Summary of regulatory developments

Updates for July 2021

This memo identifies and summarises any regulatory updates published during July 2021 that may be of relevance to life insurance companies.

The following table summarises the relevant updates identified in July.

REGULATORY ITEMS IDENTIFIED IN JULY THAT MAY BE OF RELEVANCE TO LIFE INSURANCE COMPANIES

Date	Description
5-Jul	Financial Conduct Authority (FCA): Edwin Schooling Latter delivers speech on LIBOR – 6 months to go
6-Jul	European Insurance and Occupational Pensions Authority (EIOPA) reports on key financial stability risks in the European insurance and pension sectors
7-Jul	EIOPA publishes its Q&A on regulation
8-Jul	The Prudential Regulation Authority (PRA) publishes consultation paper (CP) 11/21 – Review of Solvency II: Reporting (Phase 1)
8-Jul	EIOPA further contributes to sustainable finance
12-Jul	EIOPA publishes an opinion on the use of risk mitigation techniques by insurance undertakings
12-Jul	EIOPA publishes statement on supervisory practices and expectations in case of breach of the Solvency Capital Requirement
13-Jul	FCA and the Bank of England (BoE) review open-ended investment funds
14-Jul	EIOPA consults on the revision of the Solvency II Guidelines on Contract Boundaries and Valuation of Technical Provisions
15-Jul	FCA publishes its Annual Report and Accounts 2020/21
15-Jul	FCA's CEO Nikhil Rathi delivers speech on transforming to a forward-looking, proactive regulator
19-Jul	EIOPA publishes supervisory statement on the own risk and solvency assessment (ORSA) in the context of COVID-19

REGULATORY ITEMS IDENTIFIED IN JULY THAT MAY BE OF RELEVANCE TO LIFE INSURANCE COMPANIES

Date	Description
19-Jul	FCA publishes guiding principles on the design, delivery and disclosure of environmental, social and governance (ESG) and sustainable investment funds
19-Jul	PRA publishes a statement on the recalculation of the Transitional Measure of Technical Provisions (TMTP)
20-Jul	PRA publishes letter to CEOs of PRA-regulated Solvency II firms, "Gathering data for the Solvency II Review"
21-Jul	FCA and BoE encourage market participants in a switch to risk-free rates (RFRs) in the LIBOR cross-currency swaps market
23-Jul	EIOPA consults on the amendments of supervisory reporting and disclosure requirements
28-Jul	PRA publishes CP 16/21 – "Insurance business transfers"

Updates for July 2021

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

EIOPA

- EIOPA reports on key financial stability risks in the European insurance and pension sectors

  EIOPA's Financial Stability Report emphasises that many uncertainties remain owing to the COVID-19 pandemic. As fiscal measures begin to phase out, the negative impact on the real economy may become more visible. Both increased unemployment and corporate credit downgrades could have a negative effect on the insurance and pension sectors.

  The report also highlights new emerging risks such as cyber and climate. In particular, environmental, social and governance factors increasingly shape insurers' investment decisions and affect their underwriting.

  EIOPA believes that with Solvency II in place the insurance industry was overall well prepared for the crisis. However, there is a need to continuously analyse all risks. EIOPA is currently running an EU-wide insurance stress test exercise assessing the impact of an adverse COVID-19 scenario in a "lower for longer" interest rate environment on both capital and liquidity positions of insurers.

- 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). Questions 1083, 1274 and 2044.
  - (EU) No 2015/2450, templates for the submission of information to the supervisory authorities. Questions 1578 and 1580.

- EIOPA further contributes to sustainable finance

  EIOPA issued three publications as part of its work on sustainable finance. They are:

  - A pilot dashboard for the natural catastrophe protection gap
  - A methodological paper for integrating climate change in the underwriting risk capital charge of the Solvency II standard formula
  - A report on non-life underwriting and pricing in light of climate change

  The work addresses key issues of climate change-related risk for insurers and continues to encourage firms to play their role in enabling climate change mitigation and adaptation.

- EIOPA publishes an opinion on the use of risk mitigation techniques by insurance undertakings

  Since the implementation of Solvency II, new risk mitigation techniques including new reinsurance structures have appeared in the European market, with some existing ones starting to increase in relevance and frequency. EIOPA's opinion addresses the use of these risk mitigation techniques and includes a set of recommendations for national competent authorities (NCAs) to ensure consistent supervision.

  EIOPA's opinion stresses the importance of maintaining a balance between effectively transferring risk and the capital relief in the Solvency Capital Requirement (SCR). This balance needs to be assessed case-by-case, taking into account the differences of each reinsurance structure and its specific interaction with the risk profile of the firm.

- EIOPA publishes statement on supervisory practices and expectations in case of breach of the Solvency Capital Requirement

  With this supervisory statement, EIOPA aims to foster supervisory convergence in the situations where firms breach their SCRs, in particular addressing the recovery plan required.

  The supervisory practices in such situations need to be flexible and consider the specific situation of the (re)insurer. However, it is important when certain triggers are reached, such as noncompliance with the SCR, that convergent approaches are applied to ensure consistent protection of policyholders across Europe.

- EIOPA consults on the revision of the Solvency II Guidelines on Contract Boundaries and Valuation of Technical Provisions

  In order to ensure consistent application of the Solvency II regulations, revisions to the existing guidelines are required in addition to the improvements identified in the Opinion on the Solvency II 2020 review. This consideration has prompted EIOPA to launch two consultations:

  - Consultation on contract boundaries. The amended guidelines provide focus on the unbundling of an insurance and reinsurance contract, ensuring that one contract has the same treatment regardless of whether it is sold as one contract or as two independent contracts where both are equivalent in terms of risk.
  - Consultation on Valuation of Technical Provisions. EIOPA clarifies that, where contracts with material options and guarantees exist, firms are expected to use a valuation method that captures the time value of these contracts.

  EIOPA invites firms to provide feedback by 12 November 2021.

- EIOPA publishes supervisory statement on the ORSA in the context of COVID-19

  This statement guides firms through supervisory expectations in light of the COVID-19 pandemic, while allowing for the fact that the impact on each individual firm will differ depending on its own risk profile.

  The purpose of the ORSA is to provide insight and support decision making for the firm. In addition, it promotes the identification and effective management of the firms' risks to ensure they have sufficient capital to absorb possible losses through periods of adversity.

  This statement specifically addresses the COVID-19 situation, but the recommendations are applicable to any similar situation with the necessary adaptations.

- EIOPA consults on the amendments of supervisory reporting and disclosure requirements

  In this consultation paper, EIOPA proposes amendments to the reporting requirements and quantitative reporting templates (QRTs) published as part of the Opinion in the 2020 review of Solvency II. The proposals include simplification of quarterly reporting, elimination of some reporting templates and new thresholds to promote better risk-based and proportionate reporting requirements. EIOPA's proposals should bring several benefits:

  - Reduction of reporting costs for the majority of insurance undertakings
  - Inclusion of information needed for supervisory purposes focusing on emerging risks and new areas for which supervisors identified a number of data gaps
  - A more fit-for-purpose reporting, for example reducing and simplifying when possible but also accommodating gaps identified by supervisors

FCA

- FCA's Edwin Schooling Latter delivers speech on LIBOR – 6 months to go

  Highlights from the speech include:

  - It has been four years since Andrew Bailey told financial markets they needed to prepare for a world without the London Inter-Bank Offered Rate (LIBOR) after 2021.
  - For the LIBOR panels ending this year the main challenge in the coming months will be to ensure that legacy contracts that can be converted are converted.
  - The next Working Group on Sterling Risk-Free Reference Rates milestone for progress on this in sterling markets is at the end of Q3.
  - The FCA wants a good strong finish to the transition.

- FCA and BoE review open-ended investment funds

  Included in the BoE's report on Assessing the resilience of market-based finance is the conclusion of the joint review by the FCA and the BoE on open-ended investment funds and the risks posed by their liquidity mismatch.

  The BoE and FCA have put forward a suggested possible framework for how a liquidity classification framework for funds could be designed, alongside considerations around the calculation and use of swing pricing. The purpose of this published framework is to guide the regulators' engagement with ongoing international work on open-ended funds.

- FCA publishes its Annual Report and Accounts 2020/21

  Highlights from this year's report include:

  - The FCA responding to the economic impacts of the pandemic, including issuing guidance to firms
  - New home and motor insurance pricing rules
  - Scam prevention education and information to consumers
  - Imposing financial penalties where necessary
  - Ensuring consumer redress for unauthorised investment business and freezing funds following enforcement work
  - Work on the UK's withdrawal from the EU

- FCA's CEO Nikhil Rathi delivers speech on transforming to a forward-looking, proactive regulator

  Ways the FCA is looking to become a more forward-looking, proactive regulator include:

  - Being more innovative—making greater use of the data available and seeking further data where needed.
  - Being more assertive—acting decisively and being clear about what the FCA is doing, why it's doing it and where the limitations lie.
  - Being more adaptive—working flexibly to respond to challenges.
  - Measuring our success—the FCA will be clearer on what outcomes matter and how it measures them.

- FCA publishes guiding principles on the design, delivery and disclosure of ESG and sustainable investment funds

  The FCA has published a letter to the chairs of authorised fund managers setting out its environmental, social and governance (ESG) and sustainable investment funds expectations. The FCA stated that many of the applications received for authorisation of funds with a sustainable focus are poor-quality and fell below the regulator's expectations. The FCA has therefore developed a set of guiding principles to help firms apply existing rules, and to ensure consumers can make informed choices. The FCA also stated that it expects clear and accurate ongoing disclosures to consumers where funds make ESG-related claims.

  The guiding principles comprise an overarching principle (consistency) and three supporting principles that focus design, delivery and disclosure. Each principle is accompanied by a set of key considerations which add clarity.

  The principles are targeted at funds that make specific ESG-related claims and not at funds that have integrated ESG considerations into mainstream investment processes.

- FCA and BoE encourage market participants in a switch to RFRs in the LIBOR cross-currency swaps market

  Following engagement with authorities and with market participants, the FCA and BoE support and encourage liquidity providers in the LIBOR cross-currency swaps market to adopt new quoting conventions for interdealer trading based on risk-free rates (RFRs) instead of LIBOR from 21 September this year. This is to facilitate a further shift in market liquidity towards RFRs, bringing benefits for a wide range of users as they move away from LIBOR.

PRA

- PRA publishes CP 11/21 - Review of Solvency II: Reporting (Phase 1)

  This consultation paper (CP) sets out the PRA's proposed changes to the Solvency II reporting requirements and expectations, in line with the HM Treasury's review. The proposals in this CP would result in changes that:

  - Remove certain QRTs from the required reporting, including S.01.02, 2.06.01, S.15.01, S.15.02 and S.29 templates.
  - Reduce the frequency of reporting the Minimum Capital Requirement (MCR).
  - Increase proportionality for QRT S.16.01 for pure reinsurers.
  - Extend the usage of quarterly reporting waivers.

  Implementation for these proposals would be for quarterly and annual reporting falling on and after 31 March 2022.

- PRA publishes a statement on the recalculation of the Transitional Measure of Technical Provisions

  The PRA has been monitoring market conditions since the previous biennial TMTP recalculation in December 2019. In the PRA's view, recent movements in the RFR meet the threshold for a material change in risk profile as set out in SS6/16. Consequently, the PRA is willing to accept applications from firms to recalculate their TMTPs as at 30 June 2021.

  The PRA expects firms to be able to demonstrate in their applications that a material change in risk profile has occurred. The PRA considers it reasonable for a firm to take a forward-looking view that encompasses how the risk profile is evolving as a result of the GBP RFR transition to SONIA.

  It is worth noting that, in order to expedite the application process, the PRA would expect applications to use firms' existing TMTP calculation methodologies. Furthermore, applications to recalculate as at 30 June 2021 would be in addition to the expected biennial TMTP recalculation as at 31 December 2021.

- PRA publishes letter to CEOs of PRA-regulated Solvency II firms, "Gathering data for the Solvency II Review"

  The letter introduces the Solvency II Review Quantitative Impact Study (QIS), which aims to gather firm data in a "Call For Evidence" from the government. This data will be used to model different options to better understand which combination of reforms would best meet the government's objectives and what the aggregate impact would be. Reponses are welcome from all UK-regulated firms.

  This letter recaps the objectives of the Solvency II review, sets out the scope of the QIS and explains the thinking on two key areas being assessed under it—the risk margin and the matching adjustment (MA).

  The full Solvency II QIS exercise can be found here. This has been set out in further detail in a paper by Milliman consultants published on 29 July 2021.

- PRA publishes CP 16/21 – "Insurance business transfers"

  This consultation paper (CP) sets out the PRA's proposed updates to its approach to insurance business transfers, to reflect legislative changes following the UK's withdrawal from the European Union and the completion of the transition period. It also provides additional guidance for independent experts and firms on the PRA's expectations.

  By providing a greater degree of clarity and transparency with regard to the PRA's approach and existing practices, the proposals would assist firms and independent experts (IEs) in the preparation of documents and allow the PRA's assessment of transfers to be more efficient. Implementation costs for firms are expected to be minimal, as most proposals are clarifications of existing expectations.

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