

# Being better informed

## FS regulatory bulletin

### FS regulatory insights

July 2024

#### In this month's edition:

- Solvency UK: PRA finalises Matching Adjustment reforms
- Basel 3: European Commission delays key banking reform measures
- Consumer Duty: FCA finds deficiencies in firms' outcomes monitoring
- Investment firm prudential framework: ESAs kick start review



# Executive summary



Welcome to this edition of 'Being better informed', our monthly FS regulatory bulletin, which aims to keep you up to speed with significant developments and their implications across all the financial services sectors.



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June was a relatively quiet month for the regulators, with the delay of a number of publications until after the UK general election. Nonetheless, there were important updates on topics including Consumer Duty, Solvency UK and the EU's banking reform package.

While publishing limited policy initiatives ahead of the election, the FCA very much continued to progress supervisory work, including work to ensure firms are meeting the higher standards of the Consumer Duty. It published findings of a multi-firm review of outcomes monitoring approaches among large insurance firms, which has wider relevance to all firms subject to the Duty. Overall, the FCA found that while some firms had developed a comprehensive approach to monitoring customer outcomes, most firms in the review needed to make improvements. Areas the FCA highlighted as requiring improvement include: monitoring which is overly focused on process completion rather than outcomes; data presented to boards/committees with limited narrative or context, and thresholds which could not be justified; insufficient evidence of where monitoring had led to action to improve outcomes; and inadequate monitoring of the outcomes experienced by different groups of customers, including those with characteristics of vulnerability. Please see our [At a glance](#) publication for more information.

Elsewhere in insurance, the PRA published its long-awaited policy statement on reforms to the Solvency UK regime for Matching Adjustment (MA) portfolios. The statement implements and works alongside the Insurance and Reinsurance Undertakings (Prudential Requirements) Regulations 2023. It focuses on the design and operation of the MA framework and covers a range of topics, including: the new MA attestation process, the expansion of MA permissible assets and liabilities, reforms to the granularity and validation of credit rating processes, internal model changes, and the introduction of a regular detailed data template to be provided to the PRA. PS10/24 came into force on 30 June 2024, allowing firms to take advantage of the reforms from this date. Some of the new requirements will become effective on 31 December 2024 or the first financial year end from 31 December 2024. Our [Hot topic](#) provides a detailed analysis of the policy statement, and what it means for insurers.

In the banking sector, Mairead McGuinness, European Commissioner for Financial Stability, Financial Services and Capital Markets Union, announced that implementation of the market risk element of the banking reform package will be delayed by one year, to 1 January 2026. McGuinness reiterated that the bulk of the reforms, which have been agreed via the EU's CRD III/CRD IV legislative package, will come into force on 1 January 2025 as planned. The market risk framework is being delayed due to the expected delay in the US adoption of the Basel 3 standards. McGuinness stated that the announcement is designed to provide EU banks with clarity and should not be considered an encouragement for any further delay in adopting the internationally-agreed Basel 3 standards. The European Commission will bring forward a delegated legislative proposal to enact the one-year delay in due course.

Another noteworthy development from the EU was a discussion paper from the European Banking Authority (EBA) and European Securities and Markets Authority (ESMA) on whether the EU's investment firm prudential framework should be adjusted to reflect market developments, including revisions to the banking package. The discussion paper sets out the supervisory authorities' preliminary findings, but notes that they will undertake a data collection exercise and consider its results and market participants' feedback before finalising their recommendations by December 2024. The authorities see the current framework as largely fit for purpose, and the majority of their suggested changes aim to strengthen the regime rather than reduce the requirements on investment firms. The FCA has not yet set out a public position on whether it will amend its rules for UK investment firms to reflect the banking package, but has confirmed it is reviewing its prudential frameworks this year. Our [blog](#) explores the impact on investment firms in more detail.

Please read on to find out more about these and other developments. You can also visit our [PwC webpage](#) for further regulatory insights, including our latest [podcast episode](#) on the evolving regulatory approach to operational resilience in the UK and EU, and how firms can build their resilience in an increasingly complex risk environment.

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# Cross sector announcements

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## Conduct

### FCA keeps trading apps under review

The FCA announced it is keeping trading apps under review over concerns about game-like design features and whether they meet the standards of the Consumer Duty, in an [update](#) on 20 June 2024. The regulator built an experimental trading app platform to test the effect of different digital engagement practices (DEPs) on trading behaviour, sharing the findings in a [research paper](#). It found that DEPs can lead to changes in trading frequency and investment risk, and can have a more significant effect on particular customer groups, including those with lower financial literacy, women, and those aged between 18 and 34.

The FCA warned stock trading apps to review game-like design features in 2022 ahead of the Consumer Duty's implementation. The Duty requires firms to design and test products and services so they meet consumers' needs and enable them to make effective, timely and properly informed decisions, including for those with characteristics of vulnerability.

Sheldon Mills, Executive Director of Consumers and Competition at the FCA, said: "Trading apps have the potential to transform retail investments, but some in-app features might be pushing consumers towards more frequent or riskier trading, which isn't right for everyone. With usage and popularity of trading apps growing, we'll be keeping them under review to make sure customers can make investment decisions that suit their needs."

The research is likely to be of interest to all firms in how they conduct testing on the impact of design features on consumer outcomes.

## Supervision

### FCA outlines expectations for overseas ARs

The FCA published an [update](#) on 27 June 2024, outlining its view of the challenges and expectations for principal firms with overseas appointed representatives (OARs). Following feedback to its Appointed Representatives (AR) [consultation](#), the FCA identified that principals may experience challenges overseeing and communicating with OARs due to three main issues: differences in legal, accounting and regulatory requirements for each jurisdiction; geographical distance; and cultural and language differences.

The FCA expects principal firms' monitoring and oversight of OARs to account for these challenges. In particular, principals should consider whether customers receive equivalent services and protections as UK-based ARs and ensure that activities of their OARs do not result in any undue risk to customers or market integrity.

The FCA suggests that principals should incorporate considerations of any additional risk from OARs into their annual self-assessment document and ensure that they comply with all relevant rules. Where firms cannot monitor the risks of OARs, the FCA expects principals to consider terminating the agreement. The FCA will continue to consider whether any targeted supervisory engagement with principals with OARs is needed in the future.

### FCA updates on non-financial misconduct and approach to enforcement

The FCA announced its intention to provide an update on its work on non-financial misconduct this autumn. In a [speech](#) at the Financial Services Investigations and Enforcement Summit on 26 June 2024, Steve Smart, FCA Joint Executive Director of Enforcement and Market Oversight, said the regulator received responses from over 1,000 firms to its survey on non-financial misconduct sent to wholesale and insurance firms earlier this year. He said: "We will publish an update from this work in the autumn and look forward to working with industry to interpret and draw lessons from them."

It comes after the FCA announced at a Treasury Select Committee hearing in May 2024 that it is separating out and prioritising its proposals on non-financial misconduct from the rest of its [wide-ranging proposals on diversity and inclusion](#).

Smart also addressed the FCA's recent [proposals](#) to publicise the details of firms under enforcement action. Smart emphasised that publishing the names of firms under enforcement proceedings would not be the presumed approach, that going public may not occur at the start of an investigation, and that this proposal is just one part of a broader set of reforms to the enforcement process, including reducing the time taken to conclude investigations.

# Banking and capital markets

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## Capital and liquidity

### European Commission delays implementation of key banking reform measures

On 18 June 2024, Mairead McGuinness, European Commissioner for Financial Stability, Financial Services and Capital Markets Union, announced that implementation of the market risk element of the EU's banking reform package will be delayed by one year, to 1 January 2026.

Speaking at a [joint conference of the European Commission and European Central Bank](#) in Frankfurt, Commissioner McGuinness reiterated that the bulk of the reforms, which have been agreed via the EU's CRD III/CRD IV legislative package, will come into force on 1 January 2025 as planned.

The market risk framework is being delayed due to the expected delay in the US adoption of the Basel 3 standards. According to the Commissioner, the timing of the announcement is designed to provide EU banks with clarity and ensure a global level playing field by aligning the entry into application of the rules.

Commissioner McGuinness also used her speech to call for positive words to be matched by "strong actions" on achieving progress towards an EU Capital Markets Union. She stated that national concerns should be put aside in favour of progress towards a single European market for capital, and that consolidation of financial market infrastructure is crucial over the long term to achieve this aim.

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## Supervision

### FCA CEO outlines breadth of asset management work

Nikhil Rathi, FCA CEO, delivered a [speech](#) on 5 June 2024 at the Investment Association Annual Conference setting out the wide ranging work the FCA is currently undertaking that is relevant to the asset management sector.

Rathi opened his remarks by focusing on the FCA's influential role at international standard setting bodies, for example at IOSCO, and outlined the progress regulators are making on issues such as liquidity management tools, leverage in non-bank financial institutions, and margin preparedness. Rathi also referenced the FCA's work to promote technology and innovation, in particular through its Digital Securities Sandbox and cross-jurisdictional work on fund tokenisation.

Rathi acknowledged the powerful role that AI can play in the sector and reiterated the FCA's position that the UK's existing regulatory framework is sufficient to supervise and regulate its use. To support this broad agenda, Rathi finally emphasised the regulator's attention on its own operational effectiveness and outlined some of the steps it has taken, e.g. through its authorisation process, to sustain this.

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## Capital and liquidity

### PRA finalises matching adjustment reforms

The PRA published its policy statement [PS10/24](#) on reforms to the Solvency II regime for Matching Adjustment (MA) portfolios on 6 June 2024.

PS10/24 implements and works alongside the [Insurance and Reinsurance Undertakings \(Prudential Requirements\) Regulations 2023](#) (IRPR Regulations). PS10/24 and the IRPR Regulations are wide ranging with significant impacts on insurers' balance sheets, reporting requirements and the responsibilities of senior management.

Areas covered in PS10/24 include the new MA attestation process, the expansion of MA permissible assets and liabilities, reforms to the granularity and validation of credit rating processes, internal model changes, and the introduction of a regular detailed data template that needs to be provided to the PRA.

The PRA explains that respondents to its consultation paper [CP19/23](#) were generally supportive of its proposals. However, in line with the feedback received, the PRA provides several clarifications and makes changes to the final policy. These include a clarification on implementation timelines, and changes to the new MA [Statement of Policy](#) which will include changes to permit concurrent applications and implement reduced documentation requirements. The PRA also clarifies the scope of external audit in relation to the new requirements for fundamental spread additions.

PS10/24 comes into force on 30 June 2024, allowing firms to take advantage of the reforms from this date. Some of the new requirements will become effective on 31 December 2024 or the first financial year end from 31 December 2024.

See our [Hot Topic](#) publication for more details.

## Conduct

### FCA finds deficiencies in firms' Consumer Duty outcomes monitoring

The FCA published findings of its review into the [Consumer Duty outcomes monitoring](#) approaches of large insurance firms on 26 June 2024. The firms involved in the review are general insurers, life insurers, intermediaries and third-party outsources used by insurers.

Overall, the FCA found that while some firms had developed a clear and comprehensive approach to monitoring customer outcomes, most firms in the review need to make improvements. The FCA shares good and poor practice findings across several areas, including the design of monitoring approaches, and the interpretation and scrutiny of data. The FCA also shares its findings under the four Consumer Duty outcomes.

The FCA found that some firms' monitoring was overly focused on process completion rather than the outcomes delivered. The FCA expects firms to not assume that completing a review automatically means good outcomes are being achieved. Instead, firms should use a range of data to determine if customers are being sold products that meet their needs. The FCA also found that some firms did not present outcomes monitoring to boards / committees in a way that enabled effective oversight and challenge. For example, data was presented with limited narrative, and thresholds appeared arbitrary. Additionally, the FCA found that most firms were unable to provide clear evidence of where outcomes monitoring had directly led to action taken to improve outcomes.

The FCA expects firms to take account of its findings as they consider their approaches to outcomes monitoring on closed books, and as they develop their first Consumer Duty annual report which is due at the same time as the closed book deadline, 31 July 2024.

See our [At a glance](#) publication for more details.



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Wholesale markets

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