

Monthly Regulatory Update – May 2024

FINANCIAL CONDUCT AUTHORITY (FCA)

- The FCA published its [policy statement](#) setting out final rules and guidance for incorporating three new product sales data returns into SUP 16. The FCA says the returns will play a fundamental role in its oversight of the consumer credit market. Affected firms will need to implement the changes within the timescales as set out in Appendix 1, Handbook Text and highlighted in Chapter 3, Thresholds section of the policy statement.
- As part of its [review](#) of the historical use of motor finance discretionary commission arrangements, the FCA has [written](#) to motor finance firms to remind them they must maintain adequate financial resources at all times. This [press release](#) also sets out other actions for firms to take as the review continues. The FCA says it will set out next steps by 24 September 2024 at the latest.
- Mercedes-Benz Financial Services (UK) Limited has [committed](#) to making changes to its consumer vehicle hire purchase agreements that contain an excess mileage charge, and has given the FCA an undertaking under the Consumer Rights Act 2015. The firm has also voluntarily agreed to provide redress to affected consumers who entered into contracts since 1 January 2014.
- The FCA published [Handbook Notice 118](#) covering the changes to consumer credit and mortgages tailored support coming into force on 4 November 2024. It also sets out the FCA's response to feedback received on changes proposed in CP 23/31 (Primary Markets Effectiveness Review) to amend the sponsor competence requirements. The FCA is proceeding with the proposed changes.
- The FCA published [examples](#) of good practices and areas for improvement in relation to principal firms who have credit broking permissions.
- The Credit Information Market Interim Working Group published its [first report](#) in response to the FCA's Credit Information Market Study. The report sets out what the new Credit Reporting Governance Body should do.
- The FCA is [consulting](#) until 27 June 2024 on proposed changes to its Financial Crime Guide.
- There has been what the FCA's Chief Executive describes as "a lively public debate" in response to the FCA's recent consultation on publicising enforcement investigations. There have been exchanges of correspondence with both the [House of Lords Financial Services Regulation Committee](#) and the [Treasury Sub-Select Committee on Financial Services Regulations](#). The House of Lords Committee is [seeking views](#) until 4 June 2024 on the proposals contained in the FCA's consultation ahead of taking evidence on them from the FCA; and the Treasury Committee has published the [transcript](#) of oral evidence given by the FCA's Chair and Chief Executive on the topic. [UK Finance](#) is one of a series of respondents expressing concern about the proposals.
- The Financial Services Regulation Committee launched an [inquiry](#) into the secondary international competitiveness and growth objective given to the FCA and Prudential Regulation Authority under the Financial Services and Markets Act 2023.
- The FCA's Executive Director, Authorisations gave a [speech](#) on reaping the rewards of investing in women, as the latest [Financial Lives Survey](#) found that more women than men are struggling to cope financially.
- Ahead of the anti-greenwashing rule coming into force on 31 May 2024, the FCA [confirmed](#) its anti-greenwashing guidance and is [consulting](#) until 14 June 2024 on extending the sustainability framework to portfolio management. See the [press release](#).
- The FCA's Executive Director, Markets and Executive Director, International gave a [speech](#) on the juggling act that the FCA performs in promoting competitiveness in the financial sector.
- The FCA [outlined its approach to AI](#) following the government's AI white paper response (all of the key regulators' strategic approaches have now been [published](#)). The FCA also published a [feedback statement](#) on the potential competition impacts from the data asymmetry between Big Tech and financial services firms. The FCA's Chief Executive talked about both of these developments, and more, in a [speech](#) at the Digital Regulation Cooperation Forum (**DRCF**).
- The FCA published a [webpage](#) setting out common errors when applying for authorisation in the UK asset management sector.
- The FCA published [Primary Market Bulletin 48](#), a special edition that consults on proposed changes to the FCA Knowledge Base to reflect the proposed changes to the listing regime set out in CP23/31 and the corresponding new UK Listing Rules. The deadline for responding to the FCA's proposed changes is 26 May 2024.
- The FCA published its [policy statement and final rules](#) relating to securitisation.

OTHER FINANCIAL SERVICES DEVELOPMENTS

- The All Party Parliamentary Groups on Anti-Corruption & Responsible Tax and on Fair Business Banking have [jointly published](#) their second Economic Crime Manifesto, setting out a long list of practical recommendations for the government to follow in relation to transparency, regulation, enforcement and accountability, to tackle the growing threat of economic crime further and faster.
- The Joint Money Laundering Steering Group is [consulting](#) until 1 July 2024 on proposed amendments to its wholesale markets guidance.
- The National Crime Agency and UK Financial Intelligence Unit published the latest [suspicious activity reports reporter booklet](#).
- It was [announced](#) that the government will work with the international community to tackle illicit flows of money through increased transparency of company ownership.
- [Newly published data](#) from the Financial Ombudsman Service (**FOS**) shows that financial complaints rose by 20% in the second half of 2023.
- The FOS published an [update](#) on car finance commission complaints so that consumers understand the plans for progressing them, and financial businesses and professional representatives are clear on the FOS' expectations.
- A [report](#) from the Lending Standards Board found that progress has been made by the UK financial services sector in offering better accessibility support to deaf customers.
- The Serious Fraud Office published its new [5-year strategy](#).
- HM Treasury [responded](#) to the 18 conclusions set out in the Treasury Committee's report on the Edinburgh Reforms one year on.
- The Treasury Committee [published](#) HM Treasury's and the regulators' responses to the Committee's Sexism in the City report on sexual harassment and bullying in the financial services sector.
- The Office of Financial Sanctions Implementation (**OFSI**) introduced its new [FAQs page](#).
- OFSI [updated](#) its enforcement and monetary penalties guidance. OFSI will now always apply the most recent iteration of its enforcement guidance to cases. The guidance explains how OFSI applies and splits the 'case factors' that it uses to assess suspected breaches. There are two new distinct case factors, "knowledge, intention and reasonable cause to suspect" and "cooperation" that were previously included more generally in the guidance.
- The Payment Systems Regulator (**PSR**) is [seeking views](#) until 7 June 2024 on its proposed approach to supervision. It's also [consulting](#) until 3 June 2024 on draft guidance setting out how it proposes to make decisions on whether to grant an extension or exemption to a specific direction or requirement.
- In other news, the PSR is [consulting](#) until 31 May 2024 on directing APP scams reimbursement for CHAPS payments, and is [consulting](#) until 30 May 2024 on its APP scams data cycle 2 publication guidance.
- The PSR's Head of Strategy, Analysis and Engagement recently published a [thought piece](#) discussing the mid-point review of the PSR's five-year strategy.

DATA PROTECTION, CYBER SECURITY AND AI

- The Information Commissioner's Office (**ICO**) issued a [statement](#) after the Upper Tribunal (Information Rights) dismissed the ICO's appeal against a decision by the First-tier Tribunal to substantially uphold Experian's appeal against an ICO enforcement notice.
- The National Cyber Security Centre (**NCSC**) published [guidance for CEOs](#) on how to manage a cyber incident and [guidance](#) on how to disrupt email phishing attacks that target senior executives or budget holders.
- The NCSC [advised](#) organisations to take immediate action to mitigate a vulnerability affecting Palo Alto GlobalProtect Gateway, and also [advised](#) organisations to take immediate action to mitigate vulnerabilities affecting Cisco firewall platforms.
- Other recent NCSC resources include: a [blog post](#) on ransomware attacks and loss of control of data; a [blog post](#) on 'Advanced Mobile Solutions' to allow high-threat organisations to stay connected on the go; and a new [podcast series](#) on a wide range of cyber security topics.
- Recordings of Walker Morris' recent AI webinars on [employment law issues, policies and governance](#) and [intellectual property](#) are now available to view. A reminder that you can [access our Guide to Demystifying AI here](#).
- The FCA [updated](#) its webpage on the work of the DRCF. The DRCF recently published a [blog post](#) on fairness in AI and launched its [AI and Digital Hub](#), a multi-agency informal advice service to support innovators working on AI and digital products.

- The ICO has recently been [seeking views](#) on the accuracy of generative AI models. This is the third chapter in the regulator's consultation series on how data protection law applies to the development and use of generative AI. The ICO also very recently [launched](#) the fourth chapter – on individual rights. The call for evidence is open until 10 June 2024.
- The Competition and Markets Authority (**CMA**) [outlined growing concerns](#) in markets for AI foundation models as it published an update paper as part of an ongoing review.
- An [Artificial Intelligence \(Regulation\) Bill](#) is making its way through the legislative process. It's a private member's bill, not a planned piece of government legislation, and is at odds with the government's [current approach to AI regulation](#).
- In related news, the Trades Union Congress published its draft [Artificial Intelligence \(Employment and Regulation\) Bill](#).
- The government [confirmed](#) that the [AI Seoul Summit](#) is set to go ahead on 21 and 22 May 2024. The event will build on discussions held, and commitments made, during last year's first global [AI Safety Summit](#).
- The government has published a [webpage](#) for organisations to find out what AI assurance is and what effective AI assurance techniques they can use. There are examples of AI assurance in practice across a variety of sectors.

OTHER

- See Walker Morris' recent [Employment Matters](#) publication highlighting the latest developments in employment law.
- The government published a [statement](#) on its review of domestic abuse statutory leave provision for employees.
- The City & Guilds Foundation published the second edition of its [Neurodiversity Index Report](#). Among other findings, in 2023 44% of organisations had neuroinclusion strategies, up from 34% the previous year.
- The modern slavery statement registry has been [updated](#) to encourage businesses to upload their annual modern slavery statements.
- The Transition Plan Taskforce (**TPT**) published final [sector guidance](#) on seven sector-specific deep dives and sector summary guidance. The TPT also published a [final set](#) of transition plan resources to help businesses unlock finance for net zero.
- The CMA published [informal guidance](#) on environmental sustainability agreements.
- The Takeover Panel published [minor amendments](#) to the Takeover Code. The changes relate to selection of members of the Panel and removal of the document charges section. The amendments took effect from 30 April 2024.
- The Takeover Panel published a [consultation paper, PCP 2024/1](#), which proposes a new jurisdictional framework which would narrow the scope of the companies to which the Takeover Code applies. The proposals would refocus the application of the Code to companies which are registered in the UK and listed (or were recently listed) in the UK. The consultation closes on 31 July 2024 with the final amendments to the Code being published in Autumn 2024, with a view to the amendments coming into effect approximately one month later.