Summary of regulatory developments

Updates for March 2022

This memo identifies and summarises any regulatory updates published during March 2022 that may be of relevance to life insurance companies.

The following table summarises the relevant updates identified in March.

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

Date	Description
10-Mar	The European Insurance and Occupational Pensions Authority (EIOPA) publishes the results from its yearly study on the modelling of market and credit risk in internal models
11-Mar	The Financial Conduct Authority (FCA) publishes statement from UK regulatory authorities on sanctions and the crypto-asset sector
16-Mar	FCA to consult on use of "side pockets" for retail funds with exposure to sanctioned and suspended Russian assets
17-Mar	European Supervisory Authorities (ESAs) warn consumers on the risks of crypto-assets
18-Mar	EIOPA publishes its Q&A on regulation
21-Mar	EIOPA issues recommendations from 2021 Insurance Stress Test
24-Mar	ESAs issue updated supervisory statement on the application of the Sustainable Finance Disclosure Regulation
25-Mar	FCA confirms PRIIPs regulations
31-Mar	EIOPA submits to the European Commission draft amendments of supervisory reporting and disclosure requirements

Updates for March 2022

This section highlights articles of interest to life companies released in March 2022.

ESAs

- ESAs warn consumers on the risks of crypto-assets

  The ESAs warn consumers that many crypto-assets are highly risky and speculative. This warning comes in the context of growing consumer activity and interest in crypto-assets and the aggressive promotion of those assets and related products to the public. In their warning, the ESAs highlight that consumers:

  - Face the possibility of losing all their invested money if they buy these assets
  - Should be alert to the risks of misleading advertisements, including via social media
  - Should be particularly wary of promised fast or high returns
  - Should be aware of the lack of recourse or protection available as crypto-assets and related products typically fall outside existing EU financial services rules

- ESAs issue updated supervisory statement on the application of the Sustainable Finance Disclosure Regulation

  The supervisory statement aims to promote an effective and consistent application and national supervision of the Sustainable Finance Disclosure Regulation (SFDR). This updated statement replaces the initial joint supervisory statement, which was released in February 2021. Updates include:

  - A new timeline
  - Expectations about the explicit quantification of the product disclosures under Article 5 and 6 of the Taxonomy Regulation
  - The use of estimates

EIOPA

- EIOPA publishes the results from its yearly study on the modelling of market and credit risk in internal models

  The analysis was run by a joint project group of national competent authorities (NCAs) and EIOPA. It provides an up-to-date overview of modelling approaches and an insight into the presumed causes of dispersion in model outputs.

  The results reveal moderate to significant dispersion in some outputs. For the combined market and credit risk charge, some results show sizeable variation between undertakings, part of which is attributable to different risk management preferences. Further analysis examined credit risk charges for sovereign bonds, equity risk, property risk and the extent to which insurers consider sustainability in their modelling approaches.

- EIOPA issues recommendations from 2021 Insurance Stress Test

  Having analysed the results of the stress test, EIOPA has now defined a series of actions that, once implemented, will hopefully result in a more resilient insurance sector in Europe. To address vulnerabilities identified and potential management actions, EIOPA recommends that NCAs should look to:

  - Decrease undertakings’ dependence on transitional measures
  - Assess whether the risks that caused a sizeable drop in (re)insurers’ Solvency Capital Requirement (SCR) ratios are adequately managed
  - Verify that undertakings allocate sufficient resources to properly assess risk not covered in the Solvency II reporting framework
  - Investigate why certain entities chose not to assess potential management actions

- Undertake closer analysis of the viability and reported impact of the management actions that are applied

- EIOPA submits to the European Commission draft amendments of supervisory reporting and disclosure requirements

  The draft amendments of the Implementing Technical Standards (ITS) are expected to bring several benefits, which will ultimately lead to better protection of policyholders and better use of the principle of proportionality. EIOPA's hope is that the proposals will lead to fit-for-purpose reporting requirements, reduction of reporting costs for the majority, and better supervision through the inclusion of some new information on emerging risks and data gaps.

  In particular, the amendments of Supervisory Reporting and Public Disclosure include simplifications of quarterly reporting, elimination of some annual reporting templates and new thresholds to better promote risk-based and proportionate reporting requirements, leading to exemptions of reporting certain templates for many undertakings.

- 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 1250, 1901, 2056, 2064 and 2355.
  - (EU) No 2015/2450 – templates for the submission of information to the supervisory authorities. Questions 2374, 2381 and 2395.
  - (EU) No 2009/138 – Solvency II Directive (Insurance and Reinsurance). Question 1979.
  - (EU) No 2016/97 – Insurance Distribution Directive. Questions 1596, 1795, 1847, 1870, 1971, 2006 and 2100.
  - Guidelines on valuation of technical provisions. Question 2366.
  - Other – Validations. Question 2397.

FCA

- FCA publishes statement from UK regulatory authorities on sanctions and the crypto-asset sector

  The UK financial regulatory authorities reiterate that all UK financial services firms, including the crypto-asset sector, are to ensure they comply with any economic sanctions imposed on Russia and Belarus. The Office of Financial Sanctions Implementation (OFSI), part of HM Treasury, ensures financial sanctions are properly understood, enforced and implemented in the UK.

  It is noted that financial sanctions regulations do not differentiate between crypto-assets and other forms of assets. The use of crypto-assets to circumvent economic sanctions is a criminal offence. The statement sets out the steps firms should take to reduce the risk of sanctions evasion via crypto-assets. These steps include but are not limited to:

  - Updating business-wide and customer risk assessments
  - Screening and re-screening customers and their transactions against sanctions lists
  - Identifying and reporting suspicious activity
  - Considering "red flag" indicators that suggest an increased risk of sanctions evasion

- FCA to consult on use of "side pockets" for retail funds with exposure to sanctioned and suspended Russian assets

  The FCA has begun discussions with stakeholders about options to allow UK authorised retail funds to make exceptional use of "side pockets" given the significant practical challenges in disposing of Russian and Belarussian assets in the context of suspensions and extensive global sanctions.

Side pockets would potentially give authorised fund managers the option to separate Russian and Belarussian assets that are difficult to sell and/or hard to value from the fund's other core investments. Side pockets could allow:

- New investors to enter the fund without getting exposure to Russian assets
- Existing investors to redeem the rest of their investments, with illiquid Russian assets remaining in the separate side pocket (and in many cases marked to zero), while retaining rights to any eventual value
- Some funds to end their current suspensions of dealing

Any rule changes will be subject to consultation. The FCA welcomes early engagement on the subject.

- FCA confirms PRIIPs regulations

  Those that manufacture, advise on, or sell packaged retail investment and insurance products (PRIIPs) are required to produce Key Information Documents (KIDs) about the products they are selling. Changes to the PRIIPs regulation include removing information about the performance of certain products which can be misleading for consumers. The aim is that this will help those buying without financial advice to rely on the KID to make more informed investment choices.

  Firms have until 31 December 2022 to implement the legislative changes. These new requirements are one of the first examples of the FCA confirming UK divergence from EU rules following Brexit, and were developed to address the areas that post the most harm to investors. However, HM Treasury has committed to carrying out a further review of retail disclosure in the future.

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