

November 2016

# INSURE

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# InSure

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## Brexit

### 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. The ABI has identified five areas of key importance for the industry:

- Securing a regulatory environment appropriate to UK market where the UK has a say in how it is regulated, as the largest sector in the UK;
- Retaining 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*

### Brexit EU legislation mapping from ABI

Following an analysis of EU directives and regulations, the Association of British Insurers has published an EU legislation [mapping](#) document. It covers 80 pieces of European legislation that have been identified as having an impact on the insurance market. The aim of this exercise is to help ABI members assess the implications of the UK leaving the EU.

*ABI, 6 October 2016*

## General Update

### ABI responds to EFRA report on flooding

Head of Property at the Association of British Insurers, Mark Shepherd, has [responded](#) to the report on future flood prevention published by the select Committee on Environment, Food and Rural Affairs. The ABI points out that Insurers play an important role in helping flooded communities recover and in backing measures to make the relevant communities more resilient in the event of future flooding. The ABI has also produced a [consumer guide](#) to flood resistance and resilience for areas most affected.

*Association of British Insurers, 2 November 2016*

### ABI on price of motor insurance

The ABI has reported that the average comprehensive motor insurance [premium](#) paid has risen by 9% over the last year, adding an extra £38 to the average policy so that it now amounts to £440.

*ABI, 31 October 2016*

## BIBA sets out demands ahead of the Autumn Statement

BIBA has published a [letter](#) ahead of the November Autumn Statement outlining a number of issues affecting brokers and their customers. The letter calls upon the Chancellor of the Exchequer to consider a number of issues of relevance to the industry, including (i) the recent rises in Insurance Premium Tax; (ii) flood defences; (iii) the rise in insurance fraud; (iv) how regulation may stifle innovation; and (v) Brexit.

*BIBA, 31 October 2016*

## EIOPA Work programme for 2017

A work [programme](#) for 2017 has been published by EIOPA, setting out strategic priorities. The single programming document contains information on EIOPA's goals and mandate including deliverable objectives for 2017-2019. Priorities include consumer protection; policy; oversight; financial stability and corporate support.

*EIOPA, 5 October 2016*

EIOPA has also published a [speech](#) by EIOPA Chair, Gabriel Bernardino, on the institution's approach to supervisory and regulatory work going forward.

*EIOPA, 18 October 2016*

## US/EU negotiations on bilateral insurance and reinsurance agreement

The European Union and United States of America have been in negotiations for some time on an agreement that would enable closer co-operation concerning the insurance and reinsurance industry. On 11 October the Council of the European Union published a [notice](#) of a meeting of the Working Party on Financial Services in which they received a debriefing by the Commission on the state of play of the negotiations.

Subsequently, the US Department of the Treasury and the European Union published a [joint statement](#) in relation to working towards a bilateral agreement relating to prudential insurance and reinsurance measures.

*European Commission, 7 November 2016*

## Data Protection

### Chancellor outlines Britain's cyber security plan

Britain's Chancellor of the Exchequer, Philip Hammond, has [outlined](#) how he plans to use the £1.9 billion of funding that has been set aside to invest in the UK's cyber security plan. The fund, which was announced last year, will be used to deliver the five-year National Cyber Security Strategy and is aimed at protecting individuals and companies alike. Amongst other things, the sum will be used to fund the recruitment of more than 50 security specialists to the NCA's cybercrime unit, to grow specialist cyber-crime police units and to bankroll a new Cyber Security Research Unit. The strategy will also see the introduction of an innovation fund, designed to offer financial support to security tech start-ups.

*HM Treasury, 1 October 2016*

### Law change to give ICO more power to combat nuisance calls

A change in the law, due to take effect from spring 2017, will give the ICO the ability to impose combined fines of up to £1 million for breaches of privacy. A prior change in the law had been announced back in April 2015 where the ICO was initially handed the ability to fine companies more frequently. However such consumer groups such as 'Which?' argued in August of this year that the ICO should be afforded greater powers of enforcement to crack down on this bad practice which is viewed by many as a form of harassment.

This argument succeeded, and under the revised law, directors of 'nuisance call' companies come under the ICO's radar and will be held personally liable and accountable for breaches of the privacy regulations. Under the current system, fines can only be imposed on companies. Those seriously in breach could face a personal fine of up to £500,000.

The rise in nuisance cold calling can be seen to have occurred in the wake of such things as the PPI scandal which has seen almost everyone in the UK receiving either a text message or automated phone call asking whether they were ever misold PPI. This practice has grown in popularity as more companies utilise this method to solicit business from potential customers. The law change, it is hoped, will combat this bad practice and tackle the increasingly prevalent practice of such companies declaring bankruptcy in order to avoid the payment of fines by making the directors personally liable.

*Department for Culture, Media and Sport, 23 October 2016*

## ICO releases updated code of practice for privacy notices

Ahead of the General Data Protection Regulation (**GDPR**) coming into force on 25 May 2018, the ICO has updated its code of practice for privacy notices. This revised code of practice comes in the wake of the consultation held by the ICO which ended in March 2016 entitled, "*Privacy notices, transparency and control - a code of practice on communicating privacy information to individuals*".

The document offers guidance as to how companies can comply with both UK privacy laws and the GDPR. Specifically, it contains guidance on how to comply with the GDPR's more stringent privacy notice policy and consent requirements.

Companies who collect personal data are advised to read the guide and review their current privacy policies. Companies are reminded that a privacy policy should clearly explain all the ways in which you use the data that is collected, who it is shared with and the reasons why. Clarity and transparency are key. A privacy policy that is robust and clear and one which has had time invested in its drafting will serve as a valuable asset to any business collecting and sharing personal data.

Privacy policies ultimately tie into the issue of consent and whether this has been validly given by a data subject. Under the GDPR consent needs to be explicit. Further to this the GDPR will require more detailed language around the legal basis for processing, how long data will be retained for and why and wording must be included giving the data subject a clear right to complain and contact details for doing so.

Compliance with the GDPR is likely to be complex, time-consuming process and so it is advisable for companies to begin preparations as soon as possible.

To view a copy of the guide click [here](#)

## New Legislation and Consultations

### LMA and IUA update guide to Insurance Act 2015

The Lloyd's Market Association and the International Underwriting Association have published a [joint guide](#) to the Insurance Act 2015 plus a [quick reference guide](#). The accompanying [press release](#) states that the guides have been updated to take into consideration the Enterprise Act 2016 and the decision of the UK Supreme Court in *Versloot Dredging BV and another v HDI Gerling Industrie Versicherung AG and others* [2016] UKSC 45.

*LMA and IUA, 6 October 2016*

### FCA feedback statement on smarter consumer communications

The FCA has published a [feedback statement](#) relating to its June 2015 discussion paper on smarter consumer communications. This is in the context of the FCA's initiative which aims to bring about a change in the way information is both communicated and delivered to consumers. The feedback statement specifies that 75 responses were received and that many stakeholders have expressed a desire to become involved in the FCA's smarter communications work. The FCA now intends to create a regulatory framework that supports clear consumer communications through the use of new technologies. This will include new guidance which will be the subject of further consultation.

*FCA, 11 October 2016*

### PRIIPS Regulation postponement requested by trade associations

The Joint Associations Committee on Retail Structured Products (which comprises firms involved in the creation and distribution of structured securities) has published a [letter](#) addressed to the European Commission and the European Supervisory Authorities, asking for the requirements concerning Key Information Documents (KIDs) requirements under the Packaged Retail and Insurance-based Investment Products Regulation (PRIIPs) to be postponed. The PRIIPs Regulation is due to apply from 31 December 2016 but as yet there is no agreed form of technical standards. In the JAC's opinion the only viable option to safeguard the interests of retail investors is to postpone application by one year to 3 January 2018.

*Joint Associations Committee, 18 October 2016*

## Insurance Europe highlights concerns with IDD delegated acts

Insurance Europe has published a response to the European Insurance and Occupational Pensions Authority consultation on its draft technical advice on possible delegated acts under the Insurance Distribution Directive. Insurance Europe highlights a number of instances in the [proposals](#) in EIOPA's draft that go beyond the rules set out in the Insurance Distribution Directive.  
*Insurance Europe, 4 October 2016*

## Responses to IAIS consultation on capital standards

The International Association of Insurance Supervisors (IAIS) has published the [responses](#) it has received to its consultation on its proposed updates to the risk-based global insurance capital standard (ICS). We have reported on the consultation in previous editions.

*IAIS, November 2016*

Insurance Europe has published its own [response](#) to the above consultation. Insurance Europe stresses the need to make sure the framework is risk-based and measures risks in the same way across jurisdictions.

*Insurance Europe, 01 November 2016*

## Regulatory Developments

### PRA supervisory statement - reporting instructions for non-Solvency II firms

The PRA has published a supervisory [statement](#) (SS14/16) on reporting instructions for non-Solvency II firms. The statement sets out the PRA's expectations regarding the completion of the regulatory reporting requirements from the "Insurance Company – Reporting Part of the PRA Rulebook". It applies to firms that fall outside the Solvency II framework but not friendly societies.

*PRA, October 2016*

## Solvency II

### PRA consultation on Solvency II group supervision supervisory statement

The PRA has published a consultation ([CP38/16](#)) setting out proposals to amend its supervisory statement on Solvency II group supervision (SS9/15). Responses are required by 7 February 2017.

*Bank of England PRA, November 2016*

### PRA consultation on reporting of national specific templates under Solvency II

The PRA has published a [consultation](#) (CP 37/16) proposing changes to the National Specific Template (NSTs) file type and reporting format. It also presents a number of reporting clarifications and technical corrections relating to the accompanying NST LOG files. Responses are required by Tuesday 6 December 2016.

*Bank of England: PRA, 25 October 2016*

### Modification by consent of Solvency II reporting rules for national specific templates

The PRA has published a [modification by consent](#) of the Solvency II reporting rules for national specific templates (NSTs). The modification extends the time firms have to submit the relevant templates until 8 May 2017. This is to reflect the fact the PRA is consulting on the change of reporting standards to XBRL (eXtensible Business Reporting Language) for the NSTs

*Bank of England: PRA, October 2016*

### PRA supervisory statement for firms with approved internal model

The PRA has issued a [supervisory statement](#) (SS15/16) setting out expectations of firms with an approved internal model under Solvency II, and its approach to monitoring model drift and the reporting of standard formula Solvency Capital Requirement (SCR) information.

*Bank of England: PRA, 25 October 2016*

## EIOPA proposed timetable on review of Solvency II Delegated Regulation

The European Insurance and Occupational Pensions Authority has sent a [letter](#) to the European Commission setting out a proposed timetable for responding to the Commission's call for technical advice relating to the review of the Solvency II Delegated Regulation.

*EIOPA, 7 November 2016*

## EC Implementing Regulation published in OJ

The following has been published in the Official Journal: Commission Implementing Regulation (EU) 2016/1868 [amending](#) Implementing Regulation (EU) 2015/2450, laying down implementing technical standards (ITS) with regard to templates for the submission of information to supervisory authorities under the Solvency II Directive has been.

*Official Journal of the European Union, 21 October 2016*

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