



Regulatory Update

Week 18 - 2024



2024

1 Regulatory Updates – FCA (General)

2 Regulatory Updates – Legal (General)

3 Regulatory Updates – Others

FCA (General)

Over the past week, our team have noticed the FCA's focus has been on Complaints Data, Big Tech and AI, and Financial Crime Updates.

If you have any questions about any of the items that are featured in this review, please do contact your consultants.

Update

Summary

Action for firms

[The European Union Artificial Intelligence Act \(the Act\)](#)

Date published: 3 May 2024

The European Union Artificial Intelligence Act (the Act) is the world's first comprehensive framework on Artificial Intelligence (AI). But what does the Act mean for insurers in the UK?

The Act introduces an AI classification system that determines the level of risk an AI solution could present to individuals. The four levels of risk classifications are:

- Unacceptable risk – Application of AI that is banned within the European Union (EU), for example social scoring and monitoring of people and AI which manipulates human behaviour or exploits people's vulnerabilities.
- High risk – Examples include AI that controls access to financial services, critical infrastructure or employment. High risk AI systems are subject to strict conformity assessment and monitoring. AI systems that profile individuals, for example that process personal data to assess various aspects of a person's life such as health or economic situation, interests or behaviour.
- Limited risk – Examples include chatbots. They are subject to specific transparency obligations. For example, users should be aware that they are interacting with AI. There are also requirements to ensure that AI generated content is identifiable.
- Minimal risk – Examples include spam filters and AI enabled video games. Minimal risk is unregulated.

How does it relate to UK firms?

A number of businesses and insurers operate in both jurisdictions. The Act applies to those that intend to place on the market or put into service AI systems in the EU, regardless of whether they are based in the EU or a third country. It also applies to third country providers where AI system's output is used in the EU.

The UK currently relies on existing insurance laws and regulations, which are broad enough to apply to new technologies. It has implemented a cross-sector and outcome-based framework for regulating AI, underpinned by five core principles:

1. Safety, security and robustness
2. Appropriate transparency and explainability
3. Fairness
4. Accountability and governance
5. Contestability and redress.

With the Act the EU is hoping to play a leading role globally. The UK is holding off introducing legislation until the challenges and risks of AI are better understood.

Update

Summary

Action for firms

[Financial Ombudsman - Fees and Budget Update 24/25](#)

Date published: 3 May 2024

What are key points for insurers?

The FCA will continue to embed the Consumer Duty and the focus on delivering good outcomes for all consumers.

Focus on ensuring products deliver value for money.

Key activities the FCA will start in 2024/25 are:

- Multi-firm work and market studies on how the insurance industry responds to claims, including where customers are more likely to show characteristics of vulnerability. The FCA will also look at how firms assess overall product value and respond where they identify unfair value.
- A review on how customers in vulnerable circumstances are treated.

The FCA is assessing the impact of AI on UK markets to better understand the risks and benefits. The FCA says: “We will build on our pro-innovation and technology-agnostic approach to ensure that the outcomes for consumers and markets are beneficial, while recognising there are risks and opportunities.”

Continue investigations on digital consumer journeys and firms using sludge practices.

What are key points for insurers?

- FOS intends to reduce its cost to the financial services industry. Its case fee will reduce from £750 to £650. The compulsory and voluntary jurisdiction levy costs to businesses will also reduce.
- FOS is now expecting to see 210,000 complaints (47,400 regarding insurance) during 2024/25; an increase from its previous expectation of 181,300 complaints (44,300 regarding insurance).
- FOS is still considering whether to exercise new powers granted under the Financial Services and Markets Act 2023 to introduce a fee for professional representatives bringing a case to its service on behalf of a consumer. It will publish a further consultation which will outline the feedback it has received on this topic and next steps, during the first quarter of 2024/25.

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Action for firms

Various FCA Upcoming Reviews

Date published: 3 May 2024

Insurance intermediaries: In May 2022 the FCA wrote portfolio letters to P&CLII and LLMI on key risks and notes that they will write again in 2024 to provide their updated view of the key risks firms in this portfolio pose, the extent to which these risks are being mitigated and their updated supervisory plan.

Vulnerable customers: The FCA intends to conduct a post-implementation review of FG21/1 in 2024 to test the effectiveness of firm's implementation and look at how this has impacted on outcomes for customers in vulnerable circumstances. It aims to publish a final report by end of 2024.

Multi-occupancy buildings: Legislation - Leasehold and Freehold Reform Bill - expected to be enacted which will ban managing agents, landlords and freeholders from taking commissions and other payments when they take out buildings insurance but replacing these with more transparent fees.

Update

Summary

Action for firms

[Scotbeef Ltd v D&S Storage Ltd & Anor \[2024\] EWHC 341 \(TCC\) \(20 February 2024\)](#)

Date published: 30 April 2024

The Insurance Act (2015) - In *Scotbeef Ltd v D&S Storage Ltd (In Liquidation) [2024] EWHC 341 (TCC)*, the court considered the interpretation of various clauses purporting to be conditions precedent to liability in light of the Insurance Act 2015 (the IA 2015). The judgment is one of only a handful of cases to have considered the application of the IA 2015 and considers in particular s.9(2), which prevents representations being converted into warranties (and abolishes basis clauses), and ss.16 and 17, which set out the transparency requirements for parties to contract out of the policyholder protections. The court found that a misrepresentation by the insured which put the insured in breach of a condition precedent could not be relied on by the insurer because of the application of the IA 2015.

The case is also a useful reminder that the remedies for breach of the duty of fair presentation have changed significantly since the pre-IA 2015 position and that the onus is on the insurer to show what they would have done had there not been a breach.

In this case although the court found that the duty had been breached, the insurer had no remedy as it did not show that the policy terms would have been altered if the risk had been properly represented.

[FCA - Firm Specific Complaints Data](#)

Date published: 25 April 2024

This FCA information shows the individual firm data reported to the FCA by financial services firms for 2023 H2 between 1 July to 31 December 2023. It includes analysis on the latest trends for each product.

The current data set was published on 19 October 2023 and covers complaints received up to 8 October 2023.

This information can be used to see examples of good complaint handling processes by firms.

Update

Summary

Action for firms

[Artificial Intelligence \(AI\) update – further to the Government’s response to the AI White Paper | FCA](#)

Date published: 22 April 2024

The FCA issued an AI Update further to the Government’s response to the AI Whitepaper.

In the update the FCA have outlined their approach to AI and want to promote safe and responsible use of AI in the Financial Markets.

The update focuses on the FCA’s roles and objectives, work so far, existing approach, and plans for the next 12 months.

Firms should ensure that they have read the report and understand the FCA’s approach to AI in the Financial Markets.

[‘Big Tech a priority’ says FCA Chief Executive](#)

Date published: 22 April 2024

The FCA’s Chief Executive Nikhil Rathi delivered a speech announcing the FCA’s plans to examine how Big Tech firms unique access to large sets of data could unlock:

- Better products
- More competitive prices
- Wider choices for consumers and businesses

The FCA’s Big Tech Plans are included in a feedback statement to it’s call for input on data sharing between Big Tech and Financial Services Firms.

We recommend that firms have read the speech and understood the FCA’s focus on Tech and AI

Update

Summary

Action for firms

[Using the new Form A | FCA](#)

Date published: 12 April 2024

The FCA published changes to using the new form A.

They have incorporated a new version of form A

Some of the changes include:

- Adding questions of the right to work in the UK
- Removal of the send later function
- Improved virus scanning on attachments
- A checklist of information needed before you start the application
- Improved layout
- Easier navigation
- Improved help and guidance
- If you are a solo regulated firm, you will input 10 years of Employment history instead of uploading a CV.

Firms should read through the new Form A and ensure that they are clear on all the changes and how these affect the firm,

Your consultants are able to help if you have any questions or queries regarding the form.

Update	Summary	Action for firms
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[Firm notification form \(SUP 15\) | FCA](#)

Date published: 2 April 2024

The FCA have issued the Firm notification form (SUP15)

Regulated firms and Insolvency Practitioners can complete this form to notify the FCA of an event that has occurred or will occur in the foreseeable future.

Principle 11 requires a firm to deal with its regulators in an open and cooperative way and to disclose anything relating to the firm of which they would reasonably expect notice.

To improve the efficiency of this process, they have created a new webform for Sup 15 notification submission. This asks for more details of the issue before firms upload their submission. This will allow the FCA to identify high-risk concerns which we may need to escalate promptly.

Firms should use it when submitting a Sup 15 notification.

We would like to remind firms of the SUP 15 process and the new web form, please ensure that you have familiarised yourself with this process.

Update	Summary	Action for firms
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Complaints data FCA Date published: 25 April 2024	<p>The FCA have published this update on their Complaints Data.</p> <p>The latest findings:</p> <ul style="list-style-type: none"> • In 2023 H2, financial services firms received 1.87m complaints, a decrease of 1% from 2023 H1 (1.89m). Since the Payment Protection Insurance (PPI) peak in 2020, complaints have stayed relatively constant between 1.8m and 2m. • The product groups that experienced an increase in their complaint numbers were: banking and credit cards (up 3.2%), home finance (up 3.7%), and investments (up 3.4%). • The percentage of complaints upheld decreased from 61% in 2023 H1 to 58% in 2023 H2. 	<p>Firms should keep up to date on the complaints received, the causes of these, and ensure that they are aware of how these type of complaints could affect the firm.</p>
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Update	Summary	Action for firms
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<https://www.fca.org.uk/publication/consultation/cp24-9.pdf>

Date published: April 2024

The FCA published the consultation paper CP24/9 on Financial Crime Updates.

Some of the key points:

Firms should keep up to date on the Financial Crime updates and the firm's responsibilities in relation to Financial Crime.

- Sanctions: The updates to Chapter 7 will focus on enhancing firms' systems and controls for managing financial sanctions without referring to specific regimes. The key changes include:
 - Mandatory reporting of sanctions breaches.
 - Governance frameworks for oversight of sanctions controls.
 - Emphasis on management information to monitor sanctions controls effectively.
 - Guidance on assessing exposure to and preparation for potential sanctions.
 - Examples of expected practices using screening tools for sanctions compliance.
 - Integration of Customer Due Diligence and sanctions risk management.
- Proliferation Financing (PF) Revisions in Chapter 7.2 to incorporate PF risk assessment guidance and links to relevant resources, reflecting changes to the Money Laundering Regulations (MLRs).
- Consumer Duty: Integration of the Consumer Duty with financial crime controls, reminding firms to consider these duties together for products open for sale or renewal.

Legal Developments

Legal updates and developments are summarised below.

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Summary

Action for firms

[Improving the quality of data on our registers](#)

From 4 March 2024, greater powers for Companies House to query information, stronger checks on company names, new rules for registered office addresses, and new lawful purpose statements.

We recommend that firms read and understand the related risks to their firm

Date 3 May 2024

[Confirmation statement changes](#)

From 4 March 2024, new requirements to provide a registered email address and to confirm that the intended future activities of the company will be lawful.

Date 3 May 2024

[Changes to Companies House fees](#)

From 1 May 2024, increased fees to take new future expenditure into account, as well as making sure costs are recovered from existing expenditure.

Date 3 May 2024

[Identity verification](#)

Companies House will introduce a new identity verification process to help deter those wishing to use companies for illegal purposes.

Anyone setting up, running, owning or controlling a company in the UK will need to verify their identity to prove they are who they claim to be.

Over the coming months, we'll explain when these changes will come into effect and how the identity verification process will work. You do not need to do anything yet.

Date 3 May 2024

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Action for firms

[Changes to accounts](#)

Date 3 May 2024

The measures set out in the Economic Crime and Corporate Transparency Act will improve transparency by making more financial information available to the public.

The new legislation lays the foundation for Companies House to require companies to file accounts in a digital format. To comply with these changes, all companies will need to find suitable software before web-based and paper filing options are no longer available.

This applies to directors who file accounts themselves, and companies who use third party agents or accountants to file their annual accounts.

We recommend that firms read and understand the related risks to their firm

[Protecting your information](#)

Date 3 May 2024

The Economic Crime and Corporate Transparency Act has introduced measures to prevent abuse of personal information held on the Companies House register.

One of the aims is to balance the need for corporate transparency with the understanding that personal information should only be published when it's necessary and proportionate to do so.

These measures will come into force over the next two years in a phased approach.

[Changes to limited partnerships](#)

Date 3 May 2024

Limited partnerships will need to file their information through authorised agents, and they'll need to file more information with Companies House.

This is for information only at this stage as these measures will need secondary legislation before they're implemented.

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Action for firms

[Improving transparency of company ownership](#)

Date 3 May 2024

Under measures introduced by the Economic Crime and Corporate Transparency Act, company ownership will be more transparent.

When the measures come into force, companies must:

- record the full names of shareholders who are individuals – or the full names of corporate members and firms – in their registers
- provide a one-off full shareholder list so Companies House can display shareholder information in a more user-friendly way

Companies House will:

- collect and display more information from companies claiming an exemption from providing person with significant control (PSC) details, including the reason for the exemption
- collect and display the conditions which allow a relevant legal entity (RLE) to be recorded as a PSC

We recommend that firms read and understand the related risks to their firm

[Investigation, enforcement and data sharing companies house](#)

Date 3 May 2024

The Economic Crime and Corporate Transparency Act will introduce a number of changes over the next few years. This page summarises everything you need to know about the new measures.

More effective investigation and enforcement powers for Companies House, and new powers to share data with law enforcement agencies and other government departments.

We recommend that firms read and understand the related risks to their firm

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<https://ondemand.questionmark.eu/delivery/open.php?session=0435667000435667&customerid=607443&name=TELLABAB&group=2024>

Date 26 April 2024

[Company directors should consider company's nature-related risks \(including climate risks\): landmark English law legal opinion – CCLI](#)

Date April 2024

HMRC have created the Tell ABAB Survey 2024 to allow the Administrative Burdens Advisory Board (ABAB) to use insight from HMRC to inform small business services and make tax quicker and easier.

We would recommend that firms complete the survey.

This article provides some Key takeaways on nature-related risks and directors' fiduciary duties in UK law:

- When exercising their duties to promote the success of the company, and to exercise reasonable care, skill and diligence, directors should approach identification and assessment of nature-related risks as they would any other type of risk.
- When conducting such an assessment, companies would be wise to apply a double materiality approach, in line with recommendations from the Taskforce on Nature-Related Financial Disclosures (TNFD) – i.e., identifying and assessing not only how nature-related risks may affect enterprise value (financial materiality), but also how their business activities impact and depend on nature (impact materiality).
- Directors who perform such an assessment, who actively consider nature-related risks, dependencies and impacts, and who document how they do so, are more likely to have discharged their duties than those who give those risks no consideration at all.

We recommend that firms read and understand the related risks to their firm.

Update

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Action for firms

[Non-Financial Misconduct: How Your Organisation Should Prepare for Regulatory Reform and Mitigate Risk](#)

Date 18 April 2024

This article by Ankura, highlights the Non-Financial Misconduct consultation the FCA have been focusing on.

The FCA's September 2023 consultation paper proposes to explicitly include non-financial misconduct within the regulatory regime. Specifically:

- bullying within the workplace is relevant to fitness and propriety, as well as similar behaviour in a person's private life;
- clear conduct rules covering *serious instances* of bullying and harassment towards colleagues;
- to bring discriminatory practices (e.g., sexually, or racially motivated offences) and any adverse findings against associated individuals within the suitability criteria for firms.

We would recommend that firms read the consultation paper and are aware of the FCA's expectation in relation to Non-Financial Misconduct.

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Summary

Action for firms

[Protect the House New Criminal Offence Raises Risks Amid Accountability Crackdown](#)

Date 23 April 2024

This article by Latham and Watkins LLP, highlights the Enhanced Serious Fraud Office powers and promises of swifter action on economic crime underscore the importance of anti-fraud measures for sponsors and portfolio companies.

Since 2010 there have been a growing number of “failure to prevent” offences — which pass on criminal liability to organisations for wrongdoing by those working on their behalf. As liability can accrue from crimes committed by employees or agents working anywhere in the business, and at any level, even legitimate and sophisticated organisations have been caught out. Fines are potentially unlimited — last year, a fine of £465 million was imposed to settle an investigation into failure to prevent bribery.

In this environment, portfolio companies could face criminal liability if their personnel pay bribes, facilitate tax evasion, or commit fraud. While it is unlikely that a fund would be held liable for criminal conduct committed by a portfolio company itself, the test for the new “failure to prevent fraud” offence is nuanced and fact-specific; it warrants careful consideration in the context of each sponsor/fund structure.

We would recommend that firms read this article and are aware of the expectation in relation to bribery, liability, and failure to prevent fraud.

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Action for firms

[Changes at a glance](#)

Date April 2024

The Government have issued their list of changes.

The Economic Crime and Corporate Transparency Act will introduce a number of changes over the next few years. This page summarises everything you need to know about the new measures.

Some of the changes include:

- Confirmation Statements
- Changes to Companies House Fees
- Changes to Ltd Partnerships
- Investigation and Enforcement Data Sharing

We would recommend that firms read the changes and are aware of how this effects then firm.

Events

Other details: n/a



RR Compliance Associates are a trading style of R&R Compliance Consultants Ltd, a limited company registered in England and Wales (company number 12070286). Our registered office is Level 30, The Leadenhall Building, 122 Leadenhall Street, London, England, EC3V 4AB. VAT number 326 1938 96.



www.rrcompliance.com



contact@rrcompliance.com



0203 488 4322