Summary of regulatory developments

Updates for November 2024

This memo identifies and summarises any regulatory updates published during November 2024 which may be of relevance to life insurance companies.

The following table summarises the relevant updates identified in November.

REGULATORY ITEMS IDENTIFIED IN NOVEMBER WHICH MAY BE OF RELEVANCE TO LIFE INSURANCE COMPANIES

Date	Description
1-Nov	The Prudential Regulation Authority (PRA) publishes policy statement (PS) 18/24, "Prudential assessment of acquisitions and increases in control"
5-Nov	The European Insurance and Occupational Pensions Authority (EIOPA) publishes factsheet on the investments of the European Economic Area (EEA) based on solo insurance undertakings and groups
7-Nov	EIOPA publishes its final report on prudential treatment of sustainability risks within Solvency II
8-Nov	EIOPA launches consultation on its Opinion on the use of risk mitigation techniques by insurance undertakings
11-Nov	The Financial Conduct Authority (FCA) announces changes to the disclosure process in regulatory enforcement cases
12-Nov	PRA publishes supervisory statement (SS) 7/24, "Reports by skilled persons: Critical third parties (CTPs)"
14-Nov	EIOPA welcomes the approval of the global Insurance Capital Standard (ICS) by the International Association of Insurance Supervisors (IAIS)
15-Nov	The European Supervisory Authorities (ESAs) publish a Decision on the designations of critical information and communication technologies (ICT) third-party service providers under the Digital Operational Resilience Act (DORA)
15-Nov	FCA publishes November 2024 update on the Advice Guidance Boundary Review

REGULATORY ITEMS IDENTIFIED IN NOVEMBER WHICH MAY BE OF RELEVANCE TO LIFE INSURANCE COMPANIES

Date	Description
15-Nov	FCA welcomes the move to bring environmental, social and corporate governance (ESG) ratings of providers into regulation
15-Nov	FCA publishes statement on the Chancellor's Mansion House speech
15-Nov	PRA publishes consultation paper (CP) 15/24, "Proposed changes to the UK Insurance Special Purpose Vehicles (UK ISPV) regulatory framework"
15-Nov	PRA publishes PS 15/24, "Review of Solvency II: Restatement of assimilated law"
15-Nov	PRA publishes SS 8/24, "Solvency II: Calculation of technical provisions"
15-Nov	PRA publishes statement of policy (SoP), "Solvency II: The PRA's approach to Standard Formula adaptations"
15-Nov	PRA publishes SoP, "Solvency II: The PRA's approach to insurance own funds permission"
15-Nov	PRA publishes SoP, "Solvency II: Volatility adjustment (VA) permissions"
15-Nov	PRA publishes SoP, "Solvency II: The PRA's approach to the permissible recovery period for insurers to restore full cover for their SCRs"
19-Nov	ESAs and the European Central Bank (ECB) publish results of the one-off "Fit-for-55" climate scenario analysis
19-Nov	EIOPA publishes Opinion on the scope of DORA in light of the review of the Solvency II framework
20-Nov	ESAs publish Joint Guidelines on the system for the exchange of information
22-Nov	FCA publishes multi-firm review of life insurers' bereavement claim process
26-Nov	FCA Chief Operating Officer (COO) delivers speech on the FCA's future strategy
28-Nov	FCA Executive Director of Markets and International delivers speech on inclusive growth
28-Nov	FCA publishes second phase of consultation on enforcement transparency proposals
30-Nov	EIOPA publishes its Q&As on regulation

Updates for November 2024

This section highlights articles released in November 2024 of interest to life companies.

ESAs

- **ESAs publish a Decision on the designations of critical ICT third-party service providers under the Digital Operational Resilience Act (DORA)**

  Following DORA's implementation on 17 January 2025, the ESAs and competent authorities will begin overseeing critical ICT third-party service providers. The Decision details the information that competent authorities must report for designating critical ICT third-party service providers under DORA. In particular, it outlines the framework for annual reporting, including timelines, procedures, quality assurance, data revisions, confidentiality and information access.

  The Decision requires competent authorities to report by 30 April 2025 the registers of information on contractual arrangements of the financial entities with ICT third-party service providers.

  An information workshop will be held virtually on 18 December 2024 to help financial entities prepare their registers and discuss the Dry Run exercise outcomes. Interested parties can register by 16 December 2024.

- **ESAs and the European Central Bank (ECB) publish results of the one-off "Fit-for-55" climate scenario analysis**

  The analysis, requested by the European Commission, assessed the impact of three transition scenarios related to the EU's "Fit-for-55" package, which aims to stimulate investment and innovation in the transition to a green economy. It also plays a crucial role in the EU's goal to reduce emissions by 55% by 2030 and achieve climate neutrality by 2050.

  The study found that transition risks alone are unlikely to threaten financial stability but, when combined with macroeconomic shocks, they can increase financial institution losses and cause disruptions. However, the impact of these losses on financial institutions' capital is expected to be mitigated by factors such as banks' income, insurers' and occupational pension funds' liabilities and cash holdings by investment funds which were not included in the assessment.

- **ESAs publish Joint Guidelines on the system for the exchange of information**

  The Joint Guidelines aim to ensure consistent and effective supervisory practices within the European System of Financial Supervision (ESFS) and facilitate information exchange between supervisors. The guidelines focus on the use of the Fit and Proper Information System and information exchange and cooperation between the competent authorities when conducting fitness and propriety assessments.

EIOPA

- **EIOPA publishes factsheet on the investments of the European Economic Area (EEA) based on solo insurance undertakings and groups**

  The factsheet produced by EIOPA specifically shows to what extent European insurers' direct equity and corporate bonds investments in the EEA align with the EU taxonomy for environmentally sustainable activities. EIOPA found that:

  - The share of green investments in the portfolios of EEA insurers has edged higher. This increase also reflects valuation effects as well as certain reporting and methodological changes made since the last publication.
  - 4.5% of insurers' direct corporate bond and equity investments are currently aligned with the EU taxonomy.
  - The share of EU taxonomy-aligned investment rises to 10.7%, up from 5.7% in 2022, when considering only nonfinancial exposures.
  - An additional 20.5% of direct corporate bond and equity investments, or 48.6% of nonfinancial exposures, are in sectors eligible for the taxonomy.

- **EIOPA publishes its final report on prudential treatment of sustainability risks within Solvency II**

  The report's findings are based on a risk-based analysis of data and evidence, and take into account the feedback received from stakeholders on EIOPA's discussion paper on methodologies and data sources, as well as a public consultation on preliminary findings and policy proposals. The report covers:

  - Market risk of fossil fuel assets: Fossil fuel-related stocks and bonds are more exposed to transition risks than assets connected to other economic activities. EIOPA proposes increasing capital requirements up to 17% in additive terms for stocks and recommends a capital charge of up to 40% for bonds in multiplicative terms, to better align with insurers' actual risk exposures.
  - Non-life underwriting and climate adaptation: Preventive climate-related adaptation measures by policyholders could potentially lower insurers' underwriting risks. However, EIOPA proposes to repeat the analysis in the future, once higher-quality data is available, to draw more robust conclusions.
  - Social risks: EIOPA highlights the need to consider social risks when looking at sustainability risks, also from a prudential perspective in the context of the double materiality principle. Due to the current lack of data and risk models, EIOPA does not recommend specific prudential treatment of social risks at this stage.

- **EIOPA launches consultation on its Opinion on the use of risk mitigation techniques by insurance undertakings**

  The consultation paper covers two new annexes foreseen to be added to its Opinion on the use of risk-mitigation techniques by insurance undertakings from 2021:

  - Mass-lapse reinsurance: From the cedant's perspective it considers risk transfer, the Solvency Capital Requirements (SCRs) and the balance sheets for items such as valuation of reinsurance recoverables and the risk margin. For the reinsurer, it considers the nature of the risk accepted when calculating the SCR.
  - Reinsurance agreements' termination clauses: The second annex addresses specific terms that can compromise the effective transfer of risk, particularly for agreements that absolve the reinsurer from its share of legitimately incurred losses within the treaty period. Additionally, it addresses contracts involving asset transfers where clauses allow reinsurers to unconditionally retain all previously transferred premiums and assets while being released from all obligations.

  EIOPA invites stakeholders to provide feedback by responding to the online survey by no later than 7 February 2025.

- **EIOPA welcomes the approval of the global Insurance Capital Standard (ICS) by the International Association of Insurance Supervisors (IAIS)**

  The international agreement aims to create global consistency in the regulation and supervision of internationally active insurance groups (IAIGs). The ICS embraces many of the key features of the Solvency II framework such as market-adjusted valuation, risk-based capital requirements and the use of internal models.

  EIOPA also notes that the provisional US Aggregation Method requires adjustments before it can deliver outcomes comparable to those of the ICS.

- **EIOPA publishes Opinion on the scope of DORA in light of the review of the Solvency II framework**

  The Opinion covers the impact of increased size thresholds for insurance and reinsurance undertakings that may lead to companies being excluded from the Solvency II framework and how this would affect the Solvency II Review on insurance undertakings in the scope of DORA. These excluded undertakings are required to comply with DORA from its application date, 17 January 2025, although they might be exempt from DORA when the revised Solvency II framework takes effect. EIOPA considers this temporary application of DORA to be disproportionate as it would impose significant and unnecessary costs and administrative burdens on small entities during this period, without making a meaningful contribution to the primary objective of the DORA regulation.

  EIOPA is invoking Article 9a of the EIOPA Regulation and is calling on the European Commission to amend union law accordingly. The Opinion also outlines EIOPA's expectation that national competent authorities (NCAs) should not prioritise DORA supervisory actions for these small insurance undertakings.

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

  Updates include the following:

  - (EU) No 2009/138 – Solvency II Directive (Insurance and Reinsurance). Question 2958.
  - EIOPA-BoS-22-198_Errata_Guidelines_on_FS_Reporting (Templates: S.14.04; S.14.05; S.38.01). Question 2476.

FCA

- **FCA announces changes to the disclosure process in regulatory enforcement cases**

  The announcement follows a recommendation from the Upper Tribunal to review the disclosure process in regulatory enforcement cases. The FCA has implemented the following changes:

  - Adaptation of a broader approach to disclosure, not limited to identifying potentially undermining material.
  - Enhancement of existing training on disclosure to include specialist training for those managing and overseeing disclosure exercises.
  - Provision of additional staff training and more detailed guidance on quality assurance.
  - Clarification of roles and responsibilities of staff and managers in the disclosure process.
  - Emphasis on the importance of disclosure in staff performance measurement and rewards.

  The effectiveness of the changes will be monitored, with a further review planned in approximately 12 months to assess the need for additional improvements.

- **FCA publishes November 2024 update on the Advice Guidance Boundary Review**

  In December 2023, the FCA and the UK government put forward proposals to improve how people can access help with their pensions and investments. The FCA's first consultation will focus on high-level proposals for targeted support for pension savers in December 2024. The FCA has already published findings from the pensions engagement field trials. In the first half of 2025, the FCA plans to consult on the rules for better support for consumers in retail investments and pensions.

- **FCA welcomes the move to bring ESG ratings providers into regulation**

  As financial services firms increasingly rely on third-party ESG data and ratings, the FCA welcomes the UK government's publication of its consultation response and the draft legislation to regulate ESG ratings providers. The FCA intends to consult on proposals for the future regulatory regime in 2025, following finalisation of the legislation.

- **FCA publishes statement on the Chancellor's Mansion House speech**

  Highlights from the statement include:

  - The FCA supports the Chancellor's vision for achieving growth and is committed to playing its role in supporting growth.
  - The FCA notes activities such as embracing the secondary market, reform of the UK listing rules, a new platform to allow private companies to trade their securities and providing greater freedom to asset managers on how they pay for research as steps taken in regulation that have supported growth.

  The FCA has published updates on ESG ratings, the advice guidance boundary review, the national payment strategy and modernising the redress system, in response to the speech.

- **FCA publishes multi-firm review of life insurers' bereavement claim process**

  The multi-firm review found evidence of good practice such as providing additional support to claimants. The FCA acknowledges that firms can face challenges in providing a timely service, but the FCA has found that life insurers need to settle claims quicker and improve how they measure, monitor and deliver good service outcomes for customers. From the firms that measured the amount of time taken to settle a claim, the FCA found that firms took, on average:

  - Between 53 and 122 days for a term assurance policy.
  - Up to 36 days for group life coverage.
  - Up to 20 days on over 50 plans.
  - Up to 53 days for a whole of life policy.

- **FCA COO delivers speech on the FCA's future strategy**

  Highlights from the speech include:

  - The FCA's new five-year strategy will focus on economic growth and innovation, financial crimes, consumer resilience and how the FCA will become a more efficient and effective regulator.
  - The strategy has been built in partnership with a wide range of stakeholders, consistent with how the FCA intends to deliver it.
  - The FCA aims to support growth and innovation in the financial sector by reducing regulatory costs, facilitating new business models, supporting artificial intelligence (AI) development and promoting sustainable finance.

- **FCA Executive Director of Markets and International delivers speech on inclusive growth**

  Highlights from the speech include:

  - The FCA welcomes the UK government's focus on financial inclusion and the FCA will continue to play a part through its new five-year strategy.
  - Improved financial inclusion and resilience can accelerate growth.
  - Technological innovation, when well-managed, will play a key role.

- **FCA publishes second phase of consultation on enforcement transparency proposals**

  The further consultation highlights four significant changes to the FCA's proposals in response to feedback:

  - The potential negative impact on a firm is now included in a public interest test.

- Firms will receive 10 days' notice before any announcement and can make representations during this period. If the FCA decides to announce, firms will have an additional 48 hours' notice before publication.
- The potential to seriously disrupt public confidence in the financial system or the market from an announcement is now a factor in the public interest test.
- The FCA will not announce investigations started before policy changes take effect although the FCA may reactively confirm investigations which are already in the public domain and of public interest.

The FCA anticipates that, if the proposals were to come into effect, they would only lead to additional proactive announcements of investigations into regulated firms in a very small number of cases.

The FCA's board of directors aims to make a final decision in the first quarter of 2025.

PRA

- **PRA publishes policy statement (PS) 18/24, "Prudential assessment of acquisitions and increases in control"**

  The joint PS by the PRA and the FCA provides feedback to responses received to consultation paper (CP) 25/23, "Prudential assessment of acquisitions and increases in control," published in November 2023. The PS advances the PRA's and FCA's objectives set out in CP 25/2 with no changes.

- **PRA publishes supervisory statement (SS) 7/24, "Reports by skilled persons: Critical third parties (CTPs)"**

  The SS sets out the policy and expectations for the use of the following powers as supervisory tools applied by s312P(5) and (6) of the Financial Services and Markets Act (FSMA):

  - S166, Reports by skilled persons
  - S166A, Appointment of skilled person to collect and update information

  The SS is intended to be read with the "Contracts With Skilled Person and Delivery of Reports" chapter of the CTPs Part and the "Regulatory Transaction Fees" chapter of the Fees Part of the PRA Rulebook and the "Cost of Skilled Persons Reports" and "Contracts With Skilled Persons and Delivery of Reports" chapters of the Bank of England's rules for CTPs.

- **PRA publishes consultation paper (CP) 15/24, "Proposed changes to the UK Insurance Special Purpose Vehicles (UK ISPV) regulatory framework"**

  The CP aims to make the UK ISPV regime more competitive and aligned with global standards. The CP proposes the following changes to the UK ISPV regime:

  - Clarify that UK ISPVs can count realised investment returns retained by the vehicle towards the aggregate maximum risk exposure, which may increase over time.
  - Amend rules to disapply the requirement for UK multi-arrangement ISPVs to be formed as protected cell companies when assuming risks under a single contractual arrangement.
  - Permit UK ISPVs to use grace periods for the "fully funded at all times" requirement in some scenarios.
  - Clarify the use of limited recourse clauses by UK ISPVs.
  - Introduce an "accelerated pathway" for authorising certain UK ISPV applications that meet specific criteria (e.g., some types of catastrophe bonds).
  - Simplify the authorisation process for all other UK ISPVs.
  - Establish general expectations for UK (re)insurers using special purpose vehicles (SPVs) for risk mitigation.
  - Clarify expectations for SPVs transferring long-term insurance business risks that are subject to significant market and credit risk.
  - Create a new senior management function (SMF) specifically for UK ISPVs, reducing the number of SMF applications needed.
  - Make minor or consequential adjustments to improve clarity and incorporate feedback from CP5/24 that was beyond the scope of that consultation.

  The PRA requests feedback be emailed by 14 February 2025.

- **PRA publishes PS 15/24, "Review of Solvency II: Restatement of assimilated law"**

  The PS provides feedback to the 16 responses received on CP 5/24, "Review of Solvency II: Restatement of assimilated law." The final policy remains largely unchanged from the CP, where minor changes were made to address inconsistencies and rectify cross-referencing issues.

- **PRA publishes SS 8/24, "Solvency II: Calculation of technical provisions"**

  The SS sets out the expectations of insurers applying simplifications to the best estimate and risk margin elements of the technical provisions, expanding on the rules set out in the PRA Rulebook.

  This SS should be read in conjunction with the "Technical Provisions," "Technical Provisions – Further Requirements" and "Third Country Branches" Parts of the PRA Rulebook.

- **PRA publishes statement of policy (SoP), "Solvency II: The PRA's approach to Standard Formula adaptations"**

  The SoP covers the PRA's approach to the following topics:

  - Undertaking specific parameter and group-specific parameter permissions.
  - Securitised investments.
  - Permissions relating to the adjustment for the loss-absorbing capacity of deferred taxes (LACDT).

  This SoP should be read in conjunction with the "Solvency Capital Requirement (SCR) – Standard Formula" and "SCR – Undertaking Specific Parameters" Parts of the PRA Rulebook relevant to the Standard Formula and the PRA's approach to insurance supervision.

- **PRA publishes SoP, "Solvency II: The PRA's approach to insurance own funds permission"**

  The SoP sets out the PRA's approach to granting regulatory permission contained in the "Own Funds" Part of the PRA Rulebook and, where relevant, the approach to variations of those permissions and the circumstances in which the PRA may take the decision to revoke an Own Funds permission.

  This SoP should be read in conjunction with the "Own Funds" Part of the PRA Rulebook, SS 2/15, "Solvency II: Own Funds," SS 3/15, "Solvency II: The quality of capital instruments" and SS 22/15, "Solvency II: Applying EIOPA's Set 1 Guidelines to PRA-authorised firms." When applying for any permissions, see Solvency II approvals and rule permissions.

- **PRA publishes SoP, "Solvency II: Volatility adjustment (VA) permissions"**

  The SoP sets out the PRA's approach to granting permissions in relation to the VA, variations to those permissions and the circumstances in which the PRA may take the decision to revoke a firm's VA permission.

  The SoP should be read in conjunction with the "Technical Provisions" Part and the "Investments" Parts of the PRA Rulebook, SS 9/18, "Solvency II: Internal models – modelling of the volatility adjustment" and the PRA's document on the approach to insurance supervision.

- **PRA publishes SoP , "Solvency II: The PRA's approach to the permissible recovery period for insurers to restore full cover for their SCR"**

  The SoP outlines the conditions under which the PRA may declare an exceptional adverse situation for the "Undertakings in Difficulty" and "Group Supervision" Parts of the PRA Rulebook. It also details the factors the PRA will consider in determining whether an insurer should be allowed an extension of the permissible recovery period to restore full cover for its SCR.

  This SoP should be read in conjunction with the statutory Threshold Conditions and the PRA's solvent exit planning for insurers policy, as set out in the SS proposed in CP 2/24, "Solvent exit planning for insurers."

Solutions for a world at risk™

Milliman leverages deep expertise, actuarial rigor, and advanced technology to develop solutions for a world at risk. We help clients in the public and private sectors navigate urgent, complex challenges—from extreme weather and market volatility to financial insecurity and rising health costs—so they can meet their business, financial, and social objectives. Our solutions encompass insurance, financial services, healthcare, life sciences, and employee benefits. Founded in 1947, Milliman is an independent firm with offices in major cities around the globe.

milliman.com

CONTACT

Neil Christy
neil.christy@milliman.com

Mirakh Modasia
mirakh.modasia@milliman.com

Monique Mahabir
monique.mahabir@milliman.com

Milliman