive remedies. As a consequence, it is closing the market study and this is, therefore, not an interim report but the FCA's final report.

The FCA has, however, identified some areas which warrant further action, in relation to conflicts of interest, the information firms disclose to clients and certain specific contractual agreements between brokers and insurers. It says that these areas can be addressed within its usual supervisory processes. Given the dynamic nature of the market, the FCA will continue to monitor developments in broker business models and the effectiveness of competition.

PRA publishes PS4/19: Solvency II: adjusting for the reduction of loss absorbency where own fund instruments are taxed on write down

On 20 February 2019, the Prudential Regulation Authority (PRA) published a policy statement, PS4/19, which provides feedback on responses its October 2018 consultation paper, CP27/18, "Solvency II: adjusting for the reduction of loss absorbency where own fund instruments are taxed on write down".

The consultation paper proposed an expectation that insurers will deduct the maximum tax charge generated on write-down, when including items listed in Articles 69(a)(iii) and (b) of the Solvency II Regulation or certain items approved under Article 79 of the Solvency II Regulation to be recognised as restricted tier 1 own funds (rT1) in their own funds.

This was in the light of the proposed tax changes introduced by HM Revenue & Customs in the Budget 2018 relating to hybrid capital instruments. The consultation paper specifically addressed the implications of those proposed tax changes on rT1.

The policy statement also contains the PRA's final policy on updating Supervisory Statement (SS) 3/15 "Solvency II: The quality of capital instruments". The updated version of SS3/15 has also been published. The PRA says that following consideration of responses to CP27/18, it has added additional material to SS3/15 to clarify points raised by respondents. This, and the content consulted on, which was originally to be added to chapter 4, has been added as a new chapter 5. The original chapter 5 has been renumbered as chapter 6. The PRA does not consider these additions to the draft policy to be significant, or that the impact is significant, or significantly different, for mutuals.

The PRA has also issued a reporting clarification on how such adjustments should be reflected in the Solvency II reporting templates.

The new policy will come into effect for all instruments issued on or after 21 February 2019.

PRA publishes PS3/19: PRA fees and levies: Changes to periodic and transaction fees

On 13 February 2019, the PRA published a policy statement, PS3/19, which provides feedback to responses to its November 2018 consultation paper, CP28/18, "PRA fees and levies: Changes to periodic and transaction fees".

The policy statement sets out the PRA's final policy on:

- amending the approach to periodic fees for life insurers;
- updating the Part VII regulatory transaction fees for insurers;
- updating the internal model application fees for insurers;
- updating the rules relating to the provision of relief from PRA fees in exceptional circumstances (all firms);
- other minor corrections to PRA fees rules (all firms); and
- updates to Supervisory Statement (SS) 3/16 "Fees: PRA approach and application" (all firms).

The final rules are set out in the PRA Rulebook: PRA Fees Amendment Instrument 2019, PRA 2019/4, which came into force on 1 March 2019. The changes made to SS3/16 also came into effect on 1 March 2019.

PRA publishes CP3/19 Solvency II: Longevity risk transfers-simplification of pre-notification expectations

On 5 February 2019, the PRA published Consultation Paper (CP) 3/19, which proposes to update Supervisory Statement (SS) 18/16 "Solvency II: longevity risk transfers" to simplify the pre-notification requirements for longevity risk transfers and update the key risks the PRA considers arise from longevity risk transfers.

Since Solvency II came into effect the PRA has closely monitored longevity risk transfers to ensure that the transactions are for reasons of genuine risk transfer, as opposed to a means of balance sheet manipulation to reduce the risk margin applying to liabilities which may not benefit from transitional measures.

Under CP3/19 the PRA proposes to amend SS18/16:

- to reduce reporting burdens for any transaction which is not categorised as "large and/or complex"; and
- to ensure that firms should include the basis risk between the terms of the annuity contract and those of the risk transfer in their risks management frameworks.

The consultation closes on 6 May 2019.

PRA publishes Dear CEO letter on cyber underwriting risk: follow-up survey results

On 30 January 2019, the PRA published the text of a Dear CEO letter sent by its Director of Insurance Supervision, Anna Sweeney, to chief executives of specialised general insurance firms regulated by the PRA on managing cyber insurance underwriting risk.

In July 2017, the PRA published Supervisory statement (SS) 4/17 (SS4/17) on cyber insurance underwriting risk. In May 2018, the PRA carried out a follow-up survey involving firms of varying size. The letter provides feedback on the key themes that emerged from firms' responses, and areas where the PRA thinks that firms can do more to ensure the prudent management of cyber risk exposures.

The PRA says that the survey results suggest that although some work has been done, more ground needs to be covered by firms especially in relation to non-affirmative cyber risk management, risk appetite and strategy. The letter gives more details of the results in relation to these. Having reviewed firm's responses the PRA also remains of the view that the expectations set out in SS4/17 are relevant and valid.

The letter says that since the publication of SS4/17 the PRA has engaged with several regulatory authorities and international forums to develop a co-ordinated approach in this field. Firms reported challenging market conditions, broker pressure, and lack of historic data, models and expertise as the main impediments for the prudential management of cyber underwriting risk. The PRA says that it appreciates these challenges but does not believe they are insurmountable. It also welcomes recent announcements about individual firms' efforts to manage non-affirmative cyber risk in their books of business.

The PRA says that the responsibility is on firms to progress their work and fully align with the expectations set out in SS4/17. In relation to the expectation that firms reduce the unintended exposure to non-affirmative cyber risk, insurers should develop an action plan by H1 2019 with clear milestones and dates by which action will be taken. Supervisors may ask to review this plan and subsequent progress towards it.

Over the rest of 2019, the PRA plans to undertake the following steps:

- provide further, targeted feedback to surveyed firms. It intends to arrange meetings with individual surveyed firms by the end of Q1 2019;
- co-ordinate with Lloyd's to agree any follow-up actions in relation to Lloyd's managing agents;
- carry out sample deep-dive reviews to other firms (not necessarily those in the initial sample) in H2 2019 to assess how these firms are meeting the expectations set out in SS4/17.

The PRA will continue to keep this subject under review in the light of the progress firms make on these outstanding areas. Depending on progress, it will consider whether any further steps are appropriate in due course, such as potential revisions or additions to SS4/17.

BREXIT

FCA publishes PS19/5: Brexit policy statement: feedback on CP18/28, CP18/29, CP18/34, CP18/36 and CP19/2

On 28 February 2019, the FCA published a policy statement, PS19/5, which contains feedback on a series of consultation papers (for links to these see the policy statement webpage) which the FCA had published since October 2018 to ensure a functioning regulatory framework for financial services if the UK leaves the EU without a withdrawal deal or implementation period (a no-deal scenario). The FCA also issued public statements on its proposed use of the temporary transitional power (TTP) delegated to it by the Government and on the treatment of Gibraltar-based firms under the FCA Handbook after Brexit.

The policy statement sets out the FCA's responses to the feedback it received on its proposals to:

- amend the FCA Handbook and binding technical standards (BTS) (see chapters 4, 5, 6 and 8);
- establish a temporary permissions regime for EEA entities operating in the UK and a financial services contracts regime for those EEA entities seeking to service existing business, but not undertake new business, in the UK after Brexit (see chapter 7);
- establish regulatory regimes for credit-rating agencies, trade repositories and securitisation repositories (see chapter 9);
- provide guidance on its approach to EU Level 3 material (see chapter 10);
- provide guidance on its approach to guidance that sits outside the FCA Handbook (see chapter 10);
- provide guidance to the use of FCA forms (see chapter 10).

The appendices to the policy statement contain the following:

- appendix 1 (1358 pages): near-final Handbook instruments;
- appendix 2: near-final BTS instruments;
- appendix 3: the FCA's approach to EU non-legislative materials;
- appendix 4: the FCA's approach to non-Handbook guidance where it relates to EU-law or EU-derived law;
- appendix 5: an interpretative guide on completing FCA forms after the UK's withdrawal from the EU.

Annex 2 to the policy statement lists which stakeholders the FCA anticipates are affected by the specific changes to the FCA Handbook and BTS.

The FCA says that it will publish the final instruments on 28 March 2019 if the withdrawal agreement between the UK and the EU is not ratified.

See below for the related Bank of England and PRA policy statement.

Brexit temporary transitional powers: FCA publishes near-final draft directions

On 28 February 2019, the FCA published the following Brexit temporary transitional powers, made under Part 7 of the draft Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (transitional powers of the financial regulators):

- a near-final draft FCA transitional direction, together with annex A (application of the standstill direction to amendments made in Statutory Instruments and Exit Instruments amending

technical standards) and annex B (application of the standstill direction to amendments made in the FCA Handbook);
- a near-final draft FCA prudential transitional direction;
- an explanatory note for the above directions.

The directions give regulated persons time to adapt to changes to UK financial services regulation caused by Brexit. Continuity is generally achieved by applying a "standstill", so firms may continue to comply with the pre-exit version of an obligation. In addition, temporary permission firms are allowed substituted compliance for home state obligations.

The FCA says that in a no-deal scenario, it will make these directions final for exit day. The directions will apply until 30 June 2020.

Brexit: FCA update

On 27 February 2019, the FCA announced the publication of updated information to help support regulated firms in finalising their preparations for as smooth a transition as possible when the UK leaves the EU. The FCA has also published a new webpage "Brexit: considerations for UK firms" and has updated its "Preparing your firm for Brexit" webpage.

The FCA urges firms to ensure they are making any necessary changes to protect customers from negative impacts of leaving the EU, whatever the outcome of negotiations. Firms are also being reminded to consider what information needs to be communicated to their customers, and how this will be done in a way that is clear, fair and not misleading.

For UK-based firms, particularly those operating within the EEA, the FCA information highlights the FCA's approach to changes to UK legislation, implications for cross-border data sharing, and the consequences of the loss of passporting as some of the main issues that have to be dealt with.

Specific information is available for firms operating in the UK in five key sectors:

- banking and payments;
- life insurance, pensions and retirement income;
- general insurance;
- retail investment;
- wholesale banks, wholesale markets and asset managers.

Bank of England policy statement and PRA PS5/19: The Bank's amendments to financial services legislation under the European Union (Withdrawal) Act 2018

On 28 February 2019, the Bank of England announced the publication of a package of materials updating firms on it and the PRA's regulatory and supervisory approach in relation to their work on EU withdrawal. The materials are contained in the Bank and the PRA's policy statement, PS5/19, on amendments to financial services legislation under the European Union (Withdrawal) Act 2018.

The policy statement provides feedback to responses to the package of measures published by the Bank and the PRA on 25 October 2018 and the PRA's December 2018 consultation paper CP32/18.

The policy statement is structured in two sections.

Section A: Temporary transitional directions and guidance:

- chapter 1 sets out background to the Bank's use of the transitional power;
- chapter 2 sets out the Bank's feedback to responses received on the Bank's proposed approach to the use of the transitional power;
- chapter 3 sets out the implementation of the use of the transitional power and next steps;
- section A appendices: transitional directions and guidance.

Section B: Nationalising the Acquis (NtA):

- part 1 sets out feedback to CP25/18 on the Bank's general approach to NtA, including any cross-cutting issues raised, and changes relating to EU guidelines and recommendations;
- part 2 sets out feedback on CP26/18 and CP32/18 on changes relating to the PRA Rulebook and PRA binding technical standards (BTS);
- part 3 sets out feedback to the consultations relating to the Bank (as resolution authority), including changes relating to Bank (as resolution authority) BTS;
- part 4 sets out feedback to the consultations relating to the Bank (as financial market infrastructure (FMI) authority), including changes to Bank (as FMI authority) BTS and FMI rules;
- part 5 sets out the Bank's obligations under the European Union (Withdrawal) Act 2018;
- section B appendices: NtA Instruments, supervisory statements and statements of policy.

The policy statement webpage gives details and links to the 10 appendices relating to section A of the policy statement, which are available on the new transitioning to post-exit rules and standards webpage and the 10 appendices relating to section B of the policy statement. The policy materials appended to the policy statement, including all EU Exit Instruments and directions that give effect to the temporary transitional power, are "near final". The Bank and PRA will communicate when the EU Exit Instruments and directions that give effect to the temporary transitional power are made final and formally set to enter into force on exit day.

See also above for the FCA's related policy statement.

The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019

The above Regulations, SI 2019/407, were made and published on 28 February 2019, together with a related explanatory memorandum.

The Regulations amend the retained Solvency II Delegated Regulation (EU) 2015/35 and make amendments to the Solvency 2 Regulations 2015, which implement Solvency II in the UK. They also make limited amendments to the Financial Services and Markets Act 2000. The changes are outlined in sections 7.9 to 7.15 of the explanatory memorandum.

The Regulations come into force on exit day.

The Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019

The above Regulations, SI 2019/403, were made on 27 February 2019 and published on 28 February 2019, together with a related explanatory memorandum.

The EU Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation introduces a standardised disclosure document (called a key information document) to be provided when packaged investment or insurance-based investment products are sold to retail investors.

The Regulations make amendments to the retained PRIIPs Regulation to ensure that it operates effectively in a no deal scenario at the point at which the UK leaves the EU. Details of the specific changes being made by the Regulations are set out in section 7 of the explanatory memorandum.

The Regulations will come into force on exit day.

The Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019

The above Regulations, SI 2019/405, were made and published on 28 February 2019, together with a related explanatory memorandum.

The Regulations establish run-off regimes within the temporary regimes being put in place by separate EU Exit Statutory Instruments, specifically those for EEA firms passporting under the Financial Services and Markets Act 2000, EEA payment and e-money firms that currently passport into the UK under the Payment Service Regulations 2017 or the Electronic Money Regulations 2011, non-UK central counterparties, and EEA trade repositories. Full details of these are given in sections 7.10 to 7.50 of the explanatory memorandum.

These Regulations come into force on the day after the day on which they are made.

Draft Financial Services (Miscellaneous) (Amendment) (EU Exit) (No. 2) Regulations 2019 published by HM Treasury

On 27 February 2019, HM Treasury published a draft version of the Financial Services (Miscellaneous) (Amendment) (EU Exit) (No 2) Regulations 2019, together with a related draft explanatory memorandum.

The Regulations will make amendments to a number of financial services EU exit statutory instruments and to an EU delegated regulation, correcting errors identified in legislation after it was made, making amendments to ensure consistency between EU exit instruments and introducing a transitional provision. These amendments will ensure that these instruments operate effectively after the UK leaves the EU. The Regulations will also amend retained EU law that would not be appropriate to retain on the statute book once the UK is no longer a member of the EU.

Full details of the amendments are given in sections 2.3 to 2.8 and section 7 of the draft explanatory memorandum.

Regulation 1 and regulation 9 come into force immediately before exit day. The other provisions of the Regulations will come into force at the end of the period of twenty-five days beginning with the day on which the Regulations are made.

Draft Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019 laid before Parliament

On 25 February 2019, a draft version of the Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019 was laid before Parliament and published, together with a related draft explanatory memorandum.

Part 2 of the Regulations amends Article 257(1) and (2) of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing the Solvency II Directive.

Part 3 of the Regulations makes amendments related to electronic commerce in the financial services field. It amends sections 417 and 418 of the Financial Services and Markets Act 2000 to remove various EU references which are no longer needed. It also revokes article 72A (information society services) of the Financial Services and Markets Act (Regulated Activities) Order 2001 (RAO) and amends the Electronic Commerce Directive (Financial Services and Markets) Regulations 2002. This Part also makes various consequential amendments to other subordinate legislation.

Part 4 of these Regulations makes transitional provisions in connection with the revocation of article 72A of the RAO. It provides a regime by which a person providing information society services to which that article applied immediately before the commencement date to persons in the UK from an establishment in an EEA State can continue to provide such services while those services are run down.

The Regulations will come into force on the day after the day on which they are made.

No-deal Brexit: EIOPA publishes recommendations for the insurance sector

On 19 February 2019, the European Insurance and Occupational Pensions Authority (EIOPA) published recommendations providing guidance on the treatment of UK insurance undertakings and distributors with regard to cross-border services in the EU after the withdrawal of the UK from the EU without a withdrawal agreement.

The recommendations are addressed to national competent authorities (NCAs) and provide guidance on the supervisory treatment of residual insurance business with the objective to minimise the detriment to policyholders with such cross-border insurance contracts. NCAs should ensure an orderly run-off of the insurance business, including the appropriate supervision. UK insurance undertakings without authorisation should not conclude new insurance contracts. The recommendations also provide guidance on the application of relevant legal provisions with regard to cross-border insurance of UK insurance undertakings.

The nine recommendations include the following:

- **orderly run-off**: without prejudice to policyholder rights to exercise an option or right in an existing insurance contract to realise their pension benefits, NCAs should prevent that UK undertakings conclude new insurance contracts or establish, renew, extend, increase or resume insurance cover under the existing insurance contracts in their jurisdiction as long as they are not authorised for such insurance activities under EU law;
- **authorisation of third country-branches**: in accordance with Article 162 of the Solvency II Directive, UK insurance undertakings may seek authorisation to carry out cross-border business through a branch in a Member State and thus ensure that they can service cross-border business in that Member State;
- **portfolio transfer**: provided that it was initiated before the withdrawal date, the NCAs should allow the finalisation of portfolio transfer from UK insurance undertakings to EU27 insurance undertakings;
- **change in the habitual residence or establishment of the policyholder**: if a policyholder with habitual residence or, in the case of a legal person, place of establishment in the UK concluded a life insurance contract with a UK insurance undertaking and afterwards the policyholder changed its habitual residence of place of establishment to a EU27 Member State, the NCAs should take into account in the supervisory review that the insurance contract was concluded in the UK and the UK insurance undertaking did not provide cross-border services for the EU27 for this contract;
- **distribution activities**: competent authorities should ensure that UK intermediaries and entities which intend to continue or commence distribution activities to EU27 policyholders and for EU27 risks after the UK's withdrawal are established and registered in the EU27 in line with the relevant provisions of the Insurance Distribution Directive.

Competent authorities must confirm to EIOPA whether they comply or intend to comply with the recommendations, with reasons for non-compliance, within two months after the issuance of the translated versions. The recommendations will apply as of the date that the UK leaves the EU.

INTERNATIONAL

IAIS publishes application paper on proactive supervision of corporate governance

On 27 February 2019, the International Association of Insurance Supervisors (IAIS) published an application paper which supports the practical application of the corporate governance-related insurance core principles (ICP), mainly ICP 7 (corporate governance) and ICP 8 (risk management and internal controls).

The application paper sets out good practices related to the organisation and functioning of the supervisor, with the objective of promoting proactive supervision of corporate governance. It aims to raise awareness of, and seeks to address, the organisational, cultural, and procedural challenges faced by supervisors in detecting problems in corporate governance and taking appropriate steps at an early stage.

The application paper recognises that there is no one-size-fits-all approach to proactive supervision as there is a variety of organisational and governance structures amongst the insurers. There are different steps that supervisors may decide to take, both organisational and procedural, direct and indirect, separately or together, to foster proactiveness. Whichever steps are taken, proactive supervision should be carried out proportionately to the issues identified, using an approach customised to the circumstances, including relevant supervisory objectives, laws and regulations.

The application paper is organised into four sections that address key aspects of fostering and supporting proactive supervision:

- section 1 discusses how the supervisor's own organisation, culture and process should support proactive supervision. This encompasses the supervisor itself, as well as its management team and staff;
- section 2 highlights that the supervisor needs relevant and timely information in order to be proactive;
- section 3 provides a non-exhaustive list of early warning indicators, yellow and red flags, which may signal the need for investigation and, potentially, further steps;

section 4 explains how effective communication by the supervisor with both insurers and the wider public can promote proactive supervision.

EIOPA publishes framework for assessing conduct risk through the product life cycle

On 20 February 2019, the European Insurance and Occupational Pensions Authority (EIOPA) published a framework for assessing conduct risk through the product lifecycle.

EIOPA says that the purpose of the framework is to clarify drivers of conduct risk and their implications in the emergence of consumer detriment. It provides an aid for understanding issues faced by consumers and input on the types of conduct risks EIOPA and the national competent authorities (NCAs) should focus on. It sets a common starting point for more practical supervision of particular products, services or market segments, for instance, through "deep dive" thematic work or for future policy development.

The framework focuses on conduct risk throughout all stages of the product lifecycle, that is, from the point before a contract enters into force through to the point when all obligations under the contract have been satisfied.

The risks set out in this framework cover the following areas:

- **business model and management risks**: risks arising from how undertakings structure, drive and manage their business and from relationships with other entities in the value-chain;
- **manufacturing risks**: risks arising from how products are manufactured by insurance undertakings prior to being marketed and how they are targeted to customers;
- **delivery risks**: risks arising from how products are brought to the market and from the interaction between customers and insurance undertakings or intermediaries at the point of sale;
- **product management risks**: risks arising after the sale of the insurance product relating to how products are managed and how insurance undertakings or intermediaries interact with and service customers until all obligations under the contract have ceased.

EIOPA says that while the framework does not set out supervisory processes at national level, it nonetheless supports NCAs in identifying conduct and consumer protection risks sufficiently early and sufficiently clearly for the preventative goals of effective conduct supervision.

EIOPA expects the framework to contribute to the effective implementation of its conduct of business supervisions strategy and it anticipates further work in linking the identified conduct risks. This approach will evolve into more systematic ongoing conduct risk monitoring as an integral part of practical supervision both at national and European levels. It includes, for example, the development of periodic conduct risk dashboards as a platform for high-level debate and convergence on the evolving conduct risk landscape.

Insurers and asset managers call for expiry date of PRIIPs derogation for multi-option products to be aligned with end of UCITS exemption

On 15 February 2019, Insurance Europe and the European Fund and Asset Management Association announced that they have written a joint letter to the European Commission and the European Insurance and Occupational Pensions Authority on the derogation on the use of UCITS key investor information documents (KIIDs) for multi-option products.

The letter calls on the Commission to urgently align the expiry date of Article 14(2) of the packaged retail and insurance-based investment products (PRIIPs) Delegated Regulation with the expiry date of the temporary exemption of UCITS from the PRIIPs Regulation.

Currently, where the underlying funds of an insurance-based product are UCITS funds or other funds where a UCITS key investor information document (KIID) is produced rather than a PRIIPs KID, the PRIIPs rules allow insurers and asset managers to produce a generic PRIIPs KID for the overall product and to provide investors with the existing UCITS KIID for each of the underlying funds.

This rule was linked to the temporary exemption of UCITS from the PRIIPs Regulation, which was due to expire in December 2019. However, a recent agreement between the EU institutions has extended this exemption but the rules on disclosure will still expire in December 2019. The letter says that this will create a significant compliance burden for insurers and asset managers, who will need to produce entirely new data to populate the PRIIPs KID. In addition, where the data can simply not be produced, the range of products offered to consumers will ultimately decrease.

Insurance Europe and the European Fund and Asset Management Association request that the necessary legislation to extend these rules is adopted prior to the European elections in May 2019.

SOLVENCY II

European Commission request for advice from EIOPA

On 15 February 2019, EIOPA published a request from the European Commission for technical advice on the review of the Solvency II Directive.

In the request, which is dated 11 February 2019, the Commission seeks EIOPA's advice on, among other things:

- long-term guarantee measures and measures on equity risk (Article 77f);
- specific methods, assumptions and standard parameters used when calculating the solvency capital requirement standard formula (Article 111(3));
- rules and supervisory authorities' practices on the application of Article 129 (calculation of the minimum capital requirement);
- the supervision of insurance and reinsurance undertakings in a group (Article 242(2));
- other items related to the supervision of insurance and reinsurance undertakings.

EIOPA is asked to deliver the advice by 30 June 2020.

European Commission letters to EIOPA

EIOPA has published the following letters from the European Commission Director-General, DG FISMA, Olivier Guersent, to its Chair, Gabriel Bernardino, relating to aspects of Solvency II:

- a letter, dated 1 February 2019, responding to a December 2018 letter from EIOPA on the Commission's consultation concerning the draft delegated act on the review of the Solvency II implementing measures. Among other things, the Commission acknowledges the necessity to address certain shortcomings in the current calibration for the interest rate risk module. It favours revisiting the topic during the 2020 review of the Solvency II Directive where other elements affecting insurers' exposure to interest rates will also be reviewed. The letter also notes EIOPA's concerns regarding the amendments to the provisions on deriving risk-free interest rates, in particular concerning changes to the relevant methodology;
- a letter, dated 7 February 2019, containing a request that EIOPA reviews the methodology for the activation of the "country component" of the volatility adjustment under Solvency II. The Commission is concerned that the current methodology does not work as intended and does not allow properly mitigating country-specific spread crises in the valuation of technical provisions. EIOPA is invited to explore if there are other possibilities to improve the functioning and efficiency of the country component of the volatility adjustment that would be in line with the current Solvency II legal framework.

Implementing Regulation on calculation of technical provisions and basic own funds adopted

The European Commission adopted Implementing Regulation 2019/228 on 7 February 2019 and published it in the Official Journal on 8 February 2019, such that it will take effect on 9 February 2019. It lays down technical information for the calculation of technical provisions and basic own funds for reporting for the period between 31 December 2018 and 30 March 2019.