

UK

- Bank of England and Financial Services Act 2016
- Cyber and city: TheCityUK report
- Queen's Speech 2016
- Insurance Fraud Taskforce recommendations accepted by Government
- FCA publishes Occasional Paper 17: Access to financial services in the UK
- Unfair contract terms
- PRA publishes CP19/16: Solvency II: Changes to internal models used by insurance firms
- PRA publishes CP20/16: Solvency II: Consolidation of Directors' letters
- PRA publishes CP18/16: Reporting requirements for non-Solvency II insurance firms
- PRA publishes CP22/16: Solvency II: Monitoring model drift and standard formula SCR reporting for firms with an approved internal model
- PRA publishes SS6/16: Recalculation of the transitional measure on technical provisions under Solvency II
- Lloyd's publishes update on code for underwriting agents: UK personal lines claims and complaints handling
- Lloyd's publishes update on performance management supplement requirements and guidance

INTERNATIONAL

- Cybersecurity Directive adopted by the Council of the European Union
- EU regulatory framework for financial services: summary of contributions to European Commission call for evidence
- EIOPA launches 2016 EU-wide insurance sector stress test
- Insurance and reinsurance measures: joint statement on US-EU negotiations for a bilateral agreement

SOLVENCY II

- European Commission adopts Implementing Regulation on risk-free rate

UK

Bank of England and Financial Services Act 2016

On 4 May 2016, the Bank of England and Financial Services Bill received Royal Assent and was published on 5 May 2016. The [Act](#) covers a variety of matters including:

- reforms to the governance of the Bank of England;
- changes to the status of the Prudential Regulation Authority (PRA);
- extension of the senior managers and certification regime to all authorised firms;
- the establishment of transformer vehicles for use in insurance – linked securities transactions.

In most cases the provisions will come into force on dates to be specified by HM Treasury.

Cyber and city: TheCityUK report

On 17 May 2016, TheCityUK published a [report](#) on how to make the UK financial and professional services sector more resilient to cyber attack.

The report seeks to build on the work already done by the UK Government and includes recommendations for practical steps financial firms can take individually, and collectively, to improve their cyber resilience, working in partnership with the Government, regulators, supervisors, police and intelligence services. It seeks to align those steps with existing initiatives to avoid adding to an already busy cyber agenda.

Among other things, the report advocates a ten-point checklist for boards to put to management and recommends the setting up of a cyber forum comprising a steering group of board level cyber risk owners and a working group from the risk or the chief information security officer community. It also makes series of recommendations for individual firms and for the financial sector.

TheCityUK intends to establish a forum for comment on the report.

Queen's Speech 2016

On 18 May 2016, the [Queen's Speech](#) was made to both Houses of Parliament, setting out the Government's policies and proposed legislative programme for the new parliamentary session. A set of [background briefing notes](#) on the Queen's Speech has also been published.

The measures announced include the following Bills, which may be of interest to financial services practitioners:

- **Better Markets Bill:** the purpose of the Bill is to open up markets, boost competition, give consumers more power and choice and make economic regulators work better (for further details see pages 24 and 25 of the briefing notes);
- **Criminal Finances Bill:** the purpose of the Bill is to allow the Government to recoup more criminal assets by reforming the law on proceeds of crime, including provisions to strengthen enforcement powers and protect the public (for further details see pages 51 and 52 of the briefing notes);
- **Digital Economy Bill:** the purpose of the Bill is to make the UK a world leader in digital provision. The main benefits of the Bill include the support of new digital industries and the strengthening of protections for citizens in the digital world (for further details see pages 14 to 16 of the briefing notes);

- **Pensions Bill:** the purpose of the Bill is to further reform Britain's private pension system by providing essential protections for people in master trusts (that is, multi-employer pension schemes often provided by external organisations), removing barriers for consumers who want to access their pension savings flexibly, and restructuring the delivery of financial guidance to consumers (for further details see pages 30 and 31 of the briefing notes). Among other things, as previously announced in the Budget 2016, a new pensions guidance body will be created, bringing together the Pensions Advisory Service, Pension Wise and the pensions services offered by the Money Advice Service (MAS), providing access to a straightforward private pensions guidance service for customers. A new money guidance body will replace MAS and be charged with identifying gaps in the financial guidance market to ensure consumers can access high quality debt and money guidance.

Insurance Fraud Taskforce recommendations accepted by Government

On 18 January 2016, the Insurance Fraud Taskforce published its [final report](#) following its year-long review into insurance fraud. Members of the taskforce include representatives from the Association of British Insurers, the British Insurance Brokers' Association and the Financial Ombudsman Service. The report made 26 recommendations to tackle fraudulent activity ranging from organised or premeditated crime to opportunistic fraud.

On 26 May 2016, in a [written statement](#) to the House of Commons, the Economic Secretary to the Treasury, Harriet Baldwin, said that the Government accepts each of the recommendations addressed to it and it will set out in due course how it proposes to implement them. However, there needs to be a concerted effort by all those involved in the insurance process to tackle the serious problem of fraud and therefore the Government expects organisations tasked with taking forward recommendations to do so with urgency. The Government will do what it can to assist and, in order to make sure that all of the recommendations are actively pursued, it will seek an update on progress later in 2016.

FCA publishes Occasional Paper 17: Access to financial services in the UK

On 24 May 2016, the FCA published an [occasional paper](#) on access to financial services in the UK. The paper analyses the experience of vulnerable consumers in financial markets. The authors of the paper are Sharon Collard, Professor of Personal Finance Capability at The Open University, Jonquil Lowe, Lecturer in Personal Finance at The Open University and Martin Coppack and Simon Sarkar who both work in the FCA's Consumer Insight Department.

The paper says that increasingly, UK individuals and households are expected to take responsibility for their own financial well-being. However they can only do this if they have access to financial services that meet their changing needs throughout their lifetime. There is also growing understanding that consumers' ability to access these services helps to improve market integrity, drive competition and promote financial stability and economic growth. However, potentially millions of UK consumers cannot use the services that would help them meet their needs and play their wider role in financial markets and the economy.

Unfair contract terms

On 25 May 2016, the FCA updated its [unfair contract terms webpage](#), to include key messages that the FCA encourages firms to focus on:

- firms should take into account consumers' legitimate interests in relation to contracts over which they have had no influence but to which they will nonetheless be bound;
- fairness is not contrary to the prudent management of the business but part of it;
- relying on narrow technical arguments to justify a contract term that, in fact, may be unfair, risks future challenge;

- the fact that a term does not resemble any of the terms listed in Schedule 2 of the Consumer Rights Act 2015 (CRA) or the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs) may not, in itself, remove the risk of unfairness. Firms need to assess whether a term is fair under the CRA/UTCCRs as a whole and in the context of the particular product or service;
- firms should take into account developments in legislation and relevant case law concerning the Unfair Terms Directive (including relevant UK and European case law);

firms are encouraged to read the [guidance](#) on the unfair terms provisions of the CRA published by the Competition and Markets Authority in July 2015.

PRA publishes CP19/16: Solvency II: Changes to internal models used by insurance firms

On 5 May, the PRA published a [consultation paper](#) on a proposed supervisory statement setting out its expectations in relation to requests for changes to internal models and extensions to the scope of internal models that have been approved under Solvency II. The deadline for comments is Friday 5 August 2016.

PRA publishes CP20/16: Solvency II: Consolidation of Directors' letters

During the period 1 April 2013 to 15 February 2016, the PRA published details of its expectations of firms as they were developed alongside the Solvency II framework. These were published in a variety of formats; Director's letters, Executive Directors' letters and Feedback Statements. To enable firms to access the PRA's expectations as a whole, it is proposing to republish the material either as new supervisory statements or as amendments to existing supervisory statements. Details of and copies of the new and amended supervisory statements are set out in [CP20/16](#). These consolidate existing guidance and do not include new rules or guidance. The supervisory statements cover the following:

- Internal models – assessment, model change policy and the role of non-executive directors;
- Longevity risk transfers;
- ORSA;
- Reinsurance;
- Recognition of deferred tax;
- Transitional measures on risk-free interest rates and technical provisions;
- The treatment of pension scheme risk.

The deadline for responses to the consultation paper is Friday 5 August 2016.

PRA publishes CP18/16: Reporting requirements for non-Solvency II insurance firms

On 3 May 2016, the PRA published a [consultation paper](#) setting out proposals for new reporting rules in the PRA Rulebook which will apply to insurance firms outside the scope of Solvency II ("non-directive firms (NDFs)). Current rules which apply to NDFs will be updated and moved from the PRA Handbook into the new PRA Rulebook format. The PRA proposes to create two new Rulebook parts to cover insurance company reporting and friendly society reporting and will replace rules currently contained in IPRU (INS) chapter 9, IPRU (INS) appendix 9.1 to 9.8 and IPRU (FSOC) 5.2, 5.3, 5.13, 5.21-25. Firms with waivers in relation to IPRU (INS) reporting rules will benefit from automatic grandfathering to the equivalent reporting rules in the new Rulebook.

The deadline for responses to the consultation is Monday 13 June 2016.

PRA publishes CP22/16: Solvency II: Monitoring model drift and standard formula SCR reporting for firms with an approved internal model

On 25 May 2016, the PRA published a consultation paper, [CP22/16](#), on monitoring model drift and standard formula solvency capital requirement (SCR) reporting for firms with an approved internal model under the Solvency II Directive.

The Solvency II Directive includes a provision that, where relevant, the SCR be calculated using an internal model that has been approved by the supervisory authority. This may create some risk that as models evolve over time, capital levels may drift downward and fail to adequately reflect the level of risk in the system. The PRA is proposing an approach to monitoring this risk at the level of individual firms, for sectors and the industry as a whole.

As part of the PRA's proposed approach to monitoring model drift, the draft supervisory statement sets out an expectation that firms with an approved internal model should privately report their standard formula SCR information on an annual basis. A [template](#) is provided as part of the consultation, which the PRA considers would make it simpler for firms to provide the information. The PRA may also request information at group level, and firms would be notified of this request via their supervisory contact.

The PRA proposes to use this information to monitor potential model drift. This includes the monitoring of the internal model SCR against objective measures of risk. These measures of risk, which may change over time, include the standard formula SCR, pre-corridor minimum capital requirement, net written premium and best estimate liabilities. The PRA proposes to calculate model drift ratios from the point of model approval and re-base following a change in risk profile or major model change. This approach would ensure that any drift is identified consistently and monitored over time.

The PRA does not intend any automatic supervisory action in response to any change in model drift ratios. However, changes may lead to a supervisory review to investigate the reasons for such changes.

The consultation paper should be read alongside the PRA's June 2015 supervisory statement, [SS25/15](#), on regulatory reporting and internal model outputs.

Comments are requested by 17 August 2016.

PRA publishes SS6/16: Recalculation of the transitional measure on technical provisions under Solvency II

On 25 May 2016, the PRA published a supervisory statement, [SS6/16](#), on recalculations of the transitional measures on technical provisions (TMTP) under the Solvency II Directive.

The Solvency II Directive allows for a recalculation of the TMTP every 24 months, or more frequently where the risk profile of the firm has materially changed. These Directive provisions have been transposed by HM Treasury's Solvency 2 Regulations 2015. The purpose of the supervisory statement is to provide clarity with respect to the PRA's expectations, and proposed process, for recalculations of the TMTP. The statement expands on the PRA's general approach as set out in its insurance approach document.

The PRA consulted on the draft supervisory statement in its April 2016 consultation paper, [CP15/16](#). It received a number of responses to this consultation paper from firms and industry bodies who welcomed the PRA's work to provide clarity on this area of policy. Respondents focused on the proposed materiality tests and requested further clarity on the PRA's expectations for the methodology to recalculate TMTPs.

The PRA has considered the feedback to CP15/16 and has amended the final statement accordingly, in particular:

- the PRA expects firms to update the calculation of TMTPs as at the last working day in December of every 24 months rather than the first working day in January;
- with respect to the PRA's assessment of the materiality of a change in risk profile resulting from a change in operating conditions, the final statement explains what sustained means; and
- the final statement sets out the proportionate approach that the PRA will take with respect to firms' recalculations of TMTPs and encourages them to discuss their proposed methodology with their supervisory contacts.

Lloyd's publishes update on code for underwriting agents: UK personal lines claims and complaints handling

On 23 May 2016, the Society of Lloyd's published [Market Bulletin Y5000](#) which contains details of an update to the code for underwriting agents: UK personal lines claims and complaints handling. The code has been updated to reflect amendments to the FCA Handbook and to make other changes in relation to Lloyd's complaints handling requirements.

The version of the code attached to the market bulletin highlights the changes being made and a summary of the changes is given in the market bulletin. The key changes relate to the following:

- complaints resolved by the close of the third business day;
- Lloyd's binding decisions - complaints with a value of £500 or less;
- assessment of compliance;
- Lloyd's Market Association model wordings;
- the EU online dispute resolution platform.

The revised code will take effect from 30 June 2016. Until that time managing agents should continue to follow the code as issued in October 2015. The implementation date of the new code is in line with changes to the corresponding FCA rules on complaints handling which come into effect on the same day.

Managing agents are also asked to note that the FCA has introduced revised complaints reporting rules, effective for reporting periods beginning on 30 June 2016. This will require managing agents to provide contextualisation data regarding the number of policies in force at the end date of the reporting period. While the revised reporting requirements do not apply to the submission for the first half of 2016 reporting period, to ensure managing agents are able to meet the new reporting requirements a "dry run" is being undertaken as at 30 June 2016. Lloyd's complaints team will shortly be providing managing agents with the reporting questionnaire to be completed for this purpose.

Lloyd's publishes update on performance management supplemental requirements and guidance

On 25 May 2016, the Society of Lloyd's published [Market Bulletin Y5002](#) containing an updated version of its performance management supplemental requirements and guidance paper. The intention of supplemental requirements and guidance is to provide managing agents with a single point of reference for Lloyd's supplemental performance management requirements and guidance. It supersedes and replaces the earlier market bulletins or emails covering the same topics and replaces the version published in September 2014.

The market bulletin gives a summary of the main substantive changes that have been made and Lloyd's has also published a [highlighted version](#) showing the changes that have been made. Lloyd's says it should be noted that this does not show a number of minor changes and corrections that are not intended to alter the requirements or guidance.

It is intended that the document will be updated and supplemented at regular intervals. Lloyd's will continue to use market bulletins and emails to communicate with the market but, where appropriate, any supplemental requirements or guidance which relate to performance management will be consolidated into an updated version of this document. Lloyd's consulted on the text of the document with the Lloyd's Market Association before publishing it.

INTERNATIONAL

Cybersecurity Directive adopted by the Council of the European Union

On 17 May 2016, the Council of the European Union [announced](#) that it has adopted the Cybersecurity Directive, thereby confirming the agreement reached with the European Parliament in December 2015.

To conclude the procedure, the Directive must still be approved by the European Parliament at second reading. It is expected to enter into force in August 2016.

EU regulatory framework for financial services: summary of contributions to European Commission call for evidence

On 17 May 2016, the European Commission published a [summary](#) of the responses received to its September 2015 [call for evidence](#) on the EU regulatory framework for financial services.

The feedback statement summarises the issues raised in the consultation and provides a factual overview of the contributions received and examples provided. It is not an exhaustive list of all contributions and does not assess the validity of the respective claims. The document therefore does not reflect the position of the Commission.

Overall, stakeholders did not dispute the reforms of recent years and many expressed support, highlighting the benefits of the new rules. While respondents referred to all the main legislative acts in financial services, most replies concerned the Capital Requirements Directive and Regulation and the Markets in Financial Instruments Directive and Regulation followed by the Regulation on over-the-counter derivative transactions, central counterparties and trade repositories (known as EMIR), the Alternative Investment Fund Managers Directive, the Directive on Undertakings for Collective Investments in Transferable Securities and Solvency II.

EIOPA launches 2016 EU-wide insurance sector stress test

On 24 May 2016, the European Insurance and Occupational Pensions Authority (EIOPA) [announced](#) the launch of the 2016 EU-wide stress test for the insurance sector.

EIOPA says that this regular exercise aims to assess insurers' vulnerabilities and should not be interpreted as a pass-or-fail test. It is designed to assess the resilience of the European insurance sector to severe adverse market developments based on a common analytical framework. The stress test will also examine the potential increase of systemic risks in situations of stress.

The stress test 2016 focuses on two major market risks:

- the prolonged low yield environment;
- the so-called "double-hit", that is, a negative market shock to asset prices combined with a low risk free rate.

The exercise focuses on long-term business performed by solo undertakings (no insurance groups). In order to include a higher number of small and medium size insurers, the participation target was

increased from a 50% in 2014 to a 75% share of each national market in terms of gross life technical provisions.

To limit the burden on the insurance industry EIOPA also uses the test to collect information on the Solvency II equity and long term guarantees measures. This collection of information is part of the mandatory review to be performed by EIOPA in accordance with Article 77f of the Solvency II Directive.

The launch date of the exercise is one week earlier than initially planned to allow the participating insurance companies more time to complete the test. EIOPA will publish, on a weekly basis, questions and answers addressing possible queries of the participating companies.

The deadline for submission of results to the national competent authorities is 15 July 2016. The EU-wide results of the stress test will be disclosed in December 2016 in an anonymised and/or aggregated way.

Materials relating to the test, including the timeline, technical specifications and reporting templates are available on EIOPA's [stress test 2016 webpage](#).

Insurance and reinsurance measures: joint statement on US-EU negotiations for a bilateral agreement

On 27 May 2016, the European Commission published a [joint statement](#) on US-EU negotiations for a bilateral agreement on insurance and reinsurance measures. The statement follows a meeting of US and EU representatives on 24 and 25 May 2016 to discuss a future bilateral agreement relating to prudential insurance and reinsurance measures.

The statement says that both sides agreed to continue in good faith to pursue an agreement on matters relating to group supervision, exchange of confidential information between supervisory authorities on both sides, and reinsurance supervision, including collateral.

US and EU representatives are committed to pursuit of an agreement that will improve regulatory and supervisory treatment for insurers and reinsurers operating on both sides of the Atlantic. Both sides are considering next steps to ensure advancement of the negotiations.

SOLVENCY II

European Commission adopts Implementing Regulation on risk-free rate

On 27 May 2016, the European Commission adopted an [Implementing Directive](#) laying down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 March until 29 June 2016, together with [annexes 1 to 3](#) to the Implementing Regulation.

Insurers should use the technical information, which is based on market data related to the end of the last month preceding the first reporting reference date to which the Implementing Regulation applies. On 7 April 2016, the European Insurance and Occupational Pensions Authority provided the Commission with the technical information related to end March 2016 market data. That information was published on 7 April 2016 in accordance with Article 77e(1) of Solvency II.

The Implementing Regulation will enter into force on the day following that of its publication in the Official Journal of the European Union. It will apply from 31 March 2016.

Hogan Lovells has offices in:

Alicante	Dusseldorf	London	Northern Virginia	Silicon Valley
Amsterdam	Frankfurt	Los Angeles	Paris	Singapore
Baltimore	Hamburg	Luxembourg	Perth	Sydney
Beijing	Hanoi	Madrid	Philadelphia	Tokyo
Brussels	Ho Chi Minh City	Mexico City	Prague	Ulaanbaatar
Budapest*	Hong Kong	Miami	Rio de Janeiro	Warsaw
Caracas	Houston	Milan	Riyadh*	Washington DC
Colorado Springs	Jakarta*	Moscow	Rome	Zagreb*
Denver	Jeddah*	Munich	San Francisco	
Dubai	Johannesburg	New York	São Paulo	
			Shanghai	

"Hogan Lovells" or the "firm" is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses. The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members.

For more information about Hogan Lovells, the partners and their qualifications, see www.hoganlovells.com.

Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney Advertising.

©Hogan Lovells 2016. All rights reserved.

*Associated offices