

Insurance/  
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# INSURANCE BULLETIN



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## **hfw** 1. Regulation and legislation

### **UK: Preparations for a Market Turning Event**

**On 21 September 2016 David Rule, Executive Director of Insurance Supervision at the Prudential Regulation Authority (PRA), delivered his inaugural speech since taking on his role in July. Of particular note were his comments on managing risk in a soft market and the implications of possible market turning events (MTE). An MTE is one that has the potential to rapidly turn the market from a soft cycle to a hard cycle, which stresses some firms to the point where they breach or expect to breach their Solvency Capital Requirement (SCR) or Minimum Capital Requirement (MCR) within three months of the relevant event.**

David noted that previous soft phases of insurance cycles have ended with major losses and gave examples of Hurricane Andrew, Asbestos, and 9/11 in 2001, and was keen to stress that it would be prudent for firms to plan on the basis that a significant MTE might occur at some point. With that in mind, David introduced the PRA's latest consultation paper, CP32/16 *"Dealing with a market turning event in the general insurance sector"*, together with a draft supervisory statement which sets out the PRA's expectations *"in relation to significant general insurance loss events which might affect firms' solvency and future business plans"*. The paper sets out the PRA's expectations of firms in planning for and in the event of an MTE.



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NAZIM ALOM, ASSOCIATE

The paper is relevant to all PRA-regulated Solvency II insurers, the Society of Lloyd's, and Lloyd's managing agents and particularly to *"those operating in the global specialty insurance and reinsurance market"*, when it comes to planning for and responding to MTE's. It is particularly focused on those firms that breach or may breach their SCR or MCR within the three months following a MTE.

The PRA expects firms to consider in advance the potential impact of a MTE on their business including *"what steps might reasonably be taken in advance to enable [the firm] to respond appropriately and meet their regulatory obligations"*. The extent of the consideration to be given by the firm should be *"proportionate to the nature, scale and complexity of the firm's business, and the impact that a MTE is likely to have on its operations"*. If a MTE could have a significant impact on the firm's financial position or future business plans, it should also consider its approach *"with regard to risk management, capital management and financing, governance, and reporting and disclosure"*.

The consultation paper focuses on some of the governance, risk management, capital management and reporting capabilities that the PRA thinks firms need to consider and also sets out an indicative template containing the type of information the PRA may request from firms following a loss, and also expectations of firms with approved internal models, which will form the basis of the firm's subsequent recovery plan

The consultation is open until 21 December 2016 and all firms are invited to make submissions. For a copy of the PRA's consultation paper CP32/16 and the accompanying draft supervisory statement, please select [this link](#) and, for a copy of David Rule's covering speech, please select [this link](#).

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## **hfw** 2. Market developments

**UK: House of Commons Treasury Select Committee publishes FCA data on UK firms holding single market passports**

**On 20 September, the House of Commons Treasury Select Committee (the Committee) published data received from Andrew Bailey, the Chief Executive Officer at the Financial Conduct Authority (FCA), on the number of UK firms authorised to perform regulated activities within the financial services sector in other European Economic Area (EEA) member states.**

The Committee obtained the information from Mr Bailey following his appearance before them on 20 July. This data request is only a part of the information sought by the Committee in relation to the regulation of financial services.

### **Passporting**

Authorised firms carrying on financial services activities which are situated in the EEA may exercise their right to perform those activities in other EEA member states under one, or more of the single market directives. This is commonly referred to as “passporting”. An authorised firm may passport its business on a cross border (freedom of services) or branch (freedom of establishment) basis.

The passporting regime therefore removes the need for firms to obtain separate authorisations from other Member States to carry on their business.

The data revealed that 5476 UK authorised firms are currently issued with a passport either by the FCA or the Prudential Regulation Authority (PRA) to conduct financial services activities in other EEA member states (outward passporting).

The figures were much higher for authorised firms outside of the UK conducting financial services in the UK (inward passporting). According to the FCA, 8008 firms are registered with a passport to do this.

### **Brexit**

Understanding the extent to which UK firms in the financial services industry will be affected by the passporting regime is most important for developing a new arrangement with other EEA member states in light of the result of the UK referendum on 23 June.

Rt Hon. Andrew Tyrie, Chairman of the Committee believes the issue should be “*right at the top of the in-trays*” of the UK’s lead negotiators if an appropriate arrangement is to be secured for UK authorised firms.

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## **hfw** 3. HFW publications and events

**HFW to present at Dubai Insurance Brokers’ Forum**

HFW Associate **Salma Achour Khouaja** will present a seminar at the Dubai Insurance Brokers’ Forum on Tuesday 11 October. The seminar on “Keeping up with the law” will give an overview of the current brokers’ regulations in place and forthcoming regulatory developments.

**HFW to present seminar on Commodities Document Fraud Insurance**

HFW Partner **John Barlow** will present a seminar on Commodities Document Fraud Insurance in Geneva on Tuesday 11 October.

**HFW client guide: privilege**

HFW has published a client guide<sup>1</sup> on privilege. The guide explains the types of legal professional privilege and analyses when it can be claimed, analyses other forms of privilege and gives some practical tips for protecting legal professional privilege. It also sets out a flowchart for determining whether a communication will be covered by legal professional privilege.

**Brexit: the effect on cross-border insolvencies**

HFW has published a briefing<sup>2</sup> on the effect of Brexit on cross-border insolvencies. The briefing analyses the strengths and weaknesses of each of the sources of law which govern cross-border insolvency and gives some practical tips on limiting the adverse effects of Brexit.

1 <http://www.hfw.com/Client-guide-privilege>

2 <http://www.hfw.com/Brexit-the-effect-on-cross-border-insolvencies-September-2016>



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