



## May 2021

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

Key developments in May 2021:

### 28 May

The Financial Conduct Authority (“**FCA**”) published [Handbook Notice 88](#), which sets out changes to the FCA Handbook made by the FCA Board on 27 May 2021.

The FCA published its latest issue of [Market Watch](#), its newsletter on market conduct and transaction reporting issues.

The Prudential Regulation Authority (“**PRA**”) published a [policy statement](#) (PS10/21) on amendments to reporting and disclosure dates for resolution assessments.

The PRA published a [policy statement](#) (PS9/21) on revisions to its policy on operational continuity in resolution.

The European Securities and Markets Authority (“**ESMA**”) published an [updated opinion](#) on the collection of information for the effective monitoring of systemic risk under Article 24(5) of the Alternative Investment Fund Managers Directive (2011/61/EU) (“**AIFMD**”).

ESMA published an [updated version](#) of its Q&A on the AIFMD.

ESMA published the [final Guidelines](#) on marketing communications under the Regulation on cross-border distribution of funds.

The FCA published a [policy statement](#) on Handbook changes to improve competition and protect home and motor insurance customers from loyalty penalties (PS21/5).

### 26 May

The FCA published a [statement](#) on the regulatory treatment of the UK Recovery Loan Scheme, which was launched in April as part of the government’s COVID-19 support for UK businesses.

The Financial Ombudsman Service published its [annual complaints data](#) for 2020/21.

The European Banking Authority (“**EBA**”) published its [final report](#) on draft regulatory technical standards on own funds and eligible liabilities.

ESMA published a [consultation paper](#) on draft technical standards for commodity derivatives.

It has been [reported](#) that European Commission will publish the final versions of the new forms of Standard Contractual Clauses shortly (even potentially within the next few days). (These Clauses are used to enable personal data exports under the EU General Data Protection Regulation.) We blogged about this important development [here](#).

## 25 May

ESMA published a [press release](#) announcing a [call for evidence](#) on digital finance. The call for evidence closes on 1 August 2021.

The PRA published a [speech](#) on countering cyber risk.

The PRA published a [statement](#) on updating requirements on the identification of "material risk takers" and its position concerning applications for exclusion of MRTs in the current performance year.

The International Association of Insurance Supervisors published an [application paper](#) on the supervision of climate-related risks in the insurance sector.

The PRA published a [speech](#) on responsible openness in the insurance sector.

## 24 May

HM Treasury published a [joint statement](#) by the US-UK Financial Regulatory Working Group following its fourth meeting, which was held virtually on 20 May 2021.

The PRA published its [business plan](#) for 2021/22.

## 21 May

The Payment Systems Regulator ("PSR") published a [consultation paper](#) containing a call for views on phase 2 of the introduction of confirmation of payee.

The EBA published a [report](#) setting out the main findings from the EU-wide pilot exercise on mapping climate risk.

The PRA published the [aggregated results](#) of its 2019/20 firm feedback survey.

## 20 May

The FCA published a [press release](#) announcing that it has extended the deadline for a further six-month period for firms' implementation of strong customer authentication for e-commerce under the Payment Services Regulations 2017 (SI 2017/752).

The FCA published a [consultation paper](#) (CP21/15) on its proposed use of its new powers under the retained EU law version of the Benchmarks Regulation ((EU) 2016/1011), as amended by the Financial Services Act 2021, in relation to the use of critical benchmarks that are being wound down, such as LIBOR.

ESMA published an [opinion](#) on the adjustment of the threshold for the notification of net short positions in shares set out in Article 5(2) of the EU Short Selling Regulation ((EU) 236/2012).

The Bank of England published a [consultation paper](#) setting out its proposal to modify the scope of contracts that are subject to the derivatives clearing obligation under the retained EU law version of EMIR (648/2012) to reflect the ongoing reforms to interest rate benchmarks.

HM Treasury published a [consultation paper](#) on amendments to the insolvency arrangements for insurers that apply under the Financial Services and Markets Act 2000.

The Civil Liability Act 2018 (Financial Conduct Authority) (Whiplash) Regulations 2021 were [published](#).

The FCA published its own [Regulation Round Up](#) for May 2021.

## 18 May

The FCA and the Pensions Regulator, published a joint [call for input](#) on the pension consumer journey to identify improvements for engaging consumers so that they can make informed decisions that lead to better pension saving outcomes.

The FCA published a [Dear CEO letter](#) to e-money firms asking them to write to their customers to clarify how their money is protected. This is to address concerns that many e-money firms compare their services to traditional bank accounts, or hold themselves out as an alternative in their financial promotions, but do not adequately disclose the differences in protections between e-money accounts and bank accounts.

The International Capital Market Association [published](#) a paper providing an overview, and recommendations for sustainable finance taxonomies.

The PRA published a [statement](#) on the 2022 and 2023 supervisory benchmarking exercise relating to banks' capital internal models, which relate to year-ends 2021 and 2022 respectively.

The FCA published a [speech](#) on the rise in scams and their threat to a legitimate financial services industry.

### 17 May

The FCA published a [consultation paper](#) setting out its proposals to address the practice it calls "claims management phoenixing" by individuals in financial services firms (CP21/14).

The International Organization of Securities Commissions ("IOSCO") published a [speech](#) by Ashley Alder, its CEO, on global issues relating to derivatives regulation.

### 14 May

The FCA has published a [consultation paper](#) (CP21/13) on a new consumer duty, which will set a higher level of consumer protection in retail financial markets for firms to adhere to.

### 13 May

The FCA announced that, with effect from 1 May 2021, its [statement](#) on firms' handling of complaints during the COVID-19 pandemic was no longer in force.

A draft version of the [Financial Markets and Insolvency \(Transitional Provision\) \(EU Exit\) \(Amendment\) Regulations 2021](#) (2021 Regulations) were laid before the UK Parliament, together with a draft [explanatory memorandum](#).

The FCA and the BoE published a [joint statement](#) announcing that they encourage liquidity providers in the sterling exchange traded derivatives market to switch the default traded instrument to SONIA instead of LIBOR from 17 June 2021.

The FCA and the Payment Systems Regulator published a [statement](#) providing an update on their joint approach on access to cash.

HM Treasury published a [speech](#) by John Glen, Economic Secretary to HM Treasury, on the government's commitment to protect access to cash.

### 12 May

The FCA published [finalised guidance](#) on proposed guidance for insolvency practitioners on how to approach regulated firms (FG21/4).

The BoE published a [speech](#) by Andrew Bailey, BoE Governor, on the reforms needed to make money market funds ("MMFs") more resilient.

ESMA published a [consultation paper](#) (ESMA70-156-4233) on its annual review of the regulatory technical standards supplementing the Market in Financial Instruments Regulation (600/2014) ("MiFIR") set out in Commission Delegated Regulation (EU) 2017/583.

The [Financial Services and Markets Act 2000 \(Collective Investment Schemes\) \(Amendment\) Order 2021 \(SI 2021/566\)](#) was published on legislation.gov.uk, with an [explanatory memorandum](#).

### 11 May

FCA [confirmed](#) that RegData, its new data collection platform for gathering regulatory data from firms, has now fully replaced the previous system, Gabriel.

The FCA updated its [webpage](#) on changes to regulatory reporting during the COVID-19 pandemic.

The European Commission published a [consultation paper](#) on a Retail Investment Strategy for the EU.

The BoE published a [speech](#) by Andrew Bailey, BoE Governor, on life after LIBOR.

The [Greenhouse Gas Emissions Trading Scheme Auctioning \(Amendment\) Regulations 2021 \(SI 2021/561\)](#) (Amending Regulations) were published, together with an [explanatory memorandum](#).

The European Commission published a [report](#) (COM(2021) 229 final) to the European Parliament and Council of the EU on the Mortgage Credit Directive (2014/17/EU) (“**MCD**”).

## 10 May

The FCA updated its [Statement on the operation of the MiFID markets regime webpage](#) announcing that it has made available its [annual transparency calculations for UK non-equity instruments](#) that will apply from 1 June 2021.

The UK government published [guidance](#) on the supply of allowances in the UK Emissions Trading Scheme (“**UK ETS**”). The UK ETS was launched on 1 January 2021 to replace the UK’s participation in the EU Emissions Trading System, following the post-Brexit transition period.

The [Capital Requirements Regulation \(Amendment\) \(EU Exit\) Regulations 2021 \(SI 2021/558\)](#) were published, together with an [explanatory memorandum](#).

## 7 May

The FCA published a [consultation paper](#) on a new authorised fund regime for investing in long-term assets (CP21/12). These assets are sometimes called productive finance and include venture capital, private equity, private debt, real estate and infrastructure. For further details please refer to [Proskauer’s update](#) on this consultation.

The FCA published a [feedback statement](#) (FS21/8) setting out the feedback it received to its August 2020 consultation paper on liquidity mismatch in authorised open-ended property funds (CP20/15).

The BoE published a [statement](#) on the progress made by the Productive Finance Working Group (“PFWG”), which it co-chairs with HM Treasury and the FCA.

The European Commission published for consultation a [draft Delegated Regulation](#) supplementing Article 8 of the Taxonomy Regulation ((EU) 2020/852) by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of the Non-Financial Reporting Directive (2014/95/EU) (“NFRD”) concerning environmentally sustainable economic activities and the methodology to comply with that disclosure obligation (Ares(2021)3080956).

The Financial Services Regulatory Initiatives Forum published the [Regulatory Initiatives Grid](#) for May 2021.

## 6 May

The FCA published a [speech](#) given by Charles Randell, FCA chair, on outcomes-focused regulation.

The EBA published a [consultation paper](#) (EBA/CP/2021/19) on draft regulatory technical standards to establish an anti-money laundering and countering financing of terrorism central database. It has also published a [summary](#) of the draft data protection impact assessment on the database.

[Delegated Regulation \(EU\) 2021/732](#) supplementing EMIR on procedure for penalties imposed on trade repositories was published in the Official Journal of the EU.

[Delegated Regulation \(EU\) 2021/731](#) supplementing EMIR on rules of procedure for penalties imposed on third-country CCPs was published in the Official Journal of the EU.

ESMA published an [updated opinion](#) (ESMA70-156-478) (dated 4 May 2021) on ancillary activity calculations under the MiFID II Directive (2014/65/EU).

The European Commission adopted two draft Delegated Regulations supplementing the Benchmarks Regulation ((EU) 2016/1011) (“**BMR**”):

- Draft [Delegated Regulation](#) (C(2021) 3125 final); and
- Draft [Delegated Regulation](#) (C(2021) 3123 final).

The FCA updated its [webpage](#) on outsourcing and operational resilience to clarify its expectations regarding firms’ obligations to review their legacy outsourcing arrangements for the purposes of complying with the EBA’s guidelines on outsourcing.

## 5 May

The BoE published a [speech](#) given by Lyndon Nelson, PRA Deputy CEO, on operational resilience and outcomes in practice.

HM Government published [Economic Crime Plan: Statement of Progress](#), which covers the period from July 2019 to February 2021.

ESMA published the eighth version of its [questions and answers](#) on the Prospectus Regulation.

HM Treasury updated its [webpage](#) on the open access regime for exchange traded derivatives to announce the outcome of its review of the regime.

[Regulation \(EU\) 2021/728](#) (Amending Regulation) on systemically important payment systems was published in the Official Journal of the European Union.

## 4 May

The Digital Regulation Co-operation Framework (“**DRCF**”) published a [policy paper](#) setting out views on how to achieve coherence in regulatory approaches across digital services.