The COVID-19 pandemic has created unprecedented challenges for compliance professionals around the world, including those in the UK. The following is a selection of UK and constituent countries actions as well as news and analysis articles compiled by the Thomson Reuters Regulatory Intelligence editorial staff. The selection includes Regulatory Intelligence and Reuters news coverage. More COVID-19 news and information can be found via the TRRI platform's search facility.

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1 This COVID-19 Coverage was compiled by Thomson Reuters Regulatory Intelligence editorial staff.
COVID-19 COVERAGE – UNITED KINGDOM

LEGISLATIVE AND REGULATORY ACTIONS OF THE HOME NATIONS

ENGLAND

The Statutory Sick Pay (General) (Coronavirus Amendment) (No. 5) Regulations 2020 amend The Statutory Sick Pay (General) Regulations 1982 to ensure a person’s entitlement to statutory sick pay for the full period for which they are required to self-isolate and for the period a person is required to stay at home after testing positive for coronavirus.

Coronavirus Act 2020, UK ST 2020 c. 7 (Royal Assent 25 March 2020)
No new actions.

Financial Services and Markets Act 2000 (Regulated Activities) Order
No new actions.

The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2020
No new actions.

Individual Savings Account Regulations 1998
No new actions.

The Income Tax (Exemption for Coronavirus Related Home Office Expenses) Regulations 2020
No new actions.

Value Added Tax Act 1994
No new actions.

The Employment Rights Act 1996 (Coronavirus, Calculation of a Week’s Pay) Regulations 2020
No new actions.

The Health Protection (Coronavirus, International Travel) (England) Regulations 2020
No new actions.

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020
No new actions.

The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020
No new actions.

The Taking Control of Goods and Certification of Enforcement Agents (Amendment) (Coronavirus) Regulations 2020
No new actions.

The Value Added Tax (Extension of Zero-Rating to Electronically Supplied Books etc.) (Coronavirus) Order 2020
No new actions.

Accounts and Audit (Coronavirus) (Amendment) Regulations 2020
No new actions.

2 Links to the TRRI Regulatory Guidance Summary for this provision and not the original text of the legislation.

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The Statutory Sick Pay (Coronavirus) (Funding of Employers’ Liabilities) Regulations 2020
No new actions.

COUNTRIES ACTIONS
Scotland
Coronavirus (Scotland) (No.2) Act 2020 asp 10
No new actions.

Coronavirus (Scotland) Act 2020 asp 7
No new actions.

The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020
No new actions.

The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020
No new actions.

The Statutory Sick Pay (General) (Coronavirus Amendment) (No. 3) Regulations 2020
No new actions.

Wales

The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 3) Regulations 2020 amend The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 to ease restrictions with regards to, among other matters, restaurants, auction houses and gatherings.

The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020
No new actions.

The Statutory Sick Pay (General) (Coronavirus Amendment) (No. 3) Regulations 2020
No new actions.

Northern Ireland

The Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2020
No new actions.

The Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020 replace parts of The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020
No new actions.

The Business Tenancies (Coronavirus) (Restriction on Forfeiture: Relevant Period) (Northern Ireland) Regulations 2020
No new actions.

The Rates (Coronavirus) (Emergency Relief) Regulations (Northern Ireland) 2020
No new actions.

The Statutory Sick Pay (Coronavirus) (Funding of Employers’ Liabilities) (Northern Ireland) Regulations 2020
No new actions.
The Statutory Sick Pay (General) (Coronavirus Amendment) (No. 3) Regulations 2020
No relevant new actions.

The Working Time (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020
No new actions.

The Discretionary Support (Amendment No. 2) (COVID-19) Regulations (Northern Ireland) 2020
No new actions.

Isle of Man

Emergency Powers (Coronavirus) (Continuation) (No. 2) (Amendment) Regulations 2020
amended the Emergency Powers (Coronavirus) (Entry Restrictions) (No.2) Regulations 2020.

Proclamation by the Governor in Council
No new actions.

Emergency Powers (Coronavirus) (Information Sharing) Regulations 2020
No new actions.

OTHER NEWS AND SUMMARIES

COVID-19: Bank for International Settlements consults on updated operational resilience principles

(Regulatory Intelligence) - The Bank for International Settlements (BIS) on Thursday proposed changes to its operational resilience principles, drawing on lessons learned during the pandemic.3

BIS said its principles for the sound management of operational risk, last revised in 2011 after the global financial crisis, had never foreseen a situation where the vast majority of bank and financial services employees would be working from home for months on end. The principles required updating to reflect "new hazards" highlighted by COVID-19.

Financial authorities around the world scrambled to revise regulatory frameworks to ensure banks not only continued to operate, but could pump money into the economy, after the pandemic forced countries into lockdown in the first quarter of 2020. BIS said that its proposed changes draw heavily on the actions taken by national regulators.

"In recent years, the growth of technology-related threats has increased the importance of banks’ operational resilience. The COVID-19 pandemic has made the need to address these threats even more pressing. Given the critical role played by banks in the global financial system, increasing banks’ resilience to absorb shocks from operational risks, such as those arising from pandemics, cyber incidents, technology failures or natural disasters, will provide additional safeguards to the financial system as a whole," BIS said in a statement.

BIS defines operational resilience as the ability of a bank to deliver critical operations through disruption and said the consultation would also provide an opportunity to

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streamline the principles. Seven principles are proposed covering: governance; operational risk management; business continuity planning and testing; mapping interconnections and interdependencies; third-party dependency management; incident management; and resilient cyber security and ICT. They are:

**Principle 1**: Banks should utilise their existing governance structures to establish, oversee and implement an effective operational resilience approach that enables them to respond and adapt to, as well as recover

**Principle 2**: Banks should leverage their respective functions for the management of operational risk to identify external and internal threats and potential failures in people, processes and systems on an ongoing basis, promptly assess the vulnerabilities of critical operations and manage the resulting risks in accordance with their operational resilience expectations.

**Principle 3**: Banks should have business continuity plans in place and conduct business continuity exercises under a range of severe but plausible scenarios in order to test their ability to deliver critical operations through disruption

**Principle 4**: Once a bank has identified its critical operations, the bank should map the relevant internal and external interconnections and interdependencies to set operational resilience expectations that are necessary for the delivery of critical operations.

**Principle 5**: Banks should manage their dependencies on relationships, including those of, but not limited to, third parties or intra-group entities, for the delivery of critical operations.

**Principle 6**: Banks should develop and implement response and recovery plans to manage incidents that could disrupt the delivery of critical operations in line with the bank’s risk tolerance for disruption considering

**Principle 7**: Banks should ensure resilient ICT including cyber security that is subject to protection, detection, response and recovery programmes that are regularly tested, incorporate appropriate situational awareness and convey relevant information to users on a timely basis in order to fully support and facilitate the delivery of the bank’s critical operations.

In addition, BIS is seeking information from banks about what metric they use to measure and monitor their operational resilience, as well as the data on which the metrics are based. The consultation closes November 6.

**Aviva sees heightened financial crime risk during COVID-19, more conduct risk–interim results**

(Regulatory Intelligence) - Risks associated with business conduct and financial crime have heightened, Aviva said with its interim results. COVID-19 has become a pretext for phishing activity, leading to pension and investment fraud, it said. Increased conduct risk has been identified across the group.4

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4 Alex Davidson, Aviva sees heightened financial crime risk during COVID-19, more conduct risk–interim results, Regulatory Intelligence (August 7, 2020) at http://go-ri.tr.com/IzChbH
"An increase in switching, churning and exaggerated or fraudulent claims is expected, particularly if the economic impact is prolonged. Our controls have been effectively monitoring this situation," it said.

"In the current climate, areas of increased conduct risk have been identified across the Group in relation to the financial vulnerability of our customers, product suitability and fair value. In response, our businesses have taken action to support the needs of different customer groups and we continue to work with local regulators," Aviva said with the results.

COVID-19 has resulted in an increased level of inherent operational risk through new practices, including enforced remote working and outsourcing arrangements, Aviva said. Additional risks related to extensive home working include cyber, data loss, and occupational health, it said.

Aviva has not seen a material increase in the volume of cyber-attacks as a result of COVID-19, but has seen external threat actors exploiting the COVID-19 pandemic, it said. The group has put in place a communications programme to ensure employees are aware of scams.

COVID-19 insurance losses

In its general insurance businesses operating profits fell 50% to £167 million, primarily reflecting COVID-19 related claims of £165 million, net of reinsurance, Aviva said. This impact is based on estimated claims in business interruption insurance, other commercial lines and travel insurance, and allows for favourable impacts in other product lines.

Business interruption losses stemming from the current COVID-19 outbreak are not covered under the significant majority of policies, Aviva said. There is, however, a risk that litigation will be required to provide legal clarity in terms of the events and the cover provided under broker determined business interruption policy wordings where the FCA is lead or follow insurer, it said. Many of the issues are now subject to the Financial Conduct Authority (FCA) test case, it said.

The test case trial in the High Court ended on July 30, according to a FCA statement. Lord Justice Faux said he hoped judgment would be available by mid-September, but this is not binding.

IMPACT ANALYSIS: Regulators focus on business interruption insurance

(Regulatory Intelligence) - Since the beginning of the COVID-19 crisis business interruption insurance (BI) has been a regulatory focus. BI is a type of insurance that covers the loss of income that a business suffers after a disaster. The income loss covered may be due to disaster-related closing of the business facility or due to the rebuilding process after a disaster.5

Lockdown meant that thousands of businesses were forced to close but when many of them came to claim on their BI they were told that their policies did not cover the

5 Mike Cowan, IMPACT ANALYSIS: Regulators focus on business interruption insurance, Regulatory Intelligence (August 6, 2020) at http://go-ri.tr.com/h8Lpq5
pandemic. Insurers claim that policy terms and conditions make it clear that the circumstances of the current pandemic is not covered.

**FCA Test Case**

This approach by the insurers prompted the FCA to send a [Dear CEO letter](#) in April 2020 that urged insurers to consider very carefully the needs of their customers and show flexibility in their treatment. The FCA’s view was that most SME insurance policies are focused on property damage (and only have basic cover for BI as a consequence of property damage) so, at least in the majority of cases, insurers are unlikely to be obliged to pay out in relation to the coronavirus pandemic.

However, some customers' policies also cover for BI from other causes (for example in relation to infectious/notifiable diseases, non-damage denial of access and public authority closures/restrictions) and may in some cases provide cover. Whether there is cover for the business interruption related to the pandemic crisis will depend on a number of factors including the policy’s wording. The range of wordings and types of coverage are sufficiently broad in the BI market that it is difficult to determine at a general level the degree to which any one individual customer may be able to claim.

To help with this uncertainty the [FCA](#) said it would bring a sample of relevant cases to court for "an authoritative declaratory judgment" regarding the meaning and effect of some BI insurance policy wordings where there remains unresolved uncertainty.

**EIOPA issues paper on resilience solutions for pandemics**

Separately from the FCA, the European Insurance and Occupational Pension Authority (EIOPA) has issued a paper on resilience solutions for pandemics. The paper identifies issues and options for developing possible shared resilience solutions addressing business interruption risk in the context of a pandemic. Crucial elements in increasing society’s resilience will be proper risk assessment, risk prevention and balanced solutions for risk transfer across private and public parties.

The paper recognises that private insurance solutions alone will not be sufficient to protect society against the financial consequences of future pandemics. Solutions will require both public and private sector involvement, and build on the following four key elements:

1. Proper risk assessment
2. Risk prevention and adaptation measures
3. Appropriate product design
4. Risk transfer

*Risk assessment*

EIOPA acknowledges that there is a significant protection gap for BI (i.e. non-damage business interruption insurance). It concludes that to be able to assess the risks associated with pandemic events, it is necessary to have access to relevant data and risk modelling tools. EIOPA suggests that an EU expert group for data sharing and risk modelling be established.
Risk prevention

EIOPA states that "some of the prevention measures are largely in the remit of public authorities. Measures addressing business continuity and health prevention will both contribute to limiting the economic consequences of a pandemic. Measures by public authorities in that regard are setting the frame in which risk prevention at company level operates". EIOPA suggests creating a platform for public and private coordination on prevention measures.

Product design

In general BI is not commonly offered in European markets and BI insurance for pandemics is generally excluded or mostly non-affirmative. To improve insurance coverage EIOPA concludes that there is a need to explore possible solutions for offering affirmative BI cover for pandemics. The solutions it suggests are:

- Provide simple and transparent BI coverage for pandemics.
- Target BI products at small and medium enterprises.
- Offer parametric insurance cover for BI risks related to pandemics.

Risk transfer

EIOPA says that a shared resilience solution comprises public and private sector participation, enabling a residual risk transfer between different layers of risk owners, on top of private companies or individuals. The "layering" it suggest is (1) insurance industry, (2) reinsurance industry or capital markets, (3) national government and (4) Europe. EIOPA suggests the following measures:

- Require mandatory cover for BI insurance
- Implement national insurance and reinsurance pooling
- Develop capital markets solutions for diversifying pandemic risks
- Role of the European Union in a shared resilience solution
- Set a blueprint for national pooling arrangements
- Establish a national/EU funding mechanism for pandemic risk coverage
- Design a European reinsurance solution for pandemic risk coverage

Considerations for insurance firms

The issues surrounding BI insurance is a test of an insurer's compliance with the Insurance Distribution Directive (IDD) and its product oversight and governance requirements, which has been transposed in the UK into the FCA product intervention and governance sourcebook, specifically PROD 4. In both sets of regulations insurers are required to:

- maintain, operate and review a product approval process for newly developed insurance products and for significant adaptations of existing insurance products.
- specify an identified target market; (2) ensure that all relevant risks to the identified target market are assessed; (3) ensure that the intended distribution strategy is
consistent with the identified target market; and (4) require the manufacturer to take reasonable steps to ensure that the insurance product is distributed to the identified target market.

- test insurance products appropriately, including scenario analyses where relevant, before bringing that product to the market or significantly adapting it, or in case the target market has significantly changed.

- select distribution channels that are appropriate for the target market, thereby taking into account the particular characteristics of the relevant insurance products.

- understand the insurance products it offers or markets.

- regularly review the insurance products it offers or markets, taking into account any event that could materially affect the potential risk to the identified target market.

Compliance with these rules was supplemented by the FCA at the time it announced the test case. The FCA provided insurers guidance on how to handle BI products and existing policies. These measures included undertaking a review of their products against the test case, led by a senior manager, and the results submitted to the FCA within weeks of the publication of the guidance. They should also have appropriately notified policyholders, published sufficient details with appropriate prominence and signposting to keep all policyholders updated, filtered claims and complaints to identify whether all or part of a claim or complaint is similar to those included in the test case.

The complexity and uniqueness of the current pandemic and the FCA's willingness to undertake a test case on the wording of business intervention insurance indicates that this issue is not a straightforward compliance matter that would have routinely been picked up by an insurer's systems and controls.

That said, insurers should have one eye on the future for BI insurance, something that EIOPA is exploring. Insurers should be considering what measures they can take to improve this product in the future and how the systems and controls required of them under EU and UK regulation can be amended to cater for any changes.

**BOARDROOM BRIEFING: FCA seeks views on extension to payment deferrals**

(Regulatory Intelligence) - The Financial Conduct Authority (FCA) is asking for views from firms on the future of the temporary guidance on providing payment deferrals for mortgage and consumer credit products including whether it should extend the guidance beyond the deadline of October 31.⁶

During the COVID-19 crisis the FCA intervened to support both consumers and businesses. This included temporary guidance setting out how firms should support mortgage and consumer credit customers who are facing temporary payment difficulties. Firms should offer affected customers payment deferrals and refrain from repossessing homes, vehicles and other goods.

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⁶ Mike Cowan, BOARDROOM BRIEFING: FCA seeks views on extension to payment deferrals, Regulatory Intelligence (August 5, 2020) at http://go-ri.tr.com/L0Tyz3

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This call for input wants firms’ views so the regulator can better understand how firms expect to support those borrowers who have had temporary support under our guidance and who are still in payment difficulty, and what good practices for supporting these customers already exist. The call for input puts forward propositions for debate, asks for views on areas where further guidance may be required and explores some options in future.

The FCA wants views on the following propositions:

- **Proposition 1:** Further payment deferrals will not necessarily be the right solution for many of those still in financial difficulty after six months.
- **Proposition 2:** Firms will need to focus on a broader range of sustainable forbearance options.
- **Proposition 3:** Firms will need to consider the challenges posed by dealing with a high volume of consumers who require further support.
- **Proposition 4:** Normal credit reference agency reporting should resume.

The FCA also wants views on potential areas where further guidance maybe required, for example:

- **Supporting customers before they are in payment difficulty** – The FCA did not expect deferred amounts to be regarded as a payment shortfall or arrears. Where a customer is approaching the end of a payment deferral and is unable to resume payments, the FCA expects firms to provide the appropriate support as soon as possible. The FCA considers that it would be appropriate for firms to comply with all relevant aspects of MCOB 13 and CONC 7.

- **Understanding, recognising and responding to the needs of vulnerable consumers** – The FCA wants vulnerable consumers to experience outcomes that are as good as those for other consumers, and to receive consistently fair treatment across firms. Consumers who have taken deferrals and do not expect to resume full repayments appear to be particularly vulnerable compared to those expecting to resume full repayments. Firms need to understand, recognise and respond to their needs so that harm or unfair treatment does not happen.

- **Triage and prioritisation of certain groups of consumers** - Some firms may need to prioritise having the most immediate conversations with those borrowers who are at the greatest risk of harm, this includes those who are in the most financial distress.

- **Collecting information from customers** – The FCA rules do not prescribe the information that must be collected, or the channel through which it must be collected. Firms need to collect enough information to make a judgement on what forbearance is appropriate for the customer given their individual circumstances. This will be particularly important in the current crisis given the unique circumstances that may be affecting particular customers.

- **Ensuring good forbearance outcomes** – The FCA wants to understand if respondents feel there are areas where current requirements under MCOB and CONC do not go far enough to deliver good outcomes for consumers in the current environment. The FCA
wishes to understand what good practices have been seen that can support good outcomes in the current environment, and what practices they consider could lead to poor outcomes. The FCA is interested in the views of consumer and debt advice groups on what they think firms need to do to deliver good outcomes in the coming months.

- **Customers with multiple debts** – The FCA also wants to explore what more lenders can do to support customers who have multiple debts by taking a holistic view of their customers’ financial position and preparing them for dealing with their other creditors, without needing to refer them to debt advice.

- **Credit reference agency (CRA) reporting** – The FCA recognises that when normal CRA reporting resumes there may be a number of specific scenarios for credit reporting at the end of deferral periods which may need further consideration. "We want to understand what if any further guidance may be necessary."

The call for input suggests ways this temporary support could be provided, and the factors that need to be considered. It provides two proposals: extend the current guidance beyond October 31; supplement MCOB and CONC rules with further guidance on when a payment deferral should be given.

The deadline for responses is August 7.

**COVID-19: Diversity and inclusion and senior manager obligations**

(Expert Analysis) - Diversity and inclusion continues to be an issue in the spotlight in the financial services sector. The Banking Standards Board recently highlighted diversity as an issue "in need of further understanding and improvement" and the Financial Conduct Authority (FCA) has for a number of years emphasised culture and diversity as a "supervisory priority". In its 2019/20 business plan, the FCA said "diversity and inclusion (D&I) issues may have an impact on the fitness and propriety of senior managers". Consequently, compliance and risk professionals are now considering this issue with renewed focus.7

**Vulnerable staff – emerging data**

Evidence started to appear earlier this year that those from black, Asian and minority ethnic backgrounds may be disproportionately affected by COVID-19. In a report published by Public Health England, it was highlighted that after accounting for the effect of sex, age, deprivation and region, people of Bangladeshi ethnicity had around twice the risk of death when compared to people of white British ethnicity, with other ethnic groups having between 10% and 50% higher risk.

While the data is compelling, what was missing was the reason for the disparity and any recommendations for addressing that. A further Public Health England report followed, summarising a rapid literature review and feedback from external stakeholder engagement. That report noted a number of factors that could be driving the association between COVID-19 health outcomes and ethnicity, including social and economic inequalities (including in population density, housing and household composition, and

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7 Naeema Choudry and Diane Gilhooley of Eversheds Sutherland, COVID-19: Diversity and inclusion and senior manager obligations, Expert Analysis (August 5, 2020) at [http://go-ri.tr.com/2UIZNf](http://go-ri.tr.com/2UIZNf)
income), occupational risk, use of public transport, discrimination and stigma and prevalence of medical conditions that increase the severity of disease.

**Assessing risk**

The government has published generic and sectoral guidance on steps to be taken to ensure safe working for businesses, including for offices and contact centres. The updated guidance on workplace attendance from August 1, 2020 makes clear that when determining who can come into the workplace safely, factors that should be considered include workers' protected characteristics (for example, gender, age, pregnancy, disability and race) and those at higher risk. However, there remains no guidance as to what specifically employers should do to assess and address COVID-19 risk related to ethnicity.

From a health and safety perspective, the absence of guidance and the ongoing uncertainty over the relative contributions made by different factors to ethnicity-related risk presents some difficulty in assessing workplace risk. Further, without there being any legal obligation to do so, very few UK employers actively capture ethnicity data. This consequently makes the assessment of risk even more difficult. However, that is not to say the risk should be ignored.

Employers should ensure that risk assessments are completed based on the information available, employees are reassured that the latest government guidance is being monitored and acted upon and that there are suitable mechanisms in place to enable workers to raise concerns about their individual situation so that appropriate action can be determined.

Regular risk assessments should, however, sit alongside wider strategies within the workplace to identify and address continuing health risks, including encouraging workers to utilise health services and employee assistance programmes. Ensuring that steering groups and health and wellbeing bodies are representative of the composition of the workforce may also encourage usage.

**Wider indicators**

Addressing health risk inequalities is, however, only the tip of the iceberg and may offer only a superficial solution if more general underlying inequalities are present. As the Public Health England reports have demonstrated, health disparities between different groups can offer a window into the existence of wider disparities, including employment inequalities such as pay and treatment.

Ethnicity pay reporting and regulation continues to be debated. The conclusions of the government consultation on the issue of ethnicity pay reporting are awaited and there are also calls for organisations to show their commitment to ethnic diversity by reporting on their ethnicity pay data on a voluntary basis.

**Discrimination risks**

There is often a tension between taking action intended to protect vulnerable workers from risk and not discriminating in taking such action. Effective communication and a properly considered and proportionate approach, taking account of equality impact, will be fundamental to addressing such tension. Fitness and propriety is a key consideration under
the Senior Manager and Certification Regime (SMCR), which may be compromised by senior managers enabling or turning a blind eye to less favourable treatment, reinforcing the need for proactive steps.

It will be imperative to the success of measures that workers are not only consulted, but are also allowed to play a key role in the development of roll-out strategies, where possible. Where measures in relation to workers considered vulnerable result in different employment arrangements, thereby potentially creating a two-tier system and heightening inequalities, it will be particularly important to give careful consideration to the approach, the justification for it and engage with workers in relation to proposals.

**Effective mechanisms for concerns**

Ensuring an effective mechanism for raising concerns will also be an important part of an approach that seeks to avoid inequalities.

The Public Health England report and previous analyses have highlighted the link between ethnicity and the reluctance of individuals to raise concerns, including about PPE or risk. Further, the issue of stigma connected to ethnicity and COVID-19.

Employers should therefore ensure that diversity and disciplinary policies are re-enforced and any training needs addressed. Given that senior managers may be held responsible for any shortcomings in ensuring policies and practices are fair and encourage diversity, they should aim to be active rather than reactive in this regard. Senior managers will need to ensure that those in their line of command are also aware of their obligations and that effective management continues where employees remain away from the workplace.

Further, there should be effective avenues to raise concerns, with workers feeling empowered to utilise internal mechanisms. This may require analysis of usage by different groups within the workforce. Further, with the recent ‘Silence in the City 2’ report on whistle-blowing in financial services firms, by the whistle-blowing charity Protect, highlighting that "33% of concerns were ignored", ensuring that mechanisms are fit for purpose will also be key. In addition, ensuring that any identified misconduct is effectively addressed, taking account of the individual conduct rules and (where applicable) the senior manager conduct rules.

Taking a deep dive approach to consider and address underlying issues will be fundamental if mechanisms are to be truly effective. Education and training, effective networks, support groups, mentoring (including reverse mentoring) and sponsoring are just some of the measures that could be taken. Senior managers will need to central to such initiatives.

**Summary**

Issues of diversity and inclusion remain under the spotlight for financial services firms, with continuing calls for more to be done. Many firms are now starting to take positive strides in this respect, more recently spurred-on by the culture at firms now being scrutinised under the SMCR. In the context of COVID-19 and beyond, seeking to ensure a safe workplace and putting inclusivity and the needs of employees at the heart of the response is a natural and important extension of such efforts.
The disparities in health outcomes of different ethnic groups however has been demonstrated to reflect wider social, economic and employment inequalities, highlighting that health outcome disparities are only part of the wider landscape of diversity and inclusion challenges. While ensuring appropriate mechanisms to assess workplace risks is undoubtedly important, identifying and addressing workplace factors that may be contributing to disparities presents an opportunity for financial services firms to now drive forward real change.

**Compliance moving forward: the 2020 lockdown lessons learned**

(Expert Analysis) - In a recent webinar, 'compliance moving forward,' ClauseMatch brought together a panel of experts to discuss the challenges and opportunities that COVID-19 will create for regulated businesses, and the ever more important role of regtech in a post-pandemic world. The below article summarises the main discussion.

**What challenges and opportunities have compliance teams had to consider through COVID-19?**

We have seen a huge range of challenges for financial institutions, one of the most obvious being video communications. Compliance teams do not have the tools to record the changes that they are making to address the new environment. We have seen a rush towards new compliance projects designed to enable collaboration, decision-making and recording, but also enabling an overview of the state of compliance within a particular organisation.

Regulators are constantly asking for more information and quick responses, often on ad hoc topics. That has led to a massive increase in demand for management regulation. Alongside existing initiatives such as Libor and Brexit, there is a huge workload. With compliance forced to work separately from businesses, we are seeing increased use of collaboration and adoption tools and different ways of maintaining engagement. Many different projects and schemes are being launched and compliance teams are being challenged by new and emerging risks and they need to onboard technology fast.

**How can firms control the risks related to remote working?**

Unprecedented times will see more remote working, although to what degree is not yet clear. Unsurprisingly, there is renewed interest in policy management software that helps firms update their business continuity and disaster recovery plans and communicate these to employees. On a wider scale, the crisis has generated a spike in a range of risk types across regulated firms – and not just because people are working from home. Market conditions have changed and there are many things that can trigger risk right now.

*Information control and security* is an obvious one. Firms must ensure that the risk of insider dealing and market abuse is limited, and that they maintain the appropriate levels of market surveillance and suspicious transaction reporting. This is especially relevant now that people work remotely and markets are volatile.

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Conflicts of interest is another risk. People talk to their partners, family and friends more often than they would do at the office, so there is less control over information exchange.

Conduct risk is relatively new. Firms may have corporate and retail clients with forbearance proceedings in place and need to exit those with the relevant conduct considerations. Plus, there is a whole different mix of vulnerable customers.

Change risk is key, as well as people risk within the compliance department itself. With teams working remotely for a prolonged period of time, managing the morale and the resilience of that workforce has to be on the agenda.

How will compliance technology evolve through the pandemic?

The big change is that investment in technology is becoming a necessity, rather than an option. Use and user behaviour have changed to the point where, with a click of a button, a firm gets the service it wants. And if it does not, it leaves the provider. Another aspect is that the newer banks have been offering good service and the other institutions inevitably follow suit.

What we also see is a 'regulation tsunami' with many new regulations taking effect. There are more than 2,500 compliance rulebooks and we have seen a 500% increase in penalties issued by the Financial Conduct Authority (FCA). Firms want fewer fines and lower litigation costs. They want to adopt new regulations fast and improve data analytics and the regulatory reporting cap – all areas being pushed by the regulator as the scale and complexity of this regulation is increasing. Another interesting shift is related to behavioural changes. Now, it is about data protection, not consumer protection. The models have changed and firms have to safeguard.

How will the industry shift and adapt in terms of systems and processes?

There are myriad new tools that address specific points of compliance, such as transaction monitoring and fraud detection. Companies are looking for a regtech answer that will enable them to amalgamate all the changes into their risk and compliance system fast. There is only one solution and that is to take an engineering approach to compliance, where it is essential to keep pace with developments.

How can an organisation be persuaded to invest in regtech?

There is widespread concern over costs at the moment. Teams might be under more pressure, perhaps company revenues have taken a downturn. But governance is essential, so when pitching for funding, focus on the wider picture. Firms also need to find a way to prove new tech concepts with small pilots and for minimal expense.

Firms can help compliance startups and scaleups through the approval process by promoting their solution and exploring the best entry point. By working closely with IT and with innovation and technology groups, compliance teams can understand how the organisation is buying technology and how to pilot the software. It is then much easier to get the business case through the procurement process.
What do those working in compliance need to consider as they plan for the future?

The most essential thing to do right now is to embrace the bigger picture and move with the times because there is a need to invest, despite current economic conditions. Slowing down, especially in an area as important as compliance, would be detrimental. Instead, use the time to double down on innovation, technology and projects that can be delivered faster and with better results for your organisation.

As the crisis recedes, tasks like providing management information to regulators – ad hoc through the crisis – will need to take precedence. Transitioning out of the recent forbearance arrangements might take several years. Firms also need to look back at decisions made during the crisis and decide if they were handled appropriately.

With all institutions under financial performance pressure and smaller teams in place, efficiency is also key. Automation technology will come to the fore, including chatbots, control automation and workflow tech. Using more codifiable rules and policies internally that can be more automated in the first line are all areas clients are exploring now. Many organisations are looking at how to increase their agility and how they can restructure. Compliance teams need to consider what their future engagement is going to look like, as it will probably be very different from how they interact today.

In future, it is clear that regtech has to be in the DNA of every company. Think about it from a new perspective: the data we have from customers and the way we communicate with them is where the value of the business is. If we are not in control of it or secure with it, there is no business in five to 10 years. In a changed world, it is a case of adapt and survive.

Watch the webinar.

Sunak: BoE forecasts show improvement, but hardship lies ahead

(Reuters) - British finance minister Rishi Sunak said on Friday the Bank of England’s new economic forecasts represented an improvement on the old ones, but he acknowledged that they show hardship lies ahead.9

On Thursday the BoE said the economy would not recover its pre-pandemic size until the end of 2021, slightly later than its previous estimate, but its short-term projections were less grim.

"It’s an improvement from when they last did their forecast," Sunak told BBC News.

"But... they are right to say that hardship lies ahead."
Sunak also said he was optimistic a lot of the emergency government-backed loans given to companies during the pandemic will be repaid, and that a trade deal with the European Union was still possible in September.

“On Brexit, as you will have heard recent reports, we remain confident that it’s possible to get a deal in September,” he told Sky News in another interview.

**Negative rates in BoE toolbox, but no plans to use them, BoE’s Bailey says**

(Reuters) - Britain’s central bank said it saw no immediate case to cut interest rates below zero on Thursday as it warned the economy would take longer to recover from its COVID slump than it previously forecast.10

Unemployment is likely to almost double by the end of this year, the Bank of England said.

“There are some very hard yards, to borrow a rugby phrase, to come,” Bank of England Governor Andrew Bailey said. “And frankly, we are ready to act, should that be needed.”

On negative rates, already used by the European Central Bank and the Bank of Japan, Bailey said: “They are part of our toolbox ... But at the moment we do not have a plan to use them.”

The BoE cut interest rates to just 0.1% in March and expanded its bond-buying plan to almost $1 trillion.

On Thursday, its nine monetary policymakers all voted for no policy changes as they sketched out a slow path to recovery.

The BoE said the economy would not recover its pre-pandemic size until the end of 2021, slightly later than its previous estimate.

But the BoE’s shorter-term projections are less grim. While unemployment is expected to peak at 7.5% at the end of 2020, that is lower than its previous estimate of just under 10%.

A 9.5% drop in the overall economy this year would be the worst performance in 99 years but less severe than a 14% plunge in the May scenario.

Sterling hit its highest level against the dollar in five months.

“Overall, the BoE’s economic outlook is relatively less dovish than expected and the absence of a strong signal in favour of negative rates opens the door for further pound gains in the near-term,” MUFG analysts told clients.

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10 Andy Bruce, David Milliken, Negative rates in BoE toolbox, but no plans to use them, BoE’s Bailey says (August 6, 2020) https://uk.reuters.com/article/us-britain-boe/negative-rates-in-boe-toolbox-but-no-plans-to-use-them-boes-bailey-says-idUKKCN25139S

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British government bond yields also rose, as the BoE confirmed a further slowdown in the pace of bond purchases.

The BoE said it would buy 4.419 billion pounds of gilts weekly until Dec. 16, down from 6.9 billion pounds now.

“LUKEWARM” ON NEGATIVE RATES

The economy might need more help as it struggles to cope with the novel coronavirus and the end of a Brexit transition period from Jan. 1, potentially with no new European Union trade deal.

“With unemployment set to rise as furlough unwinds and double trouble from Brexit and COVID, we expect a change of course and further easing in the end,” Morgan Stanley economists Jacob Nell and Bruna Skarica said.

Most economists polled by Reuters last month said they expected the BoE’s next move to help the economy would be to expand its bond-buying again in late 2020.

“The ... discussion on negative rates was lukewarm at best,” said ING economist James Smith.

The BoE said banks in countries which have cut rates below zero were often limited in their ability to pass on lower borrowing costs to lenders and feared negative rates would erode their capital.

“As a result, negative policy rates at this time could be less effective as a tool to stimulate the economy,” it said.

But analysts at Citi said the BoE’s announcement laid the ground for a negative Bank Rate by mid-2021.

The BoE said there were factors that could change its previous view that the floor for rates was just above zero.

SUB-ZERO INFLATION

The BoE’s new projections showed inflation was likely to fall below zero this month before returning to the BoE’s 2% target over the next couple of years and rising to 2.2% in 2023.

When inflation is forecast to rise above 2%, that is typically a signal the BoE expects to do no more stimulus.

Bailey and his fellow policymakers signalled they would not be in a rush to raise borrowing costs when inflation does rise.
“The Committee does not intend to tighten monetary policy until there is clear evidence that significant progress is being made in eliminating spare capacity and achieving the 2% inflation target sustainably,” they said.

**Bank of England says banks able to support coronavirus-hit Britain**

(Reuters) - Britain’s banks hold enough capital to keep on lending to the country’s companies and also to absorb billions in losses likely to arise due to the COVID-19 pandemic, the Bank of England said.11

Companies could suffer a cash flow deficit of up to 200 billion pounds, and banks could be hit by credit losses of less than 80 billion pounds, the BoE’s Financial Policy Committee (FPC) said on Thursday.

“It remains the FPC’s judgement that banks have the capacity, and it is in the collective interest of the banking system, to continue to support businesses and households through this period,” the FPC said in its Financial Stability Report.

“That said, the banking system cannot be resilient to all possible outcomes — there are inevitably very severe economic outcomes that would challenge banks’ ability to lend.”

But there would be costs to banks and the wider economy from taking “defensive actions” like scaling back on lending.

Separately, the BoE said it expected Britain’s economy to take longer to get back to its pre-COVID-19 pandemic size.

The FPC said a “reverse stress test” of lenders showed that to deplete their capital ratios by more than 5 percentage points, banks would need to incur credit impairments of around 120 billion pounds.

It would require the cumulative loss of economic output due to COVID-19 to be twice as big as the Bank’s central economic projection to incur such losses, the FPC report said.

The FPC has been asked by the finance ministry to review whether changes are needed to Britain’s financial system, including regulation, to improve the flow of finance to all parts of Britain.

Britain’s government has said it wants to “level up” the regions where investment and productivity lags that of London.


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“The FPC intends to focus on examining possible distortions to the supply of illiquid long-term and equity-like investments,” the report said.

Although Britain left the European Union in January and transition arrangements end in December with no new UK-EU trade deal yet in place, the report said “most risks to UK financial stability that could arise from disruption to cross-border financial services have been mitigated”.

This was the case “even if the current transition period ends without the UK and EU agreeing specific arrangements for financial services,” it added.

**Bank of England sees slower economic recovery from COVID hit**

(Reuters) - The Bank of England said Britain’s economy would probably take longer to get back to its pre-pandemic size than it previously thought, but it was still weighing up the risks of cutting interest rates below zero to jump-start growth.12

As it announced unanimous votes by its policymakers to keep its key interest rate at just 0.1% and make no changes to its huge bond-buying programme, the BoE said the economy would not recover its pre-pandemic size until the end of 2021.

In May, it had said it thought it might get back to its pre-crisis size during the second half of 2021.

“There are some very hard yards, to borrow a rugby phrase, to come. And frankly, we are ready to act, should that be needed,” Bank of England Governor Andrew Bailey told reporters.

On negative rates, Bailey said: “They are part of our toolbox ... But at the moment we do not have a plan to use them.”

RELATED COVERAGE

Bank of England says banks able to support coronavirus-hit Britain

The BoE’s protections for 2020 are less grim than in May. Unemployment is expected to peak at 7.5% at the end of this year, almost double the most recent rate but lower than the BoE’s previous estimate of just under 10%.

The overall economy now looks on course for a 9.5% drop this year. That would be the worst performance in 99 years but less severe than a 14% plunge in the BoE’s May scenario, which would have been the worst in more than three centuries.

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Sterling hit its highest level against the dollar in five months and was up about 0.4% on the day. British government bond yields also rose, as the BoE confirmed a further slowdown in the pace of bond purchases.

However, the recovery would be slower, reflecting the more drawn-out impact of COVID-19 on people’s willingness to spend on social activities and the chance of further local lockdowns, among other factors.

“With unemployment set to rise as furlough unwinds and double trouble from Brexit and COVID, we expect a change of course and further easing in the end,” Morgan Stanley economists Jacob Nell and Bruna Skarica said.

SUB-ZERO INFLATION

The projections showed the BoE’s Monetary Policy Committee thought inflation was likely to fall below zero this month before returning to around the BoE’s 2% target over the next couple of years and rising to 2.2% in 2023.

When inflation is forecast to rise above 2%, that is typically a signal the BoE does not expect to loosen policy more.

Bailey and his fellow policymakers signalled they would not be in a rush to raise borrowing costs when inflation does rise, saying they would want to see significant progress in eroding slack in the economy.

The BoE also said its review of whether to take rates into negative territory was ongoing and there were factors that could change its previous view that their floor was just above zero.

However it said other countries showed that banks were often unable in practice to cut deposit rates below zero, limiting their ability to pass on lower interest rates to lenders.

Banks also feared negative rates would erode their capital - especially at a time like now when they risked heavy losses on some lending.

“As a result, negative policy rates at this time could be less effective as a tool to stimulate the economy,” the BoE said.

Economists mostly described the BoE’s tone on negative rates as cautious.

“The MPR’s discussion on negative rates was lukewarm at best,” said ING economist James Smith. Analysts at Citi, however, said the BoE’s announcement laid the ground for a negative Bank Rate by mid-2021.
Britain's banks brace for $22 billion loan losses as outlook darkens

(Reuters) - Britain’s banks took a gloomier view than almost all their European peers in their second quarter earnings, as coronavirus fears, Brexit and low interest rates caused them to bake tougher “worst-case” scenarios into their risk models.13

Investors had expected a torrid set of half-year results, but Barclays (BARC.L), Standard Chartered (STAN.L), Lloyds (LLOY.L), NatWest Group NWG.L and HSBC (HSBA.L) fell short of these low expectations.

Provisions for potential loan losses across the five banks topped $22 billion (16.80 billion pounds), blowing past analyst forecasts and increasing selling pressure on shares already hammered by the pandemic this year.

By contrast, France’s BNP Paribas (BNPP.PA) and Credit Suisse (CSGN.S) beat analyst forecasts, benefiting from bumper trading volumes as well as relatively modest provisions.

HSBC and Lloyds were punished for poor results, with shares in both banks plumbing their lowest levels in 11 and 8 years respectively.

All five UK banks have under-performed, falling by between 42% and 55% this year compared to a 36% fall in the European banking index .SX7P.

“The UK banks are facing a more significant economic drop than most Europeans as the UK has faced a bigger shock from the COVID-19 pandemic, and that has fed through into provision levels,” said Patrick Hunt, partner at consultancy Oliver Wyman.

The British economy is forecast to shrink 11.5% this year, while the euro area contracts 9.1%, according to OECD forecasts in June.

Other factors weighing on UK banks include a relatively higher exposure to unsecured consumer lending, a larger drop in central bank rates and the potential for a “no deal” exit from Brexit transition arrangements at the end of 2020, analysts said.

The roll out of further lockdowns across the north of England in response to a rise in infections also threatens to derail the country’s nascent economic recovery and damage bank balance sheets further.

TOUGH CHOICES

NatWest and Lloyds gave guidance that loan-loss provisions should be lower in the second half of the year, raising hopes the country’s banks may have ”kitchen sanked” provisioning and got ahead of European rivals.


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But they also warned the outlook could deteriorate further and drastically downgraded their worst case forecasts for the economy, predicting GDP drops of as much as 17% in 2020.

The heftier provisioning among British banks relative to their European rivals was largely because the former incorporated gloomier worst-case forecasts into their economic models.

Lloyds, for example, said Britain’s GDP could tumble 17.2% in a worst scenario compared with a 7.8% fall previously modelled as the extreme downside case when the bank reported results in April.

While European rivals did not disclose their models in as much detail, Deutsche Bank (DBK Gn.DE) allowed for a more modest 2 percentage point swing to the downside in German GDP from the base case in its adverse scenario.

That disparity is reflected in the yields banks are paying on their debt.

Deutsche Bank’s bonds maturing in August 2023 DE187315832= were trading at a yield of 0.03% on Tuesday, 38 basis points lower than a comparable Barclays September 2023 note GB187398274=. In January, Barclays’ yield was trading lower than that of its German counterpart.

“Asset quality in the UK appears to be deteriorating faster than in Europe and you are seeing that reflected in the bonds,” said Filippo Alloatti, a credit analyst and portfolio manager at Federated Hermes.

NatWest chief financial officer Katie Murray said the bank’s worst case took account of both further lockdowns to control the spread of the virus and a disruptive Brexit.

HSBC said its business in Britain, where it took a $1.5 billion charge against expected credit losses, had been particularly hard-hit and it would look to accelerate cost-cutting plans including redundancies.

Tom Merry, head of financial strategy at Accenture, said banks are prioritising cost-cutting and readying restructuring and debt collection operations - including improving credit risk modelling to pick up on red flags - in preparation for a tough second half.

Cost-cutting is likely to include further branch and office closures, Merry said, with any investment spend ploughed in to digital services.

“If there’s one good thing to come from this for banks it’s that if they are able to accelerate digital transformation they will be stronger out the other side.”