



## July 2018

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Welcome to the Regulation Round Up, a regular bulletin highlighting the latest developments in UK and EU financial services regulation.

Key developments in July 2018:

### 2 July

The Prudential Regulation Authority ("PRA") published a [consultation paper](#) (CP13/18) on Solvency II and equity release mortgages. The PRA also published a Dear CEO [letter](#) in respect of key issues highlighted in the consultation paper.

### 3 July

The European Central Bank ("ECB") published for consultation a draft [Regulation](#) on the materiality threshold for credit obligations past due under the Capital Requirements Regulation (575/2013) ("CRR"). Comments can be made in relation to the same until 17 August 2018.

The ECB published a [report](#) on recovery plans in which it considered:

- recovery options: how banks could improve their presentation of recovery options;
- overall recovery capacity: elements bank should consider when estimating this;
- recovery indicators: how banks could select their recovery indicators; and
- making recovery plans operational: the ECB included two best practices in terms of making recovery plans more operational, being: playbook and dry runs.

The European Union (Withdrawal) Act 2018 (Commencement and Transitional Provisions) [Regulations](#) 2018 (SI 2018/808) were made. These regulations establish dates for the coming into force of certain provisions of the European Union Withdrawal Act 2018.

The Financial Conduct Authority ("FCA") published a [policy statement](#) (PS18/13) on its final regulated fees and levies for 2018/19.

The PRA published a [consultation paper](#) (CP14/18) setting out proposals to apply the systemic risk buffer framework in the UK leverage ratio framework. The deadline for comments on the proposals is 25 September 2018.

### 4 July

The FCA [published](#) near final rules in relation to how the Senior Managers and Certification Regime (“**SMCR**”) will be extended to all FCA-regulated firms. The SMCR will be extended on 9 December 2019. From the same date, the FCA’s approved persons regime will no longer apply.

The FCA published a [consultation paper](#) (CP18/19) on a new directory of financial services workers. This will be a public register and user interface that:

- makes public information on additional individuals carrying out a wide range of roles.
- presents information on these individuals, and the senior managers the FCA will continue to approve, in a way that is more accessible and user friendly; and
- enables users to find information on these individuals in a single public location.

The FCA has also proposed improvements to the financial services register.

The FCA published a [consultation paper](#) (CP 18/18) on new guidance relating to handling certain regular premium payment protection insurance complaints.

### 5 July

The Bank of England (“**BoE**”), PRA and the FCA published a joint [discussion paper](#) on an approach to improve the operational resilience of firms and financial market infrastructures in the UK financial services sector. This relates to the ability of firms, financial market infrastructures and the financial services sector to deal with operational disruptions.

The FCA published a [statement](#) welcoming the recommendations of its institutional disclosure working group (“**IDWG**”), which was launched as part of the asset management market study (“**AMMS**”) remedies package to support consistent and standardised disclosure of costs and charges to institutional investors.

The UK government published a European [memorandum](#) submitted by HM Treasury on the proposed Regulation on disclosures relating to sustainable investments and sustainability risks.

### 6 July

The European Insurance and Occupational Pensions Authority (“**EIOPA**”) published a [press release](#) announcing the launch of an EU wide thematic review on the use of Big Data, with a focus on the motor and health insurance markets.

The PRA published a [policy statement](#) on changes in insurance reporting requirements (PS16/18).

The UK government published a [letter](#) concerning the legislative proposals for a Regulation and a Directive on cross-border distribution of collective investment funds.

The FCA published a [new version](#) of its Approach Document in relation to payment services and electronic money in order to reflect the requirements on operational and security risk under the second Payment Services Directive (2015/2366/EU) (“**PSD2**”).

### 10 July

The EBA published a [report](#) of its peer review on the regulatory technical standards on passport notifications under the CRD IV Directive (2013/36/EU).

The FCA published a [speech](#) on the second Markets in Financial Instruments Directive (2014/65/EU) (“**MiFID II**”) and the fight against financial crime, which included comments on how the FCA is acting on the UK’s October 2017 national risk assessment, which identified an emerging risk of money laundering in capital markets. The FCA is taking various measures to tackle this risk.

### 11 July

HM Treasury published a [response](#) to its consultation on secondary regulations relating to regulating claims management companies, along with a draft version of the Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018.

The FCA published a [policy statement](#) and final rules on the Money Market Funds Regulation (EU/2017/1131) (PS18/17). The main proposals set out in its consultation paper CP18/4 are to proceed, though the FCA modified its approach in relation to certain points.

HM Treasury published an [advisory notice](#) on money laundering controls in overseas jurisdictions, setting out the countries that pose the greatest risk to companies when business is transacted with them.

### 12 July

The UK government published its long awaited “[Brexit White Paper](#)” (“**White Paper**”) in relation to the future relationship between the United Kingdom and the European Union. While the outcome of Brexit in relation to the financial services framework remains uncertain, the White Paper made it clear that it is not envisaged that the UK would continue to operate under the EU’s passporting regime, but rather the UK would seek to negotiate a third-country equivalence framework that would apply and allow cross border financial services access in respect of the UK and EU’s respective markets.

The European Securities and Markets Authority (“**ESMA**”) published a [public statement](#) on the timely submission of requests for authorisation in the context of the UK withdrawing from the EU. ESMA urges firms wishing to relocate to the EU27 to submit their authorisation applications as soon as possible.

The PRA published a [policy statement](#) on group supervision under the Solvency II Directive (“**Solvency II**”) (2009/138/EC) (PS17/18), in which it provides feedback on an earlier consultation paper and also sets out the final revised version of its supervisory statement SS9/15.

The European Commission published a [Delegated Regulation](#) it has adopted amending a previous delegated regulation as regards the safe-keeping duties of depositaries under the Alternative Investment Fund Managers Directive (2011/61/EU) (“**AIFMD**”).

### 13 July

The PRA published a [policy statement](#) (PS18/18) on the application of the matching adjustment under Solvency II.

The PRA published a [policy statement](#) (PS19/18) on the modelling of the matching adjustment under Solvency II.

The PRA published a [policy statement](#) (PS20/18) on the internal model change process under Solvency II.

ESMA published a [consultation paper](#) (ESMA70-156-357) on amendments to the tick size regime under MiFID II.

### 16 July

The FCA published its interim [report](#) in its market study to examine the investment platform market (MS17/1.1). The FCA will publish its final conclusions in early 2019.

The FCA published a [speech](#) on pensions and the intergenerational challenges that impact on the FCA's remit. Factors such as demographic shifts and economic trends were highlighted in this speech. Due to finite resources, the FCA intends to focus on areas where it will have the biggest impact.

The Financial Stability Board ("FSB") published a [report](#) on the crypto-assets framework, in relation to work by the FSB and standard-setting bodies.

The Financial Reporting Council ("FRC") published a revised [UK Corporate Governance Code](#), following feedback from an earlier consultation. The revised code applies to companies with a premium listing of equity shares on the London Stock Exchange (whether or not the company is incorporated in the UK).

### 17 July

The FCA published an approach [document](#) and a [discussion paper](#) (DP18/5) setting out its approach to consumers.

### 18 July

The Competition and Markets Authority ("CMA") issued its [provisional findings](#) and proposed remedies following its investigation into the markets for investment consultancy and fiduciary management.

The European Banking Authority ("EBA") published some [guidelines](#) on fraud reporting under PSD2.

### 19 July

The FCA published a [speech](#) on its approach to Brexit. Points of interest included:

- "cliff-edge" risks relating to contract continuity;
- amendments to the FCA Handbook to reflect changes in UK legislation;
- a proposed "Temporary Permissions Regime" ("TPR") for EEA firms and funds using a financial services passport to access the UK market; and
- the FCA's expectations of firms.

ESMA published a [consultation paper](#) (ESMA33-9-252) on guidelines on the submission of periodic information by credit rating agencies.

The UK Government published a [letter](#) relating to the European Commission's legislative proposals for a Regulation on European crowdfunding service providers and a Directive making consequential amendments to MiFID II.

The FCA published its [Annual Report](#) and its [Enforcement Annual Performance Report](#), setting out an overview of the FCA's enforcement activities during 2017/2018.

### 20 July

The Law Commission published [consultation paper](#) no. 236 on Anti-Money Laundering: the SARS Regime.

The FCA published a [policy statement](#) (PS18/18) on industry codes of conduct, following an earlier consultation.

The Joint Committee of the European Supervisory Authorities published updated [guidance](#) on the key information document (“KID”) for packaged retail and insurance-based investment products (“PRIIPs”).

### 23 July

The PRA published an occasional [consultation paper](#) (CP16/18) on regulatory reporting. This is relevant to banks, building societies, PRA-designated investment firms and dormant account fund operators.

### 24 July

The FCA published a [webpage](#) setting out its approach to the TPR for inbound passporting EEA firms and funds. The proposed TPR would enable EEA firms currently using a passport to operate in the UK to continue their activities in the UK for a limited period after exit day if there is a “hard Brexit” with no implementation period.

Like the FCA, the PRA also published a [page](#) on its website in relation to the proposed TPR for EEA firms operating in the UK.

The UK government [published](#) its “White Paper: Legislating for the Withdrawal Agreement between the United Kingdom and the European Union”. This sets out, amongst other things, the government’s intended approach for the forthcoming European Union (Withdrawal Agreement) Bill.

### 26 July

The CMA opened a [consultation](#) on revised guidance for director disqualification orders in competition cases.

The FCA published an updated version of its [finalised guidance](#) for firms outsourcing to cloud and other third-party IT services.

The FCA published its [regulation round-up](#) for July 2018, in which it provided feedback following a review by its financial promotions team. The FCA reminded firms of their obligations when communicating with clients.

The PRA published a [policy statement](#) (PS21/18) on changes to reporting format under Solvency II.

The FCA published a [call for input](#) on the Packaged Retail and Insurance-based Investment Products Regulation (1286/2014/EU) (“PRIIPs Regulation”), concerning initial experiences with the requirements introduced by the PRIIPs Regulation.

### 27 July

The PRA published a [consultation paper](#) (CP17/18) on credit risk and the definition of default.

The FCA published a [consultation paper](#) (CP18/20) on loan-based crowdfunding (i.e. peer to peer lending) platforms. It also provides feedback on the FCA's post-implementation review of regulation of the sector, including investment-based crowdfunding platforms. A policy statement is expected to be published later this year, following the consultation.

### 30 July

The FCA published a [policy statement](#) (PS18/19) on assessing creditworthiness in consumer credit.

### 31 July

The PRA published a [consultation paper](#) (CP18/18), including various proposed rules, on implementing the extension of the SMCR to insurers.