

October 2016

INSURE

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This month's roundup of developments affecting the insurance industry sees the government announce it will "trigger Brexit" by the end of March 2017, the Treasury Select Committee launch an inquiry into the Solvency II Directive and the PRA and FCA issue a number of consultations on various topics including the Senior Insurance Managers Regime, whistleblowing, market turning events, non executive directors and PPI (again).

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Brexit

Government to "trigger Brexit" by end March 2017

In her speech during the Conservative party conference, Prime Minister Theresa May [announced](#) that the government would trigger the formal 'Article 50' two-year exit process by the end of March 2017. She also said that the government would introduce a Bill into Parliament to repeal the European Communities Act 1972. A [statement](#) by Brexit minister David Davies explains further that the bill will retain all existing EU law applying to the UK, whilst giving power to ministers to make changes by secondary legislation as exit negotiations proceed with the EU.

Department for Exiting the European Union, 2 October 2016

Brexit priorities from ABI

The Director General of the Association of British Insurers has set out Brexit priorities in a [blog](#) published on 30 September 2016. Mr Evans has emphasised the importance of identifying key opportunities to "make the best of Brexit". The ABI have also analysed all the legislation, 80 EU directives and regulations that will particularly affect the industry and has identified five areas of most importance for the industry:

- ▶ Securing a regulatory environment appropriate for the UK market where the UK has a say in how it is regulated, as the largest sector in the UK;
- ▶ Retain passporting out of and into the UK;
- ▶ Close mirroring of EU data protection to avoid unnecessary complexities;
- ▶ Improved migration policy for employment of high-skilled professionals; and

- ▶ Strong focus on regulatory dialogue and international agreements in overseas financial services markets.

The ABI has also called for transitional arrangements between Brexit and what replaces it and has emphasised the outlook for the industry remains bright.

ABI, 30 September 2016

FCA reports on authorised firms holding single market passports

The House of Commons Treasury Select Committee has published a letter [written](#) by the FCA providing information on the number of UK authorised firms that currently hold single market 'passports'. This shows a total of 13, 484 firms use passporting rights to conduct business into the UK or from the UK into other Member States.

House of Commons Treasury Select Committee, 20 September 2016

Treasury Select Committee launches Solvency II inquiry

The House of Commons Treasury Select Committee has [launched](#) an inquiry into the Solvency II Directive to explore its impact on the insurance industry and to investigate the options now available to the UK in light of Brexit.

The House of Commons Treasury Select Committee, 14 September 2016

General Update

ABI and BIBA on Driveless Cars

In July 2016 the Department for Transport issued a proposal ("Pathway to Driverless Cars") aiming to position the UK as a leader in the field of driverless cars, notably by providing support for developing automated vehicle technologies.

The Association of British Insurers responded by saying it "*wholeheartedly supports the development of automated vehicles*" and by publishing a [joint paper](#) with industry body Thatcham Research. The paper explains that insurers are willing to offer simple policies for driverless cars which would cover both manual and automated driving. The ABI states consumers would hardly notice the difference, and that offering a single policy is much better than requiring drivers to obtain separate products.

The British Insurance Brokers' Association also [responded](#) to the government proposal by setting out for key priorities, namely:

- ▶ Developing seamless single motor insurance policies;
- ▶ Allowing customers and insurance brokers immediate and unrestricted access to data from the driverless vehicles manufacturer, such data should be presented in a clear way;
- ▶ clarity over subrogation rights against a manufacturer whose vehicle may be at fault; and
- ▶ recourse for drivers under the Road Traffic Act to be able to claim compensation on their own insurance policy should they be injured by an autonomous vehicle.

ABI and BIBA, 9 September 2016

Targets for Women in Finance Charter published by ABI

The Association of British Insurers has set its supplementary targets following signing up to the Women in Finance Charter in July.

ABI, 27 September 2016

ABI on IPT increase

The Association of British Insurers has commented that Households and businesses are facing a second increase in the rate of IPT in less than a year with the standard rate of insurance premium tax going up to 10% from 1 October 2016. The previous rise, which came into effect on 1 November 2015, was from 6% to 9.5%.

ABI, 30 September 2016

FOS report on the impact of PPI mis-selling

A [report](#) published by the Financial Ombudsman Service looks at the impact of payment protection insurance mis-selling (PPI) on its service and sets out a number of recommendations to improve the management of PPI claims. The report includes the FOS management's [response](#), stating it accepts all of the recommendations in part or completely.

Financial Ombudsman Service, 15 September 2016

Insurance Europe launches digitalisation showcase

Insurance Europe has launched a dedicated online [showcase](#) of the ways that European insurers are embracing digitalisation. The show case explains how digitalisation and big data are bringing benefits to the industry and consumers in areas such as:

- ▶ Insurance distribution;
- ▶ Different product lines, such as motor, property and health insurance;
- ▶ Data protection and privacy; and
- ▶ Cyber risks.

Insurance Europe, 16 September 2016

Data Protection

Information Commissioner upbeat about UK data protection laws post Brexit

Information Commissioner Elizabeth Denham, has stated that the UK is well equipped to deal with changes to data protection laws following the vote for Brexit in June.

In her first [newsletter](#) since taking the role as Information Commissioner, she stated that, "*The result of the EU referendum and its impact on data protection reforms will undoubtedly create uncertainty, as any period of flux does. It's clear to me though that the UK is well equipped to navigate the changes ahead successfully. Data protection is a team sport. Effective regulation requires engagement with the public sector, with industry, with civil society and with the public at large.*" It will be interesting to see how the ICO reaches out to industries and the public over the coming years and the effect it has on UK data protection laws.

ICO, September 2016

New Legislation and Consultations

PRA Consultation on amendments to SIMR

The PRA has published a [consultation](#) (CP34/16) on proposed amendments to the Senior Managers and Certification Regime (SM&CR) and the Senior Insurance Managers Regime (SIMR). This sets out the PRA's expectations on the new duty of responsibility, including documenting reasonable steps taken by Senior Managers. Responses are required by 9 January 2017.

PRA, September 2016

PRA consultation on whistleblowing

The PRA has published a consultation ([CP35/16](#)) which proposes amendments to rules that will require UK branches of PRA-regulated banks and insurers to inform workers about the PRA's and FCA's whistleblowing services and how to use them. Comments are required by 9 January 2017.

PRA, 28 September 2016

PRA consultation on "market turning events" in GI sector

The PRA has published a consultation paper on how firms in the general insurance sector should respond to what it describes as a "market turning event" i.e. a significant event that might affect a firm's solvency and future business plans. The paper includes a draft supervisory statement on the PRA expectations of regulated general insurance firms in this context. The consultation closes on 21 December 2016.

Bank of England, 21 September 2016

FCA consultation on non-executive directors

The FCA has published a [consultation](#) (CP16/27) which proposes to extend the Code of Conduct sourcebook rules to all non-executive directors in the insurance sector as well as other financial services firms. The aim of the proposed changes is to ensure that all board members are subject the same standards. Comments required by 9 January 2017.

FCA, September 2016

Further FCA consultation on PPI rules and guidance

The FCA has published a further [consultation paper](#) (CP16/20), following feedback on CP15/39 which set out its original proposed rules and guidance concerning the handling of PPI complaints. The FCA says proposals need to go further in light of *Plevin* and relate in particular to 3 aspects:

- ▶ Profit share to be included in approach to assessment of fairness and redress;
- ▶ Previous rebates to a customer when they cancelled their PPI to be reflected in any redress due; and
- ▶ Clarify how firms should assess fairness and redress where commission or profit share rates vary during life of the policy.

The closing date for comments is 11 October 2016.

Financial Conduct Authority, 2 September 2016

Consultations on 2017/18 regulatory fees and levies

The FCA has published a consultation paper (CP16/23) on regulated fees and levies insurers will have to pay for the year 2017/18. The consultation is open until 9 November 2016.

FCA, September 2016

The PRA has also published a consultation paper (CP30/16) on its fees and Financial Services Compensation Scheme (FSCS) levies, which proposes a transitional approach in 2017/18. This is to enable the PRA to streamline its processes, bearing in mind that it currently has data provided under both the Solvency I and Solvency II Directives.

Bank of England, PRA, September 2016

EBA consultation on minimum PI cover under PSD2

A [consultation paper](#) has been published by the European Banking Authority. This sets out draft guidelines on the criteria competent authorities should follow when they set the minimum professional indemnity insurance requirements for undertakings that provide payment initiation services and/or account information services under the Revised Directive on Payment Services (**PSD2**). This is part of the EBA's mandate to produce guidelines under Article 5(4) of PSD2. The consultation will close on 30 November 2016.

EBA, 22 September 2016

Insurance Europe responds to ESMA's proposals on clearing obligations

Insurance Europe has [responded](#) to a European Securities and Markets Authority's consultation on the clearing obligation for financial counterparties with a limited volume of activity. Insurance Europe said it welcomes the proposal by ESMA to delay implementation by two years for small market players and market players with limited activity.

Insurance Europe, September 2016

Insurance Europe responds to OECD consultation on attribution of profits

Insurance Europe has issued a response to the consultation by the Organisation for Economic Co-operation and Development on proposed rules for the attribution of profits to permanent establishments (PE). Insurance Europe has expressed concerns that for some insurance business models PEs would be recognised for tax but not for regulatory purposes, with nil additional profit and a disproportionate compliance burden. In the response, Insurance Europe reiterates its position that only the presence of Key Entrepreneurial Risk-Taking functions in a jurisdiction should create a PE for tax and be relevant for the attribution of profits.

Insurance Europe, 1 September 2016

Insurance Europe responds to consultation on FICOD

Insurance Europe has responded to the European Commission consultation on the financial conglomerate directive (FICOD). Insurance Europe points out that the purpose of FICOD should be to avoid duplication and overlap with sectorial regulation but it feels that this is not being fully achieved, in part because FICOD was designed and written before Solvency II came into force.

Insurance Europe, September 2016

Regulatory Developments

FCA feedback on Big Data in retail GI sector

The FCA has published a [feedback](#) statement following its call for input on Big Data in retail general insurance (which was back in November 2015). The FCA found that Big Data is producing a range of benefits for consumers and that it raises no barriers to entry for firms. The FCA identified some concerns around the use of Big Data leading to pricing practices which do not necessarily reflect a consumer's increased risk segmentation. Nevertheless, the FCA is not proposing any changes to the regulatory framework as a result of the feedback.

FCA, 21 September 2016

CMA reminder on PMI Order

One month after the coming into force of the Private Motor Insurance Order (which we reported in our last edition), the Competition and Markets Authority has issued a reminder on the no-claims bonus requirements. As part of its monitoring, the CMA has found that around 1,000 private motor insurance providers are now providing better [information](#) on no-claims bonus protection to drivers.

CMA, 2 September 2016

EIOPA survey on guidelines on assessment of complex insurance based investment products under IDD

The European Insurance and Operational Pensions Authority has published an online survey to develop guidelines for complex insurance based investment under the Insurance Distribution Directive (IDD). The IDD is due to be implemented by 23 February 2018 and it empowers the European Commission to develop technical standards with the assistance of EIOPA. The survey is carried out under Article 30(7) IDD, which requires EIOPA to develop guidelines for "insurance based investment products (IBIPs) that incorporate a structure which makes it difficult for the customer to understand the risks involved." The deadline for responses was 25 September 2016.

EIOPA, September 2016

Solvency II

EC Implementing Regulation laying down ITS on equity risk sub-module

The European Commission has [published](#) in the OJ Implementing Regulation (EU) 2016/1630 laying down implementing technical standards (ITS) with regard to the procedures for the application of the transitional measure for the equity risk sub-module in accordance with the Solvency II Directive.

European Commission, 10 September 2016

Amendments to FSMA 2000

The Financial Services and Markets Act 2000 (Qualifying EU Provisions) (Amendment) Order 2016 ([SI 2016/936](#)) will come into force on 12 October 2016. The amendments enable the Prudential Regulation Authority to use powers set out in the Financial Services and Markets Act 2000 (FSMA) to enforce various requirements imposed by directly applicable level 2 EU regulations made under powers conferred on the European Commission by the Solvency II Directive (2009/138/EC).

Legislation.gov.uk, September 2016

PRA supervisory statement on changes to internal models

The PRA has published a Supervisory Statement ([SS12/16](#)) on changes to internal models used by UK insurance firms under the Solvency II Directive. This sets out expectations in respect of firms applying for approval for a major change to their internal models or extension of scope to an approved internal model, and follows on from a consultation paper on the supervisory statement back in May 2016.

PRA, 21 September 2016

PRA policy statement on public disclosure requirement

The PRA has published a [policy statement](#) (PS24/16) on the external audit of the public disclosure requirement under the Solvency II Directive.

Bank of England, PRA, 9 September 2016

Fraud

ABI checklist on counter fraud measures

The Association of British Insurers has published a [checklist](#) on effective counter fraud measures to assist insurers and their corporate partners in developing strong fraud defences. There are ten sections to the checklist which sets out how firms can contribute to the UK insurance sector's counter fraud strategy.

ABI, 22 September 2016

£500k false insurance scam uncovered

The Insurance Fraud Enforcement Department (IFED) has uncovered a £500k motor insurance fraud, leading to four individuals being [sentenced](#) over the large-scale scam. This involved fictitious claims against the policies which were then sold on to solicitors firms who paid group referral fees, believing the claims to be genuine. All four individuals were charged with conspiracy to defraud, with three also being charged with money laundering, and all four pleaded guilty to the offences.

City of London Police, 16 September 2016

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