

July 2016

INSURE

InSure

This month's roundup of developments affecting the insurance industry sees the FCA publish a report of its thematic review of ARs in the general insurance sector, the government consider a report from the Public Accounts Committee on mis-selling and the ICO publish a statement on Brexit, confirming that for the time being companies must continue preparing for the GDPR.

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Brexit

ABI advises travellers to keep calm and carry travel insurance and EHIC

The Association of British Insurers has [published](#) a press release saying travel insurance and the European Health Insurance card are currently unaffected by Brexit. With the height of the holiday season in Europe approaching, the ABI reminded travellers to carry their insurance and EHIC as last year nearly 500,000 travellers who needed help overseas were assisted by insurers.

ABI, 13 July 2016

BIBA Chief Executive – business as usual

Steve White, Chief Executive of the British Insurance Brokers Association has [said](#) it is business as usual for brokers after the Brexit vote and emphasised the strength of the UK insurance sector.

BIBA, 28 June 2016

First court hearing on Article 50 Challenge

Addleshaw Goddard has attended and [reported](#) back on the first court hearing on the legal challenge concerning Article 50 from claimants who contend that the government can only trigger Article 50 once it has obtained parliamentary approval to do so. The hearing was mainly procedural, with the court setting the procedural timetable for the substantial hearing, which is due to take place in mid-October 2016.

Addleshaw Goddard, 22 July 2016

General Update

PAC report on financial mis-selling: response published

HM Treasury has [published](#) treasury minutes including the government's response to the Public Accounts Committee report on financial services mis-selling. The report criticised the FCA, government and the FOS for their passive approach to financial services product mis-selling and set out six recommendations. Real-time indicators for mis-selling was the only recommendation not accepted as HM Treasury found this not to be feasible.

HM Treasury, 21 July 2016

Women in Finance Charter signed by ABI

As part of its commitment to promoting [diversity](#), the Association of British Insurers has signed up to The Women in Finance Charter, a joint venture of the HM Treasury and signatories to improve sector diversity.

ABI, 04 July 2016

Updated online consumer focus tool from Insurance Europe

Insurance Europe has [published](#) an updated consumer focus tool which is available via their website. The tool provides an interactive map of Europe, allowing users to click on a country for an overview of insurers' consumer-focused practices in each market, highlighting best practices across Europe. Examples of areas covered include: Innovative products and services; Digitalisation; Enhanced claims management; Transparency and financial education; Risk management innovative initiatives; Initiatives to fight insurance fraud and Conduct of business good practices.

Insurance Europe, 08 July 2016

EIOPA's future priorities detailed in interview with Chair

The European Insurance and Occupational Pensions Authority's Chair, Gabriel Bernardino, has discussed some of the key [priorities](#) of EIOPA during a recent interview. Points covered include challenging national supervisory authorities; ESA funding and the EC's white paper on funding and governance of ESAs; risk-based supervision following consumer mis-selling scandals, and draft ITS in regard to IDD with a consultation likely to launch in Sept 2016.

EIOPA, 08 July 2016

EIOPA reports on financial stability risks in EEA

The European Insurance and Occupational Pensions Authority has published a [report](#) on financial stability in the (re)insurance and occupational pension fund sectors of the European Economic Area. It notes that the industry is facing an ongoing extremely challenging macro-economic and financial environment.

EIOPA, 21 June 2016

Data Protection

ICO publishes Brexit statement

The Information Commissioner's Office (ICO) has published a short statement following the UK referendum result. It confirms that the ICO shall be discussing the implications of the result and its impact on data protection in the coming weeks.

At this stage, it is not clear how the UK will renegotiate its relationship with the EU. Once the UK formally leaves the EU, the General Data Protection Regulation (GDPR) will not apply in the UK. However, since the GDPR comes directly into force across the EU from 25 May 2018, it will apply in the UK in the interim period until the UK exits the EU. In any event, the territorial scope of the GDPR means that organisations collecting and using personal information from citizens in the EU will need to comply with it regardless of where they are located. UK businesses handling personal data should continue preparations for the GDPR. Following Brexit negotiations, it is highly likely that the UK would be required to prove that it has "adequate" data protection standards in place in order to be classified as a "safe" destination for EU personal data. It seems highly likely that the UK will enact provisions identical or very similar to the GDPR in order to achieve an adequacy ruling. It is unknown at this stage whether the UK would also be required to implement additional measures.

A copy of AG's Q&A on the Impact of Brexit on Data Protection is available [here](#).

The ICO's announcement is available [here](#)
Information Commissioner's Office, 01 July 2016

ICO publishes annual report for 2015/2016

The ICO has published its 2015/2016 annual report, highlighting key data protection issues from the last year. A particularly notable point was the large increase in fines being levied by the ICO, which were up to almost £2m million, following changes to the law in April 2015. Key fines have been issued in relation to nuisance marketing and companies engaging in cold calling practices.

The report also highlights the ICO's achievements in 2015/2016, including its role in the right to be forgotten case involving Google, its role in the parliamentary cyber security inquiry, and subsequent cyber security work and guidance highlighting technology risks. The report flags political uncertainty in relation to the Brexit result, however the report highlights that no major changes are expected to the UK data protection regime, or the role of the ICO, for at least the next financial year.

The full report is available [here](#).
Information Commissioner's Office, 28 June 2016

New Legislation and Consultations

Significant changes to English insurance law in August 2016

In August 2016, significant changes to English insurance law will take effect. On 1 August 2016 the Third Parties (Rights Against Insurers) Act 2010 (the **2010 Act**) will come into force. The 2010 Act will be swiftly followed by the Insurance Act 2015, which will come into force on 12 August 2016.

The 2010 Act allows third parties to bring proceedings directly against insurers when the insured is liable to indemnify the third party but has become insolvent. The 2010 Act addresses some of the shortcomings of the previous legislation, the Third Party (Rights against Insurers) Act 1930 (1930 Act). See our [e-alert](#) for more information on the 2010 Act.

The Insurance Act 2015 represents the first major overhaul of the law of business insurance since the Marine Insurance Act 1906. One of the key changes it brings is the new duty of fair presentation of a risk, which replaces the duty of disclosure, and a range of new remedies. See our [e-alert](#) for more details on the Insurance Act 2015.

Addleshaw Goddard, 27 July 2016

Delegated Regulation supplementing PRIIPs Regulation adopted

Delegated Regulation C(2016) 4369 final has been [adopted](#) by the EC to supplement the Regulation on KIDs for PRIIPs with regard to product intervention. Criteria to be taken into account by the National Competent Authorities and EIOPA when using their product intervention powers in certain circumstances is set out in the Delegated Regulation. The Council of the EU and the European Parliament will consider the Delegated Regulation and if there are no objections, it will come into force 20 days after its publication in the OJ, applying from 31 December 2016.

European Commission, 14 July 2016

Insurance Europe published mock-ups for standardised IPID under IDD

Insurance Europe has published proposed [mock-ups](#) for the standardised Insurance Product Information Document (IPID) for non-life insurance products as required under the Insurance Distribution Directive.

Insurance Europe, July 2016

Consultation on draft technical advice to EC on delegated acts concerning IDD

The European Insurance and Occupational Pensions Authority has [published](#) a consultation relating to technical advice to the EC on delegated acts concerning the Insurance Distribution Directive.

EIOPA, 04 July 2016

IAIS consultation: risk-based global insurance capital standard

The International Association of Insurance Supervisors has [announced](#) that it is launching a consultation on the risk-based global insurance capital standard. Comments are due by 19 October 2016.

IAIS, 18 July 2016

IAIS publishes questionnaire for firms on thematic self-assessment and peer review

On 14 July 2016 the International Association of Insurance Supervisors released a [questionnaire](#) for firms relating to thematic self-assessment and peer review on information exchange and supervisory co-operations. The deadline for submission is 14 August 2016 and the questions look at a firm's competent authority in the context of ICP 3 and ICP 25.

IAIS, 14 July 2016

OECD consults on insurer governance guidelines

The Organisation for Economic Co-operation and Development has published a [consultation](#) on changes to its guidelines on insurer governance. The consultation runs until 29 August 2016.

OECD, July 2016

EIOPA thematic review on insurers operating in unit-linked life insurance market

The European Insurance and Occupational Pensions Authority is [launching](#) an EU-wide thematic review of market conduct among insurers in unit-linked life insurance market. The purpose of the review is to identify potential sources of consumer detriment arising from the relationships between insurers and providers of asset management services.

EIOPA, 05 July 2016

IAIS consultation on approaches to supervising intermediaries

The International Association of Insurance Supervisors has published for [consultation](#) an application paper considering the approaches members may consider when developing supervisory regimes for intermediaries. Comments are due by 1 August 2016.

IAIS, 01 July 2016

Joint Committee of ESAs Q&As KIDs for PRIIPs

The European Supervisory Authorities (including the European Insurance and Occupational Pensions Authority) have [published](#) a joint letter detailing work they have done on Q&As to help firms implement the Key Information Documents (KIDs) for Packaged Retail and Insurance-based Investment Products (PRIIPs).

ESAs, 01 July 2016

Regulatory Developments

FCA findings on thematic review of ARs in the general insurance sector

The FCA has [published](#) a report following its thematic review into principals and their Appointed Representatives in the general insurance sector. TR16/6 looked at business models and risk management, governance and oversight and customer outcomes, and found significant shortcomings in the control and oversight of ARs which increased the risk of mis-selling and caused potential and actual detriment to the customer. Early intervention has already taken place against five principal firms as a result and the FCA has listed general next steps.

FCA, July 2016

FCA publishes pensions guidance signposting findings

The FCA has [published](#) a webpage setting out findings of a review of firm's compliance relating to pensions guidance signposting. The review looked at how firms are complying with rules on signposting of available pensions advice in the COBS and was based on information from ten life insurers and ten SIPP providers. As well as looking at the following areas - obligations to signpost pensions guidance; raising awareness of scams; staff training and oversight activity – the review gives examples of best practice.

FCA, 14 July 2016

PRA publishes reporting requirement for companies outside the scope of Solvency II

The PRA has [published](#) a policy statement relating to reporting requirements of NDFs. This will form part of the new Rulebook instruments coming into force on 1 July 2016.

Bank of England, 30 June 2016

PRA letter on market trends in the general insurance sector

On 18 July 2016 the PRA [issued](#) a "Dear CEO" letter to general insurers with analysis and observations from regulatory returns and a recent questionnaire intended to monitor the market.

PRA, 18 July 2016

ESRB strategy paper: macro-prudential policy for non-banks

The European Systemic Risk Board has [published](#) a strategy paper on macro-prudential policy for non-banks, which includes insurers. The ESRB believes the policy strategy, data and instruments to address risks beyond the banking sector are underdeveloped compared to the banking sector and the report hopes to address this.

ESRB, July 2016

Solvency II

PRA updates Solvency II Supervisory Statements

The PRA have issued updated supervisory statements [SS11/15](#) and [SS40/15](#).

Bank of England, July 2016

Second consultation on external audit of public disclosure under Solvency II Directive

The PRA have [issued](#) a second consultation paper on its proposals for changes to the external audit of the public disclosure requirement under Solvency II, following on from CP43/15 in November last year. Proposals include clarification of the duty of care of auditors and the PRA invites comments by 4 August 2016.

BoE, 04 July 2016

European Commission requests technical advice from EIOPA on Delegated Regulation

The European Commission has requested [technical advice](#) from the European Insurance and Occupational Pensions Authority on a number of specific items in the Solvency II Delegated Regulation, including simplifying and clarifying some of the requirements and the removal of some unintended technical inconsistencies.

European Commission, July 2016

Final report published by EIOPA on treatment of infrastructure corporates under Solvency II

The European Insurance and Occupational Pensions Authority had [published](#) a final report on 30 June 2016 which provides technical advice on the identification and calibration of infrastructure corporates. It incorporates feedback and analysis from the April 2015 consultation.

EIOPA, 30 June 2016

EIOPA plans to release updated XBRL Tool for Undertakings

The European Insurance and Occupational Pensions Authority [plans](#) to release an updated Tool for Undertaking relating to XBRL reporting under Solvency II and capturing amendments to the Solvency II Delegated Regulation linked to investments in infrastructure projects.

EIOPA, 08 July 2016

EIOPA publishes monthly information on risk free interest rate term structures

The European Insurance and Occupational Pensions Authority has [published](#) technical information on the relevant risk free interest rate term structures (RFR) with reference to the end of June 2016. The technical information is calculated according to

the coding released on 7 June 2016.

EIOPA, 07 July 2016

EIOPA publishes update on symmetric adjustment of equity capital charge

The European Insurance and Occupational Pensions Authority has [published](#) the technical information on the symmetric adjustment of the equity capital charge for Solvency II with reference to the end of June 2016.

EIOPA, 07 July 2016

Enforcement

Towergate fined for breaches of Handbook

Towergate [accepted](#) a £2.63m fine following investigation by the FCA which looked into certain breaches of the FCA's Rules and Principles during the period June 2005 to December 2013. The consolidator worked closely with the FCA during the investigation, settling early resulting in a reduced fine and has since made changes to governance and controls.

Insurance Age, 13 July 2016

Contact

[Nikki Worden](#)

020 7160 3023

[Brian McDonnell](#)

020 7160 3512

[Richard Wise](#)

020 7160 3275

[Robert Garwood](#)

020 7788 5144

[Jennifer Young](#)

0113 209 7677

[Dr Caroline Bell](#)

020 7788 5162