Summary of regulatory developments

Updates for January 2022

This memo identifies and summarises any regulatory updates published during January 2022 that may be of relevance to life insurance companies.

The following table summarises the relevant updates identified in January.

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

Date	Description
4-Jan	The Financial Conduct Authority (FCA) announces changes to LIBOR as of end-2021
6-Jan	The European Insurance and Occupational Pensions Authority (EIOPA) publishes report on the application of the Insurance Distribution Directive
6-Jan	EIOPA publishes its Q&A on regulation
12-Jan	The Prudent Regulation Authority (PRA) publishes PS 1/22 "Insurance business transfers"
12-Jan	PRA publishes letter to CEOs of PRA-regulated insurance firms, “Insurance Supervision: 2022 priorities”
20-Jan	PRA launches second request for technical input regarding the Insurance Stress Test 2022
24-Jan	EIOPA publishes consumer trends report
25-Jan	FCA publishes guidance consultation for firms that seek to limit their liabilities
27-Jan	EIOPA publishes third paper on methodological principles of insurance stress testing climate risks
28-Jan	EIOPA consults on its proposals on Retail Investor Protection
31-Jan	EIOPA publishes its Risk Dashboard based on the third quarter of 2021 Solvency II data

Updates for January 2022

This section highlights articles of interest to life companies released in January 2022.

EIOPA

- EIOPA publishes report on the application of the Insurance Distribution Directive

  EIOPA published its first report on the application of the Insurance Distribution Directive (IDD), which regulates how insurance products are designed and distributed in the European Union. The report examines and summarises findings on:

  - Any changes in the insurance intermediaries' market structure
  - Any changes in the patterns of cross-border activity
  - The improvement of quality of advice and selling methods and the impact of the IDD on insurance intermediaries which are small and medium-sized enterprises
  - Whether competent authorities are sufficiently empowered and have adequate resources to carry out their tasks

- EIOPA publishes its Q&A on regulation

  Updates include the following:

  - (EU) No. 2015/35, supplementing Dir 2009/138/EC – Taking Up and Pursuit of the Business of Insurance and Reinsurance (SII). Questions 2348, 2350 and 1770.
  - (EU) No 2017/2358 – Product oversight and governance requirements. Question 2358.
  - (EU) No 2016/97 – Insurance Distribution Directive. Questions 2338 and 2360.
  - Guidelines on classification of own funds. Question 1489.
  - Guidelines on valuation of technical provisions. Question 1683.

- EIOPA publishes consumer trends report

  EIOPA identifies an acceleration in digitalisation as a clear trend emerging from the COVID-19 pandemic. This brings opportunities but also risks for consumers.

  The report recognises a number of key issues in consumer trends, including:

  - Existing concerns around unit-linked products due to product complexity resulting in a lack of clarity around costs and benefits
  - An increase in products being marketed as sustainable, raising concerns over the potential for "greenwashing"
  - Emerging risks have raised new concerns around exclusions and possible increases in protection gaps
  - Greater use of price optimisation practices relying on artificial intelligence (AI) techniques can lead to unfair treatment and possible financial exclusion

- EIOPA publishes third paper on methodological principles of insurance stress testing climate risks

  The paper focuses on the climate change component of insurance stress testing and is a further step in enhancing EIOPA's stress testing framework. In particular, the paper sets out methodological principles that can be used to design bottom-up stress test exercises that aim to assess the vulnerability of insurers to climate risks.

  Incorporating climate risks is a relatively new concept but it has rapidly become a priority for policy makers and supervisors. Climate stress testing is an important tool to:

  - Raise awareness of climate-related risks
  - Understand how insurers assess such risks
  - Enhance risk management capabilities
  - Evaluate potential spillover effects to other parts of the financial sectors and to the real economy

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- EIOPA consults on its proposals on Retail Investor Protection

  EIOPA has launched a public consultation on retail investor protection in relation to the sale of insurance-based investment products (IBIPs). The consultation is a response to a call for advice, which the European Commission (EC) sent to EIOPA in July 2021.

  EIOPA presents its proposals in five different areas:

  - Enhancing consumer engagement with disclosures, including digital disclosures
  - Assessing the risks and opportunities presented by new digital tools and channels
  - Tackling damaging conflicts of interest in the sales process
  - Promotion of an affordable and efficient sales process
  - Assessing the impact of complexity in the retail investment product market

  Stakeholders are invited to provide feedback by 25 February 2022, with EIOPA delivering the final advice to the EC by 30 April 2022.

- EIOPA publishes its Risk Dashboard based on the third quarter of 2021 Solvency II data

  The results show that insurers' exposures to macro risks remain at a high level while all other risk categories, such as insurance as well as profitability and solvency risks, stay at medium levels. With regards to macro risks, inflation forecasts have been revised upwards and the 10-year swap rates have increased across main currencies. Financial markets stay broadly stable, amid fiscal and monetary support.

FCA

- The FCA announces changes to LIBOR as of end-2021

  The publication of 24 LIBOR settings has ended as of 31 December 2021 including:

  - All euro and Swiss franc LIBOR settings
  - The overnight/spot next, 1-week, 2-month and 12-month sterling and Japanese yen LIBOR settings
  - The 1-week and 2-month US dollar LIBOR settings

  The temporary use of "synthetic" sterling and yen LIBOR rates in all legacy LIBOR contracts (other than cleared derivatives) will be allowed. The FCA announced in September 2021 its decision on a fair and appropriate way of calculating synthetic LIBOR, approximating what LIBOR might have been in the future. The use of synthetic sterling LIBOR is not guaranteed beyond end-2022 so firms' efforts to transition away from it should continue.

- The FCA publishes guidance consultation for firms who seek to limit their liabilities

  The FCA has seen an increase in the number of firms developing proposals, such as schemes of arrangement, to deal with significant liabilities to consumers, in particular to redress liabilities.

  In proposed guidance, the FCA has made it clear to firms seeking to limit their liabilities that they should provide the best possible outcome for customers, which will include providing the maximum amount of funding possible to meet compensation claims. The FCA also expects to be informed as soon as a firm is considering a scheme of arrangement or other compromise to manage liability and has set out the information it wishes to receive. Firms could face regulatory actions if they fail to comply with this guidance.

PRA

- PRA publishes PS 1/22 "Insurance business transfers"

  This Policy Statement (PS) provides the PRA's final decisions regarding the proposals it had previously shared in Consultation Paper (CP) 16/21 on its updated approach to insurance business transfers. This is primarily to reflect legislative changes following the UK's withdrawal from the European Union and the completion of the transition period. The statement also provides additional guidance for independent experts and firms on the PRA's expectations.

  The PS was in force from the statement's publication on 12 January 2022.

- PRA publishes letter to CEOs of PRA-regulated insurance firms, "Insurance Supervision: 2022 priorities"

  The PRA's overarching supervisory aim is that the insurance sector can continue to provide financial protection and security to policyholders. The objective is for the sector to continue to be both financially and operationally resilient, highlighting the importance of insurers' risk management techniques.

  The government's review of Solvency II will continue to be a focus for firms throughout the year with the hope that, when implemented, it will align the prudential regime and its resilience requirements better with the shape of the UK insurance sector and its risks.

  Within this letter, the PRA lists its priorities for 2022, including:

  - Financial resilience
  - Operational risk and resilience
  - Financial risks arising from climate change
  - Regulatory change
  - Third-country branches seeking authorisation in the UK
  - Diversity and inclusion

- PRA launches second request for technical input regarding the Insurance Stress Test 2022

  The PRA will be asking the largest regulated life and general insurers to carry out the next insurance stress test (IST) from May 2022. In September 2021, the PRA shared the first request for technical input with firms, which set out the overall scenarios and structure of the exercise. They are now launching the second and final request for input, which includes:

  - Updated scenarios together with the scenario calibration
  - Specifications and guidance
  - Quantitative data templates
  - A "Results and Basis of Preparation" (RBP) report that sets out additional information required to supplement the quantitative results

  Any feedback should be submitted by 17 March 2022, when the request for input will close.

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