

Key regulatory updates: Life and General Insurance Q3 2016

With many of us taking a well-earned break over the summer and returning to several hundred/thousand* emails (*Delete as appropriate...hopefully it wasn't more), are we sure we're fully up to date with regulatory developments? Did we miss an email or two, or perhaps print out a document and then forget to read it?

In this briefing note, we highlight the main points from some of the key regulatory publications of the summer months, covering the period 01 July 2016 to 30 September 2016.

Each section heading indicates whether the publication is applicable to:



Life insurers



General insurers



Both



Primarily general insurers, may be applicable to some life insurers

Joint PRA and FCA activity

In a flurry of activity at the end of September, the Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA) released a number of documents related to strengthening accountability.



Regulatory references

PRA policy statement [PS27/16](#) and the corresponding FCA policy statement [PS16/22](#) set out final rules relating to regulatory references. The PRA updated supervisory statement [SS35/15](#) 'Strengthening individual accountability in insurance' to reflect the final rules at the same time.

Overall the regulatory reference requirements are largely unchanged from the proposals set out in the joint consultation [PRA CP36/15 and FCA CP15/31](#) although there are some easements (e.g. in relation to intra-group job moves) and recognition of practical and potential legal issues that firms face (e.g. seeking references before a candidate has resigned from their current job). The regulators have provided some guidance in these areas.

The rules for banks and insurers other than small non-directive insurers are that firms must:

- Seek references going back six years for specified staff
- Provide a reference on request which:
 - includes mandatory information going back six years
 - includes all relevant information going back six years, unless serious, when there is no time limit
 - is in a mandatory template
- Provide an updated reference at any time in the six years following resignation if information becomes available that would have affected the original reference.

For the time being, small non-directive insurance firms and firms authorised and regulated solely by the FCA are only required to provide a reference upon request which includes all relevant information going back six years, unless serious, when there is no time limit. This position will be reviewed in 2017 when the regulators expect to consult on extending the Senior Managers and Certification Regime to all firms authorised by the FCA and the PRA under the Financial Services and Markets Act.



The regulatory reference final rules are effective 7 March 2017 although firms are encouraged to adopt early.

Scope of conduct rules and changes to the Senior Insurance Managers Regime

The PRA also issued consultation paper [CP34/16](#) coinciding with the FCA issued consultation [CP16/27](#). One element of the PRA consultation and the main aspect of the FCA publication is for a subset of the regulatory conduct rules to apply to notified non-executive directors (NEDs), i.e. directors who do not need pre-approval by the regulatory authorities. These proposals follow a change in legislation which previously precluded the regulators from applying conduct rules to notified NEDs. The PRA makes it clear that the rules should apply to notified members of a firm's management body if there is no board of directors.

The FCA consultation contains related proposals to tweak guidance in the COCON handbook and to extend to NEDs of insurance companies the guidance on the role and responsibilities of NEDs contained in COCON 1 Annex 1.

The PRA publication also contains the following proposals relevant to insurance companies:

- Solvency II insurers and Lloyd's managing agents classed as 'not significant' along with large non-directive firms (NDFs) will be exempt from having an individual approved to perform the Head of Internal Audit Function (SIMF5) if the internal audit function is outsourced to a third party (i.e. outside of the firm or its group). Instead such firms will be required to allocate a new prescribed responsibility to a NED who performs a PRA Senior Insurance Managers Function or FCA controlled function.
- Firms in run-off that no longer have permission to write new business will not be subject to full Senior Insurance Manager Regime ('SIMR') requirements. Instead a streamlined approach is proposed with a restricted number of SIMF positions (SIMF19A – Head of Firm without permission to effect contracts of insurance function; SIMF2 – Chief Finance function; SIMF21 where relevant – With-Profits Actuary function) and a smaller set of prescribed responsibilities. Such firms will still need to appoint the four mandatory key function holders under Solvency II, (i.e. actuarial, risk management, internal audit and compliance), ensure that the key function holders are fit and proper and, upon appointment, notify the PRA.

The PRA paper includes proposed amendments to SS35/15, Long Form A, Short Form A and Form E (for Solvency II firms) and to the Scope of Responsibilities form (for Solvency II firms and large non-directive firms) to accommodate the proposed changes summarised above and to correct minor errors.

The consultations are open until 9 January 2017 with final rules expected Q2/Q3 2017.



PRA activity

Solvency II: External audit of public disclosure requirements

The PRA released policy statement [PS24/16](#) and associated supervisory statement [SS11/16](#) on 9 September 2016, thereby finalising the requirements with respect to the audit of Solvency II public disclosures. The requirements are largely unchanged from the proposals set out in the earlier consultation [CP23/16](#). Apart from minor wording changes, the only notable difference is the clarification that Solvency I information prepared in relation to the transitional measures on technical provisions is not subject to external audit.

The external audit, which will be publicly disclosed, will cover both quantitative and qualitative information included in the 'Valuation for solvency purposes' and 'Capital management' sections of the Solvency and Financial Condition Report (SFCR). The requirements apply to year-ends on or after 15 November 2016.

In addition to the audit requirements, Section 2 of [SS11/16](#) clearly sets out the PRA's expectations with regards to the governing body's responsibility for the SFCR. In particular the PRA expects the governing body to sign the SFCR and append written acknowledgement that the firm has complied and expects to continue to comply in all material respects with applicable PRA rules and Solvency II regulations.



Solvency II: Remuneration requirements

The PRA has published its final supervisory statement [SS10/16](#) on Solvency II remuneration policies which is largely unchanged from consultation paper [CP13/16](#) issued earlier in the year.

The supervisory statement provides detailed guidance on interpreting the Solvency II remuneration regulations, primarily with regard to bonus payments to 'Solvency II staff', which the PRA expects to consist of:

- Board members;
- Executive Committee members;
- Senior Insurance Management Function (SIMF) holders with PRA supervisory pre-approval and Significant Influence Function (SIF) holders with FCA supervisory pre-approval;
- Key Function Holders (KFH) reported to the PRA; and
- Material risk takers (MRT).

The guidance only applies to PRA category 1 and 2 firms. However it serves as a reminder that all firms need to consider how they will meet the Solvency II remuneration requirements.

For category 1 and 2 firms, the requirement is that a 'substantial portion' of bonuses for Solvency II staff be deferred for no less than three years; the PRA's view is that a substantial portion is 'very unlikely to be less than 40%'. Bonuses payable under the deferral arrangements must vest no faster than pro-rata from year one, and firms are expected to consider whether reductions should be made to the deferred components of bonuses, taking account of specific risk management failings.



PRA fees and FSCS levies for insurers

The PRA has set out its proposals for the calculation basis of 2017/18 PRA fees and Financial Services Compensation Scheme (FSCS) levies in consultation paper [CP30/16](#). Historically, regulatory fees payable by insurance companies and Lloyd's have in part been based on data reported under the Solvency I regime. Given the transition between Solvency I and Solvency II, the reporting deadlines for Solvency II firms and the fact that not all firms are subject to Solvency II rules, there are a few issues to address in determining how regulatory fees should be calculated next year. While the PRA ponders a long-term approach, it has set out transitional proposals for next year.

The PRA is proposing to determine fees using Solvency I submissions made by firms for financial years ending during 2015. However, where a firm has been subject to a business transfer, the proposals are for the firm to notify the regulators and provide information on the impact of the transfer. The PRA is proposing to also allow firms having gone into run-off between the end of the firm's financial year in 2015 and 31 December 2016 to resubmit data on an optional basis.

Although the proposal avoids the need for most firms to submit additional information, some firms may now be in a very different position compared to the reference information the PRA is suggesting should be used, especially bearing in mind the age of the information for those firms with a year-end early in the calendar year. The PRA has stated it does not intend to entertain resubmission in circumstances other than business transfers and run-off as mentioned above.

The consultation is open until 9 November 2016, however we suggest any firms that have been subject to a business transfer consider engaging with the FCA (as agent of the PRA and FSCS) sooner rather than later to discuss the information that might be required. The consultation paper suggests any such information should be submitted by 28 February 2017 which does not give firms a great deal of time if they wait for the final policy statement to be published.



Solvency II: Changes to internal models used by UK insurance firms

Supervisory statement [SS12/16](#) follows the PRA's consultation paper [CP19/16](#) and sets out the PRA's expectations in respect of firms applying for:

- approval for a major change to their approved internal models (either an individual major change or major change triggered by an accumulation of minor changes);
- an extension of scope to an approved internal model (for example to cover new business units or risks); and
- permission to alter their approved internal model change policy.

The PRA has made some amendments to the supervisory statement following feedback received in the consultation.

- The PRA has clarified that:
 - firms are expected to base their Solvency II reporting on the model approval that is in place on or before the last day of a reporting period (but this may include minor changes – see below)
 - if a minor change causes the internal model to no longer meet the Solvency II tests and standards, then firms must address the issue in accordance with Internal Models rule 9.1
- Firms can make a number of minor model changes without PRA approval as long as the accumulated impact of the changes is below a certain threshold. This threshold is firm-specific and must be identified in the firm's model change policy. The PRA has clarified that minor change accumulations will be reset at the point of receiving a major change application, unless otherwise agreed with the PRA.
- In the consultation paper, the PRA expected firms to bear in mind that a model change application might not be approved. The PRA has strengthened this and now expects firms to have definitive contingency plans that should be shared with the PRA where appropriate
- In the consultation paper, the PRA suggested that it might be helpful for firms to back-test any changes to internal model change policies to justify any changes to the threshold for major changes. The PRA has strengthened this to be an expectation



Solvency II: Reporting and public disclosure – options for supervisory authorities

The PRA has issued an updated version of supervisory statement [SS40/15](#), which sets out the PRA's expectations of firms in areas where the Solvency II technical standards on reporting and public disclosure allow the PRA to specify alternative approaches, or require it to issue instructions.

The updated statement adds template S29.03.01 to the list of Quantitative Reporting Templates (QRTs) for which the PRA has discretion to stipulate whether information is reported by accident year or underwriting year. The PRA has left the choice to firms, whose decision should be consistent with how they manage their business and report internally.

Once a choice of disclosure basis has been made, the PRA expects that choice to be applied for future periods. Any change to how the information is reported or disclosed should be discussed with the PRA prior to making the change.

No other changes were included in the update in July.



Dealing with a market turning event in the general insurance sector

The PRA's consultation paper [CP32/16](#) on market turning events (MTEs) sets out the PRA's expectations of firms before and after such a loss event.

MTEs may stress firms' solvency both directly by losses eating up capital, and indirectly by reducing the availability of further capital. Firms should have a plan for how to act in such an event, particularly if they breach the SCR/MCR as a result. This should be proportionate to the nature and scale of the firm's business, and the impact that an MTE might have.

Where proportionate, firms should consider their plans for:

- estimating exposures and possible losses from the event, setting reserves, measuring uncertainties around these, and setting expectations on how losses would develop over time;
- assessing the ongoing appropriateness of the firm's business plan, risk tolerances, risk appetites, investment strategy, and reinsurance programme;
- carrying out a new Own Risk and Solvency Assessment (ORSA);
- recalibrating internal models;
- identifying any breaches of SCR/MCR, and making recovery plans;
- governance, especially if the company anticipates a hardening market, and wishes to expand their portfolio in response; and
- meeting reporting obligations to investors, the PRA, policyholders and any other stakeholders.

The PRA notes that it would likely carry out data collection exercises on any MTE, and gives a data request template that may be used. This focuses on estimates of the loss and the impact on solvency.

Once the crisis has been dealt with, firms should consider the longer term lessons learned from an MTE on future operations (underwriting, capital, risk, reinsurance, etc.) and governance.

Responses are requested by 21 December 2016.



General insurance reserving and pricing trends

In July the PRA published [a letter to general insurance firms](#) sharing some observations on reserving trends relevant to all general insurers (based on analysis of PRA returns) and pricing trends in the London Market (based on its 'monitoring the market' questionnaire).

In the letter, the PRA questions whether recent trends in reserve releases, which in 2015 were at their highest level for over 30 years, are sustainable. While this analysis was based on returns prepared on a Solvency I basis, the PRA promised continued interest as it moves to analysing Solvency II technical provisions.

In several cases the PRA estimated historic claims inflation to be significantly higher than the future claims inflation assumption implied by an insurer's booked reserves. Given the current low inflation environment, the inflationary risks associated with currency fluctuations and the potential for long-term inflation to be higher than recent experience, the PRA expects insurers to consider the impact of a range of inflationary assumptions.

The PRA also commented on pricing trends for London Market insurers identified in its recent 'monitoring the market' questionnaire. The PRA suggests some insurers may be giving too much credence to the more recent, benign environment when assessing risk, particularly with long tail casualty and financial lines. There is also concern that some insurers are taking an overly optimistic view of new risks.

The letter ends with a promise that Solvency II data quality will be a key focus – firms should expect questions about the new data, especially if there are any anomalies relative to the past or to other firms.



Insurance firms in run-off

In July the PRA sent a [letter to insurance firms in run-off](#) reminding them of their ongoing responsibilities to engage with the PRA. In particular, the letter drew attention to the requirement that firms 'disclose to the PRA anything relating to the firm of which the PRA would reasonably expect notice'. The letter suggests that some firms have failed to engage with the PRA at a sufficiently early stage regarding events which could have a material impact on the firm's risk profile, resources or capital adequacy.

For general insurers, the letter was closely followed by the release of an updated version of supervisory statement [SS4/14](#) on capital extractions by run-off firms within the general insurance sector. The changes reflect the transition from Solvency I to the Solvency II reporting regime, with the focus now on the firm's ability to meet its Solvency Capital Requirement (SCR) and ORSA.

Solvency II firms are expected to hold capital to manage and mitigate risks identified in the ORSA. The PRA does not expect firms to seek capital extractions which would bring the level of capital below the solvency needs set out in the ORSA, even if the level of capital remains above the SCR.



Solvency II: Updates to SS25/15 and SS26/15

In consultation paper [CP31/16](#) the PRA is consulting on changes to two supervisory statements published in 2015:

- [SS25/15](#) Solvency II: Regulatory reporting, internal model outputs
- [SS26/15](#) Solvency II: ORSA and the ultimate time horizon – non-life firms

The proposed changes relate to information that is recorded on the Internal Model Output reporting template and associated instructions.

This is a useful reminder that firms should not only be aware of their reporting requirements and ensure processes are in place to correctly fill any required templates, but should also have processes in place to monitor regulatory changes.

Firms wishing to respond to the consultation should do so by 21 December 2016.



Changes to PRA Rulebook: Conditions Governing Business for Lloyd's firms

In consultation paper [CP26/15](#) the PRA proposes deleting paragraph 12.5 and amending paragraph 12.6 in the Conditions Governing Business (CGB) section of the PRA rulebook. The deleted paragraph requires the actuarial function of each managing agent to provide an opinion on the adequacy of technical provisions held by each syndicate managed by the managing agent in respect of general insurance business for each syndicate year; Solvency II includes an equivalent requirement to provide a written annual report to the governing body of the society, so the proposed deletion will avoid duplication of work.

The amendment to paragraph 12.6 requires the managing agent to inform the PRA and the Society of Lloyd's promptly of any concerns about the adequacy of technical provisions, and to identify any material deficiencies in the annual written report.



Solvency II: Regulatory reporting and exemptions

The PRA has published an updated version of its supervisory statement [SS11/15](#) concerning quarterly reporting exemptions for category four and five firms. The only change is to the naming convention used to specify the QRTs that exempt firms must submit.



FCA activity

Key Information Documents

The FCA has recently published consultation paper [CP16/18](#) on changes to disclosure rules that relate to the EU legislation for Packaged Retail and Insurance-based Investment Products (PRIIPs). The rules are meant, at the time of writing, to come into force on 31 December 2016. Under these rules, retail investment products including life assurance savings contracts (but excluding pensions contracts) are to be provided with a Key Information Document (KID) setting out certain information relating to the product and its provider – essentially replacing the current Key Features Document and illustration.

In its consultation, the FCA proposes adopting the KID requirements in the UK and additionally that:

- Solvency II disclosure information (as detailed in [COBS 13.1.2R](#) and [COBS 13 Annex 1R](#)) can be incorporated into the KID, or alternatively provided as a separate document; and
- the KID colour scheme requirements (which must not diminish the comprehensibility of the information if the document is printed in black and white) be extended to all disclosures.

However, it should be noted that the draft [Regulatory Technical Standards](#) prepared by the European Supervisory Authorities, which contain detailed rules on the KIDs, were rejected by the European Parliament in September and a delay to the implementation date appears inevitable. We expect a one-year delay to the PRIIPs implementation date to be officially announced on 9 November 2016. The status of the FCA consultation is therefore unclear at present.



Increasing transparency and engagement at renewal in general insurance markets

Following analysis of its [December 2015 consultation](#) on the subject, the FCA has published [final rules](#) aiming to address consumer engagement and treatment at the hands of general insurers on renewal.

The new rules, which will be added to the Insurance: Conduct of Business Sourcebook (ICOBs), apply when firms propose the renewal of a general insurance contract which is not a group policy, and which has a duration of ten months or more. This represents an increase in scope compared to the draft rules, which only applied to annual contracts.

There are some minor changes compared to the consultation draft proposal with regards to the information firms must provide to consumers in good time before the renewal:

- If mid-term changes were made to the policy, an annual premium reflecting any mid-term adjustments (rather than last year's premium) must be provided for comparison with the proposed renewal premium
- The statement by firms that customers may compare with alternative providers now references levels of cover as well as prices

The rules also require firms to include an additional prescribed statement for consumers for whom the proposed renewal would be a fourth or subsequent renewal, encouraging them to shop around.

Firms are required to make the necessary changes to their renewal communications by 1 April 2017. The FCA has also published non-handbook guidance to help firms meet their obligations to consumers at renewal.



Principals and their appointed representatives in the general insurance sector

The FCA has published the [findings](#) of its thematic review of the use of appointed representatives by general insurance firms. The review identified significant shortcomings in firms' risk management frameworks and governance, and in oversight of their appointed representatives. For one-third of the principal firms considered, the FCA saw examples of potential mis-selling and customer detriment as a result of their appointed representatives' actions.

The FCA expects principals to be able to demonstrate that they consider the impact of appointed representatives on their own business model, and assess their suitability and solvency. Firms should take reasonable steps to put in place an appropriate risk management framework to cover the associated risks, and are expected to have adequate controls in place. These expectations were reiterated in a [letter](#) to the CEOs of general insurers making use of appointed representatives which also set out actions they should take to address the issues raised in the report.

While the review focussed on the general insurance sector, the findings may be applicable to principals and their appointed representatives in other sectors.



Outsourcing requirements

The FCA has issued finalised guidance [FG 16/5](#) for firms outsourcing to 'the cloud' and other third-party IT services. The guidance clarifies that the FCA sees the term 'cloud' as encompassing a range of IT services and sets out its approach to regulating firms using the cloud and other third-party IT services.

Regulated firms retain full responsibility and accountability for discharging all of their regulatory responsibilities; they are therefore expected to identify and manage the operational risks associated with the use of third parties, including the undertaking of due diligence.

The guidance includes a list of areas that a firm should consider during its preparations for the use, evaluation and ongoing monitoring of third parties in the delivery of IT services that are essential to the effective functioning of its business operations. In our opinion, much of the guidance can be applied to other outsourced activities.



Feedback on Call for Input on Big Data

The FCA has released feedback on its Call for Input (Cfi) on Big Data. Big Data refers to the vast amounts of data potentially available through new developments in technology (the most developed example in general insurance being the use of car-based telematics) and more sophisticated data processing techniques. While the Cfi focused on retail general insurance, the findings are relevant to any firms using large amounts of data and analytics.

The feedback notes the broadly positive outcomes resulting from the use of Big Data, however there are two areas where its use may lead to some consumers being worse off.

These are:

- **Risk segmentation** – While Big Data may result in improved outcomes for some consumers, higher risk consumers may no longer be able to obtain or afford insurance for the risk they represent. This has not yet materialised; however, the FCA will keep this under review and engage with government if concerns develop.
- **Pricing practices** – Big Data may improve firms' abilities to identify opportunities to charge more to certain types of customer. The FCA published [Occasional Paper 22: Price discrimination and cross-subsidy in financial services](#) in response to this, analysing the economic principles behind price discrimination and cross-subsidy, and will be looking at pricing practices in a limited number of retail general insurance firms later this year. It describes this as a discovery piece of work, and will not intervene further unless it identifies one or more market issues where regulatory intervention would improve outcomes.

The points above can be closely linked to conduct risk, which is a key area of focus for the FCA. The FCA is likely to want to see firms using Big Data to include high risk groups, rather than exclude them.

As well as looking at the outcomes for consumers, the Cfl sought feedback from firms on whether the current regulatory framework constrains innovation in the use of data. Respondents felt that the framework is satisfactory or that it is 'too early to tell'. As a result, the FCA is proposing no changes to its regulatory framework in this regard.

The FCA intends to host a roundtable discussion with the Information Commissioner's Office (ICA) in autumn 2016 on the use of data in retail general insurance. This will give stakeholders the opportunity to discuss some of the data issues raised.



Guidance on fund suspensions

Following the 'Brexit' vote, trading in a number of high-profile property funds was suspended. Such action was taken by both investment managers and insurance companies to protect the interests of investors at a time of great uncertainty as to what might be considered the 'fair' price of property, coupled with high volumes of redemption requests. Reacting to the fund suspensions, the FCA issued [guidance](#) reminding firms that they have a duty to act in the best interest of all investors in times of market disruption. The FCA also spells out that firms should have a full understanding of their responsibilities and a clear understanding of when suspension or other methods of dealing with market disruption will be used.

The FCA requests that it be given prior notification of the intent to suspend trading. It also suggests that firms need to carefully consider when it might be appropriate to resume trading, potentially at an adjusted price, and sets out communication requirements in such circumstances.



Retirement Outcomes Review

The FCA has published [Terms of Reference](#) which set out the scope of its upcoming Retirement Outcomes Review (ROR). The review will focus on the decumulation (withdrawal) phase of pensions and retirement income (although the distinction between accumulation and decumulation is becoming increasingly blurred given pension reforms).

The review will consider whether consumers will be able to make informed decisions in choosing and switching between the increasing range of retirement products, and how the ability to access more complex products without advice is impacting consumer decisions. It will also consider how firms are adapting to the changes in the retirement market, whether this has a detrimental effect on competition, and whether existing FCA regulation is overly burdensome. A final report on the ROR is expected in summer 2017.



Annuity comparator

The FCA has now published the [findings of research](#) on the possible impact of its proposed annuity comparator. The annuity comparator was one of the FCA's proposed remedies to make competition in the annuities market work better for customers by requiring firms to provide an annuity quotation ranking system to enable consumers to identify if shopping around could secure them a better deal.

The research suggests that the proposed comparator should have a significant impact on shopping around. The FCA now intends to consult on the requirement that firms provide such a comparator, moving us a step closer to its implementation.



FRC Activity

Half-yearly and annual reports following the EU referendum

In July the FRC highlighted some [matters for directors to consider](#) when preparing their half-yearly and annual financial reports in light of the 'Brexit' vote. Reports should contain sufficient information on the main markets in which the company operates for a reader to assess the company's exposure due to the referendum result.

Directors should disclose and explain principal risks and uncertainties arising from the referendum result, and avoid general disclosures in favour of company-specific analysis. The board should also consider the impact of market volatility on the balance sheet, whether the going concern basis is appropriate, and whether additional disclosure is necessary to meet the requirement to give a true and fair view.



Financial Reporting Standard (FRS) 101 Reduced Disclosure Framework

The FRC has concluded its annual review of FRS 101 and [proposed some amendments](#) to the list of disclosure exemptions that qualifying entities may take advantage of. The new proposal would exempt firms from many elements of [IFRS 15 Revenue from Contracts with Customers](#). It also includes some minor amendments to Appendix II: Notes on legal requirements, which provides an overview of how FRS 101 addresses UK company law requirements.

The consultation on FRS 101 also prompted the FRC to propose removing the requirement for firms to notify shareholders before applying the disclosure exemptions in FRS 101. This proposal is in the [FRED 65](#) consultation on draft amendments to FRS 101.



EIOPA activity

Insurance Distribution Directive

EIOPA published consultation paper [EIOPA-CP-16/006](#) in July on its draft technical advice to the European Commission on possible delegated acts concerning the Insurance Distribution Directive (IDD). This builds on the final text of the IDD published in January and the preparatory guidelines on product oversight and governance arrangements issued in June.

EIOPA's proposed technical advice extends an insurer's obligations with regards to:

- **Product oversight and governance arrangements** – including product testing and monitoring to ensure products remain aligned with consumer interests, and the need to provide distributors with sufficient information to allow them to target appropriate consumers
- **Conflicts of interest** – including identification, prevention and management thereof
- **Inducements** – including specification of circumstances in which third party payments may have a detrimental impact on consumers, and organizational requirements to avoid such detrimental impacts
- **Assessment of suitability of products for consumers** – including the information to be collected from customers

The consultation period ended on 3 October 2016, with EIOPA intending to submit its technical advice to the European Commission in February 2017.

We understand that the FCA is unlikely to publish any rules in respect of the IDD before 2017.



Standardised presentation format of Insurance Product Information Document

EIOPA has issued a consultation paper [CP16/007](#) on its draft Implementing Technical Standards on a standardised presentation format of the Insurance Product Information Document (IPID). The IPID will be provided to customers prior to the sale of non-life insurance products, and while its content is already determined in the IDD text, EIOPA is required to develop draft ITS regarding a standardised presentation format.

The draft ITS specifies headings, icons and font size which must be used in the IPID. The document must not exceed two A4 pages in length – a template is provided in the annex to the draft ITS.

Firms were invited to provide feedback on the proposed regulation by 24 October 2016.



Thematic review on market conduct in unit-linked life insurance market

EIOPA is undertaking a [thematic review](#) on market conduct of firms operating in the unit-linked life insurance market. The review aims to identify potential sources of consumer detriment arising from the relationships between insurers and asset managers, with a particular focus on how remuneration may affect investment choice.

The three key areas the review will look at are:

- existence and characteristics of monetary incentives and remuneration;
- how insurance undertakings address conflicts of interest; and
- how insurance undertakings structure unit-linked life insurance products.

The review covers 60% of the market by assets under management. Firms included in the review were expected to submit requested information in September 2016 with the results expected in 'early' 2017.



EIOPA plans final update to Solvency II Tool for Undertakings

EIOPA has announced its intention to release a final updated Tool for Undertakings (T4U) in October 2016. The update reflects amendments to the Solvency II delegated regulations concerning investments in infrastructure projects.

The T4U is an open source reporting toolkit created to facilitate reporting in XBRL format (the format in which all QRTs must be submitted to the PRA). This is the last update EIOPA will make to the T4U software, and it has announced that it will stop supporting the T4U in July 2017. Firms currently relying on the T4U will have to find alternative solutions (or update the software themselves) to address any future changes to the reporting requirements.



EIOPA updates representative portfolios to calculate volatility adjustments

In July EIOPA published updated representative portfolios which will be used to calculate the volatility adjustments to be applied to the relevant risk-free interest rates. The updated portfolios will be used with effect from 30 September 2016 – EIOPA will revise the representative portfolios on an annual basis.



EIOPA Q&As

EIOPA has published updated sets of questions and answers (Q&As) covering a range of Solvency II topics including:

- [Guidelines on reporting and public disclosure](#)
- [Reporting for financial stability purposes](#)
- [Final report on the ITS on the templates for the submission of information to the supervisory authorities](#)
- [Guidelines on the supervision of branches of third-country insurance undertakings](#)
- [Guidelines on the valuation of technical provisions](#)
- [Risk-free interest rate – Matching adjustment](#)
- [Final report on the ITS on procedures, formats and templates of the solvency and financial condition report](#)
- [Guidelines on recognition and valuation of assets and liabilities other than technical provisions](#)

Firms should be aware that these Q&As are available [here](#) and are regularly updated.



Supreme Court ruling

Collateral lies

The Supreme Court has [ruled](#) that the fraudulent claims rule (which prohibits recovery from an insurer if the insured's claim has been fabricated or dishonestly exaggerated) does not apply to collateral lies. Collateral lies, essentially lies that don't actually affect the claim, are irrelevant because the claim is justified whether the statement is true or false.

The Association of British Insurers [expressed concern](#) that the decision risks pushing up the cost of insurance and prolonging the pay-out process, as insurers will now expend resources attempting to ascertain the true implications of collateral lies associated with a claim.

Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively contact John Hoskin or Kim Durniat via the following:

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