Summary of regulatory developments

Updates for September 2021

This memo identifies and summarises any regulatory updates published during September 2021 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
3-Sep	European Insurance and Occupational Pensions Authority (EIOPA) publishes its Q&A on regulation
6-Sep	The Prudential Regulation Authority (PRA) publishes CP17/21, “Solvency II: Definition of an insurance holding company”
8-Sep	European Supervisory Authorities (ESAs) publish their second joint risk assessment report for 2021
13-Sep	EIOPA publishes the criteria for the independence of supervisory authorities
16-Sep	Financial Conduct Authority (FCA) outline a framework for value for money in defined contribution pension schemes
22-Sep	FCA delivers the speech “Seizing opportunity – challenges and priorities for the FCA”
22-Sep	European Commission (EC) publishes its Solvency II Insurance Rules’ Review
27-Sep	FCA’s Productive Finance Working Group publishes recommendations addressing the barriers to investment in less liquid assets
29-Sep	FCA publishes further arrangements for the orderly wind-down of LIBOR at end-2021
30-Sep	EIOPA publishes approach for Interbank Offered Rates transitions

Updates for September 2021

This section highlights articles of interest to life companies released in September 2021.

ESAs

- ESAs publish their second joint risk assessment report for 2021

  The report highlights the increasing vulnerabilities across the financial sector, the rise seen in terms of cyber risk and the materialisation of event-driven risks. In light of these risks and uncertainties, the ESAs—the European Banking Authority (EBA), EIOPA and the European Securities and Markets Authority (ESMA)—advise the following actions for firms, regulators and other market participants:

  - Banks should adequately manage the transition towards the recovery phase as the economic environment gradually improves
  - Preparations should be made for a possible deterioration of asset quality, notwithstanding the improved economic outlook
  - Disorderly increases in yields and sudden reversals of risk premia should be closely monitored
  - Information and communications technology (ICT) and cyber risks should be carefully managed
  - Reflect on lessons learnt from the COVID-19 crisis

EC

- EC publishes its Solvency II Insurance Rules' Review

  The EC has adopted a comprehensive review package of the Solvency II rules to help enable insurance companies to scale up long-term investment in Europe's recovery from the COVID-19 pandemic. The review includes amendments to the Solvency II Directive and will be supplemented by further updates to the Solvency II Delegated Acts at a later date.

  The EC's review is based on the recommendations made by EIOPA as part of the Solvency II 2020 Review. In many areas the EC has followed EIOPA's advice. Some of the areas where the EC has diverged from EIOPA include:

  - No harmonised regime for insurance guarantee schemes
  - Consideration of removing the floor from the proposed "lambda" factor approach for calculating the Risk Margin
  - Consideration of 5% cost of capital rate for calculating the Risk Margin
  - Additional proportionality considerations for small insurers

EIOPA

- 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). Question 2057.
  - (EU) No 2009/138 – Solvency II Directive (Insurance and Reinsurance). Questions 2019, 2073 and 1785.

- EIOPA publishes the criteria for the independence of supervisory authorities

  The criteria provide clarity for supervisory authorities on the expectations of EIOPA. Making use of the relevant articles in the Solvency II and Institutions for Occupational Retirement Provision (IORP) II Directive, international standards and supervisory experiences, the criteria specify further the principles of operational, financial and personal independence as well as transparency and accountability.

  EIOPA plans to assess supervisory authorities' independence, including through the use of dedicated peer reviews. This approach aims to ensure the consistent application of legislation, to preserve financial stability and to protect consumers.

- EIOPA publishes approach for Interbank Offered Rates transitions

  EIOPA has published its updated approach for the implementation of Interbank Offered Rates (IBOR) transitions. EIOPA will implement the updated methodology for the calculation of the risk-free interest rates as of January 2022 for the British pound, Swiss franc and Japanese yen. Furthermore, the GBP LIBOR curve will change to the SONIA curve, with the Last Liquid Point (LLP) changing from 50 to 30 years.

  In order to ensure a smooth transition, EIOPA will publish two sets of curves for three consecutive months prior to the transition date.

  The report includes the outcome of the information request on the potential impact of IBOR transitions and the feedback received through the consultation paper by stakeholders. The impact of the transition of the British pound was estimated to be negligible for undertakings from the European Economic Area.

PRA

- PRA publishes CP17/21, "Solvency II: Definition of an insurance holding company"

  This consultation paper (CP) sets out the PRA's proposed approach to interpreting and applying the definition of an insurance holding company for the purposes of the Group Supervision Part of the PRA Rulebook. The proposals are:

  - To amend the definition of an insurance holding company within the PRA Rulebook, in particular to define the term "mainly" more clearly.
  - To clarify the PRA's expectations on the information required from firms in order to distinguish an insurance holding company from a mixed-activity insurance holding company.

  The PRA invites firms to provide feedback by 6 December 2021, with the planned implementation date being 28 February 2022.

FCA

- FCA and TPR outline a framework for value for money in defined contribution pension schemes

  The FCA and the Pensions Regulator (TPR) have published a joint discussion paper on measuring value for money (VFM) in defined contribution (DC) pension schemes. The regulators are proposing a common framework for disclosing information on the key elements which make up VFM, which are:

  - Investment performance
  - Scheme oversight, including data quality and communications
  - Costs and charges

  Disclosures alone will not address the difficult issues surrounding VFM in pensions. Improving data disclosures will be a starting point and the regulators will continue to work with stakeholders to improve saver outcomes over the longer term. Feedback is invited by 10 December 2021, and the FCA will publish a statement setting out next steps in 2022.

- FCA delivers the speech "Seizing opportunity – challenges and priorities for the FCA"

  Highlights from the speech include:

  - The FCA took extraordinary measures to protect consumers throughout the COVID-19 pandemic. With a stronger economic and employment backdrop, the FCA believes it is now coming through those challenges.
  - The FCA is collaborating with international partners to deliver a world without LIBOR, transition to a net-zero carbon economy and maintain high regulatory standards.
  - The FCA is investing to become a data regulator as well as a financial one.

- FCA's Productive Finance Working Group publishes recommendations addressing the barriers to investment in less liquid assets

  Appropriately managed, investment in longer-term, less liquid assets has the potential to generate better returns for investors, including those saving for retirement in defined contribution (DC) pension schemes, given their typically long-term investment horizons. Investment in productive finance assets can also benefit the wider economy, supporting the economic recovery from COVID-19.

  However, these investments need to be carefully managed. In a recent report, the Productive Finance Working Group has published four recommendations, which focus on supporting DC pension schemes to invest and develop the long-term asset fund (LTAF) structure. They include:

  - Shifting the focus to long-term value
  - Building scale
  - A new approach to liquidity management
  - Widening investment in less liquid assets

- FCA publishes further arrangements for the orderly wind-down of LIBOR at end-2021

  The sterling, Japanese yen, Swiss franc and euro LIBOR panels are ceasing on 31 December 2021. The FCA has confirmed that to avoid disruption to legacy contracts that reference the 1-month, 3-month and 6-month sterling and Japanese yen LIBOR settings, it will require the LIBOR benchmark administrator to publish these settings under a "synthetic" methodology, based on term risk-free rates, for the duration of 2022.

  These six LIBOR settings will be available only for use in some legacy contracts, and are not for use in new business. The FCA's decision on which legacy contracts can use these synthetic rates is included in CP 21/29, "Proposed decisions on the use of LIBOR."

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