



Summary of regulatory developments

Updates for September 2023

This memo identifies and summarises any regulatory updates published during September 2023 that may be of relevance to life insurance companies.

The following table summarises the relevant updates identified in September.

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

Date	Description
13-Sep	The Financial Conduct Authority (FCA) publishes “The Post-Brexit Handbook: A collective opportunity”
14-Sep	The FCA’s review of later-life mortgages finds poor advice and misleading promotions
14-Sep	The Prudential Regulatory Authority (PRA) publishes Policy Statement (PS) 12/23, “Dealing with insurers in financial difficulties”
18-Sep	The European Supervisory Authorities (ESAs) publish their Autumn joint risk report for 2023
25-Sep	The FCA and PRA propose measures to boost diversity and inclusion (D&I) in financial services
27-Sep	The ESAs publish report on the landscape of information and communication technology (ICT) third-party providers (TPP) in the EU
28-Sep	The ESAs issue report on the extent of voluntary disclosure of Principal Adverse Impacts (PAI) under the Sustainable Finance Disclosure Regulation (SFDR)
28-Sep	The PRA publishes consultation paper (CP) 19/23, “Review of SII: Reform of the Matching Adjustment”
29-Sep	The ESAs specify criticality criteria and oversight fees for critical ICT TPP in response to the European Commission’s call for advice
29-Sep	FCA hosts first GFIN Greenwashing TechSprint
30-Sep	The European Insurance and Occupational Pensions Authority (EIOPA) publishes its Q&A on regulation

Updates for September 2023

This section highlights articles of interest to life companies released in September 2023.

ESAs

- **The ESAs publish their Autumn joint risk report for 2023**

The report highlights the continued high economic uncertainty. The ESAs warn national supervisors of the associated financial stability risks, and call for vigilance from all financial market participants. The economic outlook remains fragile, amid heightened geopolitical risks, high inflation, high interest rates and an uncertain macro-financial outlook.

In light of these risks and uncertainties, the ESAs advise the following policy actions:

- Closely monitor the impact from increases in policy interest rates and sudden rises in risk premia
- Remain prepared for a possible deterioration in asset quality
- Closely monitor the impact of inflation risk
- Place high importance on effective risk management and governance arrangements, in particular in relation to liquidity risk and interest rate risk

- **The ESAs issue report on the extent of voluntary disclosure of PAI under the SFDR**

PAI are the most significant negative impacts of investments on the environment and people. This is the second report and, similar to the first, includes the results from a survey of National Competent Authorities (NCAs) to assess the current state of PAI disclosures under the SFDR. Highlights include:

- Overall improvement in disclosures compared to last year, although there is still significant variation in the extent of compliance with the requirements and in the quality of the disclosures both across financial market participants and jurisdictions.
- Disclosures appear easier to find on websites compared to the previous year.
- When financial market participants do not consider PAI, they should better explain the reasons for not doing so.
- Financial market participants are generally not disclosing to what extent their investments align with the Paris Agreement even though they are encouraged to do so.

The report also includes a set of recommendations for the European Commission to consider ahead of the next comprehensive assessment of the SFDR.

- **The ESAs publish report on the landscape of ICT TPP in the EU**

The ESAs have published an overview of ICT TPP as part of their preparations for the Digital Operational Resilience Act. The analysis aims to map the provision of ICT services by TPPs to financial entities in the EU and to support the ESAs' policy-making process in light of the European Commission's call for advice to further specify the criteria for critical ICT TPPs and to determine oversight fees.

Overall, the exercise has identified around 15,000 ICT TPPs directly serving financial sector entities across the EU. It has found that the most frequently used ICT TPPs support critical or important functions for their clients in a wide range of services. In addition, most critical services were classified as non-substitutable by financial institutions.

- **The ESAs specify criticality criteria and oversight fees for critical ICT TPP in response to the European Commission's call for advice**

In terms of criticality criteria, the ESAs propose 11 quantitative and qualitative indicators along with the necessary information to build up and interpret such indicators following a two-step approach. The ESAs also put forward minimum relevance thresholds for quantitative indicators, where possible and applicable.

Regarding the oversight fees, the ESAs make proposals for determining the amount of the fees to be levied on critical TPPs and the way in which they are to be paid. In addition, the advice proposes a financial contribution for voluntary opt-in requests.

EIOPA

- **EIOPA publishes its Q&A on regulation**

Updates include the following:

- (EU) 2023/894 – Implementing technical standards (ITS) with regard to the templates for the submission of information necessary for supervision. Questions [2683](#), [2772](#), [2648](#), [2587](#), [2715](#), [2695](#) and [2744](#).
- (EU) 2023/895 – ITS for the disclosure of Solvency and Financial Condition Report (SFCR). Question [2743](#).
- (EU) No 2015/35 – Supplementing Dir 2009/138/EC – Taking up and pursuit of the business of insurance and reinsurance (SII). Question [2771](#).

FCA

- **The FCA publishes “The Post-Brexit Handbook: A collective opportunity”**

The passage of the Financial Services and Markets Act 2023 allows an enhanced framework for the FCA in terms of rulemaking. This includes a new secondary objective on international competitiveness and growth, and new accountability and scrutiny arrangements such as an increased duty to keep rules under review.

The 2023 Act also allows the repeal of the “retained EU legislation” (REUL) in financial services that the UK inherited. This means that UK regulators can write new rules more suitable for UK markets and consumers. The FCA is deciding how to work through the EU legislation efficiently and what to change to support opportunity but not burden firms and disrupt the industry. It is open to views on how to do this to ensure that, at the end of this process, there exists a set of Handbook rules that support its goals.

- **The FCA’s review of later-life mortgages finds poor advice and misleading promotions**

A later-life mortgage is the most popular type of equity release catered to homeowners who want to release money tied up in their homes to help meet later-life needs. These products are often sold to customers with a higher risk of being vulnerable, so it is essential they are fully informed and receive suitable advice.

The review looked at firms responsible for around half of all lifetime mortgage sales. It found in many cases advice did not meet the standards expected. For example, firms weren’t sufficiently considering consumer’s individual circumstances and advice lacked discussion of alternatives.

The FCA has required those firms which fell short to improve the quality of their advice. The regulator is driving improvements in processes to ensure advice is personalised. The majority of firms in scope of the review also changed how their advisors are incentivised.

- **The FCA and PRA propose measures to boost D&I in financial services**

In recently published consultation papers, the financial regulators have set out proposals to boost D&I to support healthy work cultures, reduce groupthink and unlock talent. The measures also aim to enhance the safety and soundness of firms and improve understanding of diverse consumer needs.

The proposals set flexible, proportionate minimum standards, placing more requirements on larger firms. The regulators recognise that each firm is different and will have its own solutions.

Proposals include:

- Develop a D&I strategy setting out how the firm will meet its objectives and goals
- Collect, report and disclose data against certain characteristics
- Set targets to address underrepresentation

The proposed rules aim to see increased D&I in firms translate into better internal governance, decision making and risk management. The consultation is open until 18 December 2023 and feedback will be used to develop final rules planned for publication in 2024.

- **FCA hosts first GFIN Greenwashing TechSprint**

Participating international firms and regulators showcased potential solutions that could help tackle the risk of greenwashing in the financial services sector to a panel of independent judges, made up of industry experts, professionals and innovators. Their solutions used a number of approaches, including social media data, web-scraping techniques and artificial intelligence (AI) methods.

This TechSprint formed part of the FCA's wider work to improve trust and transparency in the environmental, social and corporate governance (ESG) market by improving the sustainability information consumers have access to.

PRA

- **The PRA publishes PS 12/23, "Dealing with insurers in financial difficulties"**

Proposed legislative amendments dealing with insurers in financial difficulties are contained in the Financial Service and Markets Bill 2022-23 (FSM Bill). CP 3/23 set out the PRA's proposed policy changes in response to this new regime. These changes aim to manage the risks posed by insurers in financial difficulties by allowing a firm to exit the market safely or return to viability and reducing the impact and cost of disorderly failure where an insurer is likely to be unable to pay its debts.

This PS provides feedback to CP 3/23 responses as well as the PRA's final policy, which has taken effect. Proposals include:

- New policyholder protection rules concerning how the Financial Services Compensation Scheme (FSCS) should operate in connection with a write-down
- New rules concerning the notification of affected persons
- A new Statement of Policy (SoP) setting out the PRA's approach and expectations in relation to write-down applications and the appointment of write-down managers

These proposals also contribute to policyholder protection by facilitating continuity of cover and the use of FSCS top-up payments.

- **The PRA publishes CP 19/23, "Review of SII: Reform of the Matching Adjustment"**

This consultation is the second consultation needed to implement the Solvency II review. It sets out the PRA's proposed reforms that aim to enable broader and quicker investment by insurers in their matching adjustment (MA) portfolios, while improving responsiveness to risk and enhancing firms' responsibility for risk management.

The CP covers several key areas of relevance for firms using the MA, and firms wishing to apply for MA approvals. These areas include:

- Widening the range of investments that firms may hold in their MA portfolios, by allowing firms to invest in assets with highly predictable cash flows
- Expanding the types of insurance business that may claim the MA to provide in-payment income protection and the guaranteed element of with-profits annuities
- Removing the sub-investment cap on the size of the MA
- Increasing the granularity of the fundamental spread (FS) by rating notch
- Introducing an attestation process for the FS and the MA benefit being claimed

The PRA plans to publish final policy and rules on the MA during Q2 2024, with an effective date of 30 June 2024. All other changes related to the Solvency II review will take effect on 31 December 2024.

For further information on the MA proposals, Milliman consultants have [summarised](#) them on LinkedIn, and will be publishing a more comprehensive briefing paper within the coming weeks.



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