



SICSIC ADVISORY

Regulatory Forecast

WITH HUGH SAVILL, SENIOR ADVISER

JANUARY 2024

Welcome to our quarterly Sicsic Advisory Regulatory Forecast.

*The regulatory weather is - as ever - unpredictable. Any fool with a piece of seaweed can tell you that 2024 may well bring both rain and sunshine. The point of a proper weather forecast is to give you an idea of **when** this might happen, and **where** adverse weather will hit.*
















The UK will definitely have an election this year. How will this affect the regulatory weather? The safest planning assumption is that, whatever the result, there will be little immediate impact. The regulators' primary objectives are unlikely to change. Big themes such as financial stability or the Consumer Duty suit all political parties. This is not to say that the Government is without influence. The regulators are of course independent, but they also work with the elected Government. The regulators can be steered into action by the Government, as the initiative on multi-occupancy buildings shows - but only where this fits their existing objectives. Tweaks to secondary objectives may have an impact in the future, and we will keep an eye out for any early signs of progress in this area.

Read our forecast, follow our Executive Considerations, and weather the regulatory storms in comfort and profit.

YOUR FORECAST - BY HUGH SAVILL

We present seven regulatory themes below. Weather will happen whether we like it or not, but the dwellings of both brokers and carriers can be better preserved and made weatherproof. So we also put forward our recommendations.

In our forecast, rainfall means regulatory priorities, wind speeds correspond to the levels of compliance work required. High temperatures equate to external pressures from adverse business and economic conditions, or from media or political criticism.

1. Remuneration and Commission			
A remote region, that has experienced benign weather for a long time. Our forecast is that this will change dramatically in 2024, for the worse. We can expect little sympathy in either political or media circles if remuneration becomes a major issue.			
<p>Forecast</p> <p>The weather conditions are deteriorating fast in this region. Our forecast is that the tropical storm in multi-occupancy buildings is not a freak event, and that these extreme conditions will soon spread across the whole region. Residents should make every effort to put their houses in order now, but even this may not save them from catastrophic flooding which may wash away the entire landscape of percentage-based commission as we know it. Temperatures may rise to uncomfortable levels in the event of political exposure. Stay at home, batten down the hatches, and avoid all but essential travel.</p>	<p>Rain</p> 	<p>Wind</p> 	<p>Temp</p> 
2. Consumer Protection			
A region constantly swept by high winds and heavy rainfall. Prepare for extreme conditions. The weather patterns caused by the landfall of Hurricane Consumer Duty last July are becoming clearer, but sadly there will be no let-up from the pouring rain and howling gales. The regulators' reaction to the cost-of-living crisis is also a major feature.			
<p>Forecast</p> <p>We predict very high winds right across the region in 2024, as companies get to grips with compliance with the Consumer Duty. The rain will come in the shape of localised monsoons, depending where the FCA decide to direct their efforts. Meanwhile, political pressure about the increased cost of living will likely focus on the higher cost of insurance will lead to unpleasant humidity and high temperatures. The Consumer Duty provides the tools to address this.</p>	<p>Rain</p> 	<p>Wind</p> 	<p>Temp</p> 
3. Sustainability/ESG			
A very large and varied region of interest to both PRA and FCA, which includes climate change risk assessment, ESG strategy and net zero commitments, and climate change disclosures.			
<p>Forecast</p> <p>As predicted in our last forecast, weather conditions in this region are deteriorating rapidly. Threatening cloud formations suggest that the persistent rain in the disclosure area will soon spread to all parts of ESG. Heavy rainfall will be accompanied by gale force winds, particularly from the direction of the FCA. Residents should also be prepared for a huge range of temperatures. Political controversy points either to uncomfortable heat, or to freezing cold if the climate change deniers get their way. Residents should monitor their insulation and get their heating systems serviced.</p>	<p>Rain</p> 	<p>Wind</p> 	<p>Temp</p> 
4. Data Use			
Improved data use and adoption of generative AI are crucial to the future of financial services, but there are clear risks, both for companies and for their customers. This is an issue of interest at senior level in the FCA, and we have seen initial inquiries and thematic reviews on this topic.			
<p>Forecast</p> <p>Our predictions that the weather would deteriorate in this region last year were premature and the operator of the local weather station has been sacked. We nonetheless expect the ridge of high pressure that has been building up for some time now to drift over the region in 2024, bringing unpredictable winds, showers and higher temperatures.</p>	<p>Rain</p> 	<p>Wind</p> 	<p>Temp</p> 
5. Operational Resilience			
A region of major concern for both regulators - and companies should not lose sight of their operational resilience frameworks. As predicted, the region is being buffeted by strong breezes at present from Critical Third Parties (CTP).			
<p>Forecast</p> <p>Despite the high winds, current weather conditions are reasonable, with clear skies and temperatures moderate for the season. We expect the winds caused by Critical Third Parties to blow over by mid-2024, though there is a risk that miscalculation by the regulators may disrupt supply chains and lead to rising temperatures. Analysis of the long-range weather map suggests a break in the weather in March 2025. Residents should get their houses weather-proofed now against the possibility of localised storms.</p>	<p>Rain</p> 	<p>Wind</p> 	<p>Temp</p> 

YOUR FORECAST - BY HUGH SAVILL

6. Solvency UK

The weather in this important region is now dictated by Solvency UK, the PRA's new weather control system. However, ongoing maintenance of the balance sheet and reserve levels are key to insurers' survival and success.

Forecast

After the successful elimination of foreign bugs from the system, the weather patterns dictated by Solvency UK are becoming clearer. Carriers will benefit from all the hard work responding to consultations, and we expect a long period of settled and stable weather from mid-2024 onwards, with blue skies, warm sunshine and gentle breezes. CFOs may grumble about regulatory drizzle, but this is really just habit. At least they know what they are getting. There may be occasional turbulence caused by unguarded reinsurance or poor forecasting, but overall this is the region to live in 2024. The only cloud on the horizon is that economic stagnation may lead to uncomfortably high temperatures over the medium term.

Rain



Wind



Temp



7. Governance

There may not look to be much on the horizon, but both regulators take governance very seriously and trace failings back to failures of governance. Diversity is a key linked issue.

Forecast

This region is blessed by moderate temperature levels, and current weather conditions remain favourable. However, 2024 may see strong breezes from the review of the SMCR, and companies should definitely be cladding their houses with diversity and inclusion policies.

Rain



Wind



Temp



FORECAST KEY: Rainfall: Regulatory priority | Wind speed: Compliance work | Temperature: External pressures (*see detailed key on the last page)



TIMELINE

1 JANUARY:



Multi-occupancy buildings insurance:

New FCA rules on treatment of leaseholders came into force

31 MARCH:



Operational Resilience:

BAU Annual Review – Operational Resilience Self-Assessment



GI Pricing:

Pricing attestation

Q2:



Third Country Branches:

PRA final rules on authorisation and supervision



Solvency UK:

Third consultation on how Solvency II will be transferred to the PRA rulebook, and other remaining policy papers



Solvency UK:

Final rules on the Matching Adjustment, and entry into force



SMCR Review:

Consultation following the 2023 Discussion Paper and Call for Evidence

Q3:



Solvency UK:

PRA Policy Statement on how Solvency II will be transferred to the PRA rulebook, and other remaining policy papers and entry into force

2024:



Reporting of Complaints:

Consultation



ESG Disclosure:

Consultation on inclusion of new ISSB material



PRIPS Reform:

Consultation



Market Access for Gibraltar-Based Companies:

Secondary legislation to operationalise the Gibraltar Authorisation Regime

31 MARCH:



GI Pricing:

Pricing attestation



Operational Resilience:

Go live and end of transition period. Insurers and large intermediaries should be compliant with their impact tolerance limits.

2024

2025

Q1:

Solvency UK:

PRA Policy Statement on additional elements of SUK



ESG: Governance, Remuneration, Incentives and Training (GRIT):

FCA feedback statement on February 2023 Discussion Paper of SUK



Corporate Governance:

Consultation by FRC on scaled down governance reforms



Q1/Q2:

GI Pricing:

Data collection for evaluation report



H1:

Solvent Exit for Insurers:

Consultation



31 JULY:

Consumer Duty:

First annual board report and go live date for closed book



30 SEPTEMBER:

GI Pricing:

Pricing reporting



H2:

Diversity and Inclusion:

Policy Statement following September 2023 consultation paper



Operational Resilience:

Consultation on incident reporting



DECEMBER:

Solvency UK:

Entry into force of all amendments following the Review of Solvency II, except the earlier changes to Risk Margin and Matching Adjustment



END OF 2024:

Fair treatment of vulnerable customers:

Post-implementation review of guidance



31 JULY:

Consumer Duty:

Annual board report



GI Pricing:

Post-implementation evaluation 2024-2025



OUR RECOMMENDATIONS

1

Remuneration and Commission

2024 will be the year when the remuneration of brokers and MGAs comes under regulatory scrutiny. Developments since the review of multi-occupancy buildings insurance suggest that the FCA may not be satisfied by companies justifying their remuneration on the basis of levels of commission. They expect companies to demonstrate that the payment in cash terms is proportionate to the amount of work involved.

The approach is grounded in long-standing regulatory requirements in the FCA Handbook. In principle there is no reason why the approach should be limited to multi-occupancy buildings. It can be applied right across the market, and in our view the FCA will do it. There are a number of routes the FCA could choose, but there are clear links to the Consumer Duty.

The implications will be far-reaching. In the London Market, a clearer distinction will emerge between:

- international business and contracts of large risk, carried on much as it is now;
- SME business run like the retail market with standard contracts and fewer bespoke elements.

Executive considerations

- All companies should review the commission they pay and receive as part of their fair value assessments, taking note of the FCA's approach based on payment in cash terms, rather than commission percentage.
- Companies should review and document their remuneration framework to ensure that they can justify their approach.
- Brokers should consider the commercial implications of a move from commission-based remuneration towards fee-based remuneration, when commission doesn't stand scrutiny against fair value requirements.

2

Consumer Protection

- 31 March 2024: GI Pricing attestation
- July 2024: entry into force of the Consumer Duty for the back book
- July 2024: Board report
- 2025: Post-implementation Assessment of GI Pricing initiative
- 31 March 2025: GI Pricing attestation

The focus in 2024 is on follow-up to the Consumer Duty. Internally, both brokers and carriers should recognise that the board annual report in July will attract a higher standard of regulatory scrutiny than last year's report. The FCA has made clear where it sees shortfalls, particularly on fair value assessments, and companies should ensure that these are addressed.

Last year the FCA followed up the Consumer Duty thematically with action on GAP insurance and on multi-occupancy buildings. In 2024 we expect them to follow up in areas where they have already signalled concerns about consumer detriment – in particular high APRs and high commission levels.

The FCA will continue to work proactively on cost-of-living issues.

Companies should not lose sight of the need to monitor the GI Pricing requirements. Data will be collected in the first half of the year for a Post-implementation Assessment of the GI Pricing initiative in 2025.

Executive considerations

- Boards should focus on the first annual board report on progress against the Consumer Duty. This is due in July, but MI should already be in place, and teams should already have mock-up reports in preparation, to remedy any deficiencies by July. This will also include the work done on closed books. This year's report should address outliers, and any ongoing issues not fully covered off in last year's report.
- Firms should ensure that the justification of remuneration for ancillaries and premium finance can stand regulatory scrutiny and address promptly outliers.
- Firms should now have changed gears and be beyond substantive compliance.

3

Sustainability/ESG

- Q1 GRIT Feedback Statement

Boards will surely be devoting considerable time this year to their approach to ESG. Well-meaning efforts to "do the right thing" will not pass muster with the regulators, who will expect to see their rules followed in detail.

The FCA's anti-green washing rule was published late last year, and applies not just to asset managers, but to all regulated companies. Compliance with AGR will require a detailed examination of all ESG-related product references.

In Q1 2024 we expect the FCA's Feedback Statement on its Discussion Paper on Governance, Remuneration, Incentives and Training (GRIT), which will show how far the FCA intend to go in pushing companies down the road of making a positive change in the ESG field.

Meanwhile the steady pressure on disclosure will continue.

Executive considerations

- On anti-greenwashing, boards should agree a policy on product references on ESG – not forgetting the Social issues – and require regular reports on compliance with the policy.
- In advance of the FCA GRIT Feedback Statement, companies should consider their sustainability goals, and how to monitor and document the steps taken to achieve these goals.
- A first look at the role of ESG in remuneration, incentives and training would also be useful preparation.

OUR RECOMMENDATIONS

4

Data Use

The regulators continue to show signs of interest in insurers' use of data – including AI. At some stage we continue to expect closer regulatory scrutiny of the ethics of companies' use of data, particularly in their pricing models - which some believe are responsible for a poverty premium, and possibly for indirect discrimination. The spring will see the third anniversary of the Citizens Advice report on the issue.

The jury is still out on the regulation of AI in financial services. So far, financial regulators have been moving towards the conclusion that AI could be regulated within the existing framework, but the feedback statement on the Discussion Paper on AI has been postponed.

The FCA continues to express concern about the downside of Big Tech's entry into the financial services markets. Responses are due in January to their call for input on the impact on competition of "data asymmetry" between Big Tech and current market incumbents.

Executive considerations

- Companies should review their pricing models, and consider carefully how the performance of these models, the quality of the data fed into them, and the outcomes for vulnerable customers, would stand up to regulatory scrutiny.
- We also recommend that companies should prepare and implement policies on the ethical use of data, and model risk management. If possible within competition law, this should be done at industry level.

5

Operational Resilience (OpRes)

- H2: Consultation on the reporting of incidents
- March 2025: Deadline for companies to demonstrate that they are keeping within their operational resilience tolerance limits

The immediate priority is the adaptation of existing OpRes plans to the imminent regulation of Critical Third Parties, drawing on the regulators' consultation late in 2023. In principle, this is a helpful development, as it can be difficult to persuade suppliers to engage seriously with OpRes planning. The prospect of being themselves subject to regulation may encourage suppliers to give closer consideration to the regulators' requirements.

In the second half of 2024 there will be a consultation on the reporting of OpRes related incidents.

The regulators are well placed to respond quickly and effectively to any concrete OpRes failures and loss of service. Meanwhile companies should be embedding their OpRes frameworks, and using wisely the limited time available before the March 2025 deadline to operate within their OpRes tolerance limits. After this date we expect the regulators to be more proactive in testing the progress companies have made.

Executive considerations

- It is unhelpful that, apart from cloud computing, the regulators offer no clue to the identity of the regulated Critical Third Parties. Companies should nonetheless be discussing with their third major suppliers their reaction to potential designation as a CTP.
- The March 2025 deadline by which companies need to demonstrate that they can remain within their tolerance limits is closer than it appears, as companies will need time to remedy any weaknesses they identify. A robust planning and testing timetable should already be in place. Attention should be paid to known deficiencies on e.g. scenario planning.
- Rapidly growing companies – both brokers and carriers – should be alert to the regulatory consequences of growth in terms of additional requirements – OpRes is a case in point and additional regulatory attention.

6

Solvency UK

- Q2: Consultation on the remaining changes following the review of Solvency II
- Q2: Final rules and entry into force of changes to Matching Adjustment
- Q2: PRA's final rules on authorisation and supervision of Third Country Branches
- Q2: implementation date for PRA proposals on funded reinsurance
- Q3: policy statement on the remaining changes following the review of Solvency II
- Q4: entry into force of all changes to Solvency II but RM and MA

Following the Review of Solvency II, the overall shape of Solvency UK is now clear, but 2024 will see the finishing touches. The final consultation will emerge from the PRA in Q2.

Some elements of Solvency UK are already in place, including the new Risk Margin formula, and the rest will come into force over 2024 - the new arrangements for the Matching Adjustment and the Fundamental Spread in Q2, and the remainder in December.

The Treasury has published a response to the consultation on the resolution of insurers. There is no timetable for legislation, but the PRA will continue to supervise this area closely, scrutinising recovery and resolution planning for in scope insurers.




The PRA's sceptical approach to reinsurance will continue in 2024, with their proposals on funded reinsurance expected to come into force in Q2.

The PRA have doubts about the robustness of GI insurers' profit projections.

Executive considerations

- Insurers should continue their close engagement with the PRA, particularly those which use the Matching Adjustment, as the allocation of assets to the MA portfolio will come under much closer scrutiny.
- Insurers should be prepared to defend the effectiveness of all their reinsurance arrangements in detail, as the PRA's clampdown on funded reinsurance is unlikely to be the last word.
- Those responsible for reporting will be able to take advantage of streamlined arrangements.

OUR RECOMMENDATIONS

  	Governance	
	<ul style="list-style-type: none"> • 2024: Consultation on the SM&CR Review • H2: Policy Statement on Diversity and Inclusion • Q1: FRC consultation on the Corporate Governance Code 	<p>Both FCA and PRA regularly signal the importance of diversity and inclusion, and the seriousness with which they approach non-financial misconduct. The outlines of their approach to D&I are clear from the autumn consultation, and companies should not wait for the policy statement to consider their approach. The shape of developments to the SMCR are not yet clear, and companies should wait for the consultation. The delayed FRC consultation has been greatly watered down by the Government. Both regulators make a habit of tracing operational failures back to failings in governance.</p>

HOW CAN SICSI ADVISORY HELP?

Our team of experts can help you navigate the regulatory landscape as it applies to you.

Covering both prudential and conduct matters, you can tap in our experience and insight from the wider market to develop sustainable business models and achieve business resilience.

Using our forward looking approach, we can help identify key issues for your business and deliver tailored practical solutions.

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***FORECAST KEY**






RAINFALL: REGULATORY PRIORITY

Effect/meaning	Very good	Good	OK	Bad	Very bad
Symbol					

WIND SPEED: COMPLIANCE WORK

Effect/meaning	Very good	Good	OK	Bad	Very bad
Symbol					

TEMPERATURE: EXTERNAL PRESSURES

Effect/meaning	Very good	Good	OK	Bad	Very bad
Symbol					



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