

With the impact of the coronavirus disease 2019 (COVID-19), many businesses' thoughts have turned to how they can manage the current crisis, including how they can retain employees and continue funding their own requirements.

With this additional pressure, it is inevitable that some tasks usually carried out as business as usual are deprioritised. From a regulatory perspective, many firms may, thus, be wondering what they still need to do and what the financial regulators are doing to help them through this crisis. Through this briefing, we aim to shine a light on this and consider what key pieces of advice regulators have currently given.

Banks

- **Retention of capital** – The Bank of England (BoE) has called on banks to ensure they shore up their capital base during the current crisis by foregoing the payment of dividends to shareholders and bonuses to senior staff. While four out of five of the UK's largest banks initially resisted the call to cancel dividends, most have now acquiesced after a flexing of powers by the BoE. The expectation that bonuses will not be paid is specifically aimed at senior staff, which will include "all material risk takers." Ongoing scrutiny of this is bound to continue over the coming months and firms would likely be best to comply.
- **Stress tests** – The BoE has also provided some respite to the largest eight banks and building societies by announcing that the 2020 stress tests have been cancelled. This is following the earlier BoE financial policy committee decision to reduce the UK countercyclical buffer rate to 0% of banks' exposures to UK borrowers. With these measures in place, the BoE expects "all elements of banks' capital and liquidity buffers can be drawn down as necessary to support the economy through this temporary shock."
- **Confirmation of payee** – With UK banks set to implement the new confirmation of payee system by 31 March 2020, the Payment Systems Regulator has provided some relief by confirming where this deadline cannot be met, and banks should take appropriate steps to ensure this system is in place by 30 June 2020.

Insurers

- **Travel insurance** – The FCA has confirmed that insurers must ensure they continue to treat their customers fairly during the whole product cycle. In addition, they must clearly communicate any policy exclusions that result from COVID-19 to their existing customers. The FCA also noted that where policyholders are due to renew their insurance and a claim arises after the renewal date, insurers should consider customers' individual circumstances, including whether they were given a reasonable expectation that cover would continue.

- **Motor and home insurance** – The FCA has clarified that motor and home insurers should not reject claims due to understandable temporary changes in how their customers use their vehicle and home address.
- **Private medical insurance** – The FCA has clarified that where privately insured treatment is non-urgent and may be delayed, insurers should be communicating this effectively, timely and compassionately to customers.
- **Dividends** – While insurers have not been mandated by the PRA to delay dividends to shareholders, the PRA has announced that it welcomes this prudent approach. The PRA has also reminded insurers to pay close attention to the need to protect policyholders and maintain safety and soundness when considering whether to proceed with payments.

Investments

- **MiFID 10% depreciation reporting rule** – Under MiFID, certain firms providing investment services are required to notify clients when the overall value of their portfolio depreciates by 10% (and in multiples of 10% thereafter). In a welcome move given the current turmoil in the financial markets, the FCA has confirmed that it will not take enforcement action up to 1 October 2020 where such firms cease to make notifications for professional clients, and where they issue one notification per reporting period for retail clients, provided they continue to give general market updates.
- **Client verification** – Writing to firms providing services to retail investors, the FCA has also outlined that while client verification must continue as a key obligation under the Money Laundering Regulations, some flexibility can be used. As such, firms are able to accept scanned documentation sent by emails, can ask clients to submit "selfies" or videos, and place reliance on due diligence carried out by others.
- **Best execution obligations** – Additionally, the FCA has confirmed that while firms will be expected to meet their best execution obligations and carefully consider market conditions when determining the importance they place on different execution factors, it has no intention of taking enforcement action in relation to late publication of RTS 27/RTS28 and Article 65(6) reports, provided they are published by 30 June 2020.
- **Market Abuse Regulations (MAR)** – The FCA has noted that share-issuing companies should still be complying with disclosure obligations under the MAR, but that it appreciates there may be short delays while new processes are put in place to facilitate disclosure. With this in mind, firms should ensure they continue to comply with MAR and consider how they can continue to meet disclosure obligations.

- **Expectations for funds** – With fund managers and auditors facing unparalleled challenges in preparing financial information as a result of the COVID-19 pandemic, various measures have been put in place to provide relief. These include extended deadlines of two months and one month to publish annual and half-yearly reports respectively; the move to allow virtual general meetings; and the willingness to accept electronic signatures on FCA fund-related applications. Those using these respite measures should, however, read the FCA briefings carefully to ensure they comply with aspects such as notifying the FCA where they will be late filing accounts; carefully read their fund documentation to ensure they can hold virtual meetings; and ensure they can assure the FCA a signatory has seen and agreed to information within forms signed electronically. It is also worth noting that despite these reliefs the FCA has noted in respect of issues ensuring compliance with limits on value at risk it already expects firms to have plans in place to deal with such events.

Consumer Credit

- **Debt relief** – The reliefs granted to consumers at this time of crisis have been wide ranging and include an extension of three-month payment holidays offered on mortgages, proposed payment deferrals on credit card and loan repayments, plus interest-free overdrafts (up to £500 charged at zero interest for up to three months).

General

- **Company accounts** – Listed companies have been given an extra two months to publish audited annual financial reports, although it is noted that this does not apply to half-yearly financial reports, which should still be published within three months of the half-year end. Companies that are not listed have also been given an additional three months to file their annual accounts with Companies House.

- **Senior Managers and Certification Regime (SMCR)** – With firms needing to keep their governance arrangements under constant review due to the impact of the pandemic, the PRA and FCA have acknowledged that flexibility is required to allow for changes in governance, for example due to illness. As such, they have published a joint statement for dual-regulated firms on the impact of COVID-19 on SMCR. This clarifies that there is no fixed deadline for firms to resubmit updated Statements of Responsibilities in the event of “significant changes” to senior manager responsibilities, and that they recognise firms may take longer than usual to resubmit Statements of Responsibilities. Additionally, the statement notes unapproved senior manager functions may be appointed for 12 weeks to deal with temporary or unexpected absences. The PRA and FCA have noted, however, that certain senior manager functions cannot be furloughed during the pandemic, that CEOs have a duty to identify “key workers” and that firms should continue to take reasonable steps to complete any annual certifications of employees due to expire while COVID-19 restrictions are in place.
- **PRA regulatory reporting** – The PRA has noted that it will accept delayed submissions for certain aspects of harmonised regulatory reporting where deadlines fall on or before 31 May for up to one month, for example, for leverage ratio reporting and resolution plan reporting.

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