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. Additional COVID-19 resources are also available on the Thomson Reuters COVID-19 Resource Center.

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

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

The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) (Amendment) Regulations 2020
No new actions.

The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020
No new actions.

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 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.

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

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Accounts and Audit (Coronavirus) (Amendment) Regulations 2020

No new actions.

The Employment Rights Act 1996 (Coronavirus, Calculation of a Week’s Pay) Regulations 2020

No new actions.

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020

No relevant new actions.

The Statutory Sick Pay (General) Regulations 1982

No relevant new actions.

The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020

No relevant new actions.

The Statutory Sick Pay (Coronavirus) (Funding of Employers’ Liabilities) Regulations 2020

No new actions.

COUNTRIES ACTIONS

Scotland

The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Amendment Regulations 2020 amend The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020 by inserting a new regulation which requires persons to wear face covering when in indoor communal areas in workplaces.

Coronavirus (Scotland) Act 2020 asp 7 and Coronavirus (Scotland) (No.2) Act 2020 asp 10 to expire on March 31, 2020.

The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020

No new actions.

The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020

No relevant new actions.

Wales

The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020

No new actions.

The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020

No relevant new actions.
Northern Ireland

The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Schedule 8) (Early Termination of Certain Temporary Provisions) Regulations (Northern Ireland) 2020 introduce temporary provisions to relax the conditions for obtaining a moratorium as well as modifying how it is monitored and extended, among other matters.

The Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2020

No new actions.

The Business Tenancies (Coronavirus) (Restriction on Forfeiture: Relevant Period) (Northern Ireland) (No 2) Regulations 2020

No new actions.

The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Relevant Period for Meetings of Registered Societies and Credit Unions) Regulations (Northern Ireland) 2020

No new actions.

Health Protection (Coronavirus, Wearing of Face Coverings) (Amendment) Regulations (Northern Ireland) 2020

No new actions.

The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020

No relevant 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 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) (Entry Restrictions) (No.2) Regulations 2020

No relevant new actions.
Proclamation by the Governor in Council
No new actions.

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

REGULATORS – COVID-19 UPDATES

UK Regulators

Financial Conduct Authority (FCA)

COVID-19: Information for Firms (October 12, 2020)
The FCA has updated its COVID-19 Information for firms page. Specifically, the FCA has updated a broken link within the accessing restricted savings section.

For more information see the link here.

Market Abuse in a Time of Coronavirus (October 12, 2020)
Julia Hoggett, Director, Market Oversight, gave a speech at the City Financial Global event. Ms. Hoggett highlighted that the FCA’s focus on markets remaining open is driven by the fundamental role they play in supporting the economy. Whilst the fundamentals of the market abuse offences are constant, the ways in which the risk may manifest are not. The manner of monitoring them, therefore, must also change. Market abuse is not an offence that only applies to individuals working in the financial services industry. Any individual in receipt of inside information who trades while in possession of that information, or induces someone else to, is guilty of market abuse.

For more information see the link here.

Bank of England’s Prudential Regulatory Authority (PRA)

Opening Remarks at the Launch of the Artificial Intelligence Public Private Forum - Speech by Dave Ramsden (October 12, 2020)
The PRA has published a speech by Dave Ramsden, Deputy Governor for Markets & Banking, at the Launch of the Bank of England and the FCA’s Artificial Intelligence Public Private Forum. Ramsden noted that Artificial Intelligence (AI) and Machine Learning are becoming ever more important in financial services. The COVID-19 pandemic has increased interest in the possible uses of AI in addressing some of the many immediate problems and challenges precipitated by the pandemic. With this in mind, the Bank of England and the FCA are launching the Artificial Intelligence Public-Private Forum, to further dialogue between the public and private sectors in order to better understand the use and impact of AI in financial services.

For more information see the link here.
COVID-19 accelerating change in profile of a compliance officer, relationship between first and second lines, say officials

The changing profile of the typical compliance desk and its team members has been accelerated by the pandemic. The shift to home working as countries went into lockdown in March has prompted an unprecedented reliance on surveillance technology, and demand for individuals with the skills to understand it, the heads of compliance at NatWest Markets, HSBC and BNP Paribas have said.

With up to 98% of trading desk staff working from home, there has also been greater cooperation between the first and second lines of defence as banks scrambled to ensure they had appropriate surveillance in place to detect any wrongdoing.

Es Nelson-Jones, head of compliance, conduct and financial crime at NatWest Markets, said that no longer being able to walk the physical trading floor had pushed the banks' reliance on technology to unprecedented levels.

"[Having] compliance guidance staff sit on the trading floor is such a great way to gauge the temperature of how the general market is doing, the behaviour and morale, and that was stripped away [by COVID-19]. So, we have had to rely much more on [communications] surveillance to pick up what you would normally pick up in person in order to try and gauge the general direction that the business is going. Reliance on technology has gone through the roof," Nelson-Jones said last week during a panel discussion on how the pandemic had affected compliance — part of the Association for Financial Markets in Europe's Compliance and Legal Virtual Conference.

Having to adapt

Seung Earm, head of regulatory and territory office at BNP Paribas, agreed that compliance had been required to adapt because of the inability to patrol the trading floor.

"The new way of working means greater reliance on data," Earm said.

BNP Paribas had reprioritised compliance resources as a result, Earm said, to ensure the bank could demonstrate to its regulators that it was taking "that extra step".

"We have had to mix and match various [compliance] methods. [We looked] to see who was the salesman who had generated the most commission, and did that make sense? And we also looked at whether the trades made sense for the client," she said.

Julia Hoggett, director of market oversight at the UK Financial Conduct Authority (FCA), warned banks earlier this week that the need to ensure they have appropriate controls in place was all the more critical in the midst of the pandemic.

Hoggett said the COVID-19 crisis was highly likely to lead to an increase in mergers and acquisitions, and to more companies falling into financial distress. Banks must ensure they protected such insider information, she said. Bank staff are concerned about protecting insider information in a working-from-home environment.

Earm said the most frequent request for help made to compliance with regard to working from home concerned how to protect confidential information. Staff living in

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3 Lindsey Rogerson, COVID-19 accelerating change in profile of a compliance officer, relationship between first and second lines, say officials, Regulatory Intelligence (October 16, 2020) at http://go-ri.tr.com/hqiHdx

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shared accommodation wanted guidance on what to do when they and flatmates were all working around a single kitchen table, she said.

**Mobile telephones and Zoom**

Compliance teams have helped their banks adapt quickly to the changing work environment. Nelson-Jones said that, in the initial days of lockdown, it became apparent that the bank needed hundreds of mobile telephones to ensure it remained compliant with regulation on call recording.

NatWest also had to work with internet telecoms group Zoom to make sure calls could be recorded. The bank also issued draft guidance on using Zoom, and worked hard to ensure traders and sales teams knew how to use the technology.

"There were a number of communications with Zoom themselves to make sure that they understood the importance that we needed every single Zoom call recorded. But also, [we provided] a phenomenal amount of guidance [internally] on what I would say was [guidance] 101. Taking individuals through how to dial in to a Zoom call — so, for example, if you just dial in and click on the internet, that means it is not recording, so you need to dial in via your work phone in order for it to be recorded. We also sent out a phenomenal [number] of comms through the whole of the first two months to make sure that everyone understood their regulatory obligations," Nelson-Jones said.

Andrew Sowter, chief compliance officer, EMEA at HSBC, said HSBC has also made sure its controls remained in place.

"The same controls that existed in a physical workplace environment have continued throughout [the pandemic]," Sowter said.

Improved surveillance technology was helping, and would continue to help, compliance officers identify and focus resources on the biggest risks, he said.

Modern surveillance software looks for patterns in the trading and communications data, and greatly reduces the number of false positives flagged for investigation.

"I think the available tech in the market is improving all the time. [Management information] and metrics are going to be key to give good indicators for compliance as to where the bigger risks are, and I think that will allow our departments to take a more risk-based view of what we do. The more machine learning can weed out false positives, that will allow us to be leaner in terms of our cost-effectiveness, and to be more effective because we can focus on the bigger risks," Sowter said.

Nelson-Jones said that, at NatWest, the first and second lines had been collaborating to focus compliance surveillance efforts more accurately during the crisis.

**Financial firms face growing pressure to not pay pandemic bonuses**

(Expert Analysis) - Employers in the financial services sector are under pressure to cancel or lower 2020 bonus awards following predictions from the World Bank of deep recession because of the shock of the COVID-19 pandemic.4

As far back as March, the European Banking Authority told national authorities to ask firms to adjust remuneration awards, with variable pay to be set "at a conservative level". In

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4 Paula Chan and Amanda Steadman of BDBF, Financial firms face growing pressure to not pay pandemic bonuses, Expert Analysis (October 15, 2020) at http://go-ri.tr.com/eJldZW

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turn, the UK Prudential Regulation Authority (PRA) told certain UK banks not to pay cash bonuses to senior staff, including all material risk takers, and to consider further steps on the accrual, payment and vesting of variable pay.

The UK Financial Conduct Authority (FCA) reminded regulated firms to satisfy themselves that bonus awards were “prudent” given market circumstances and to plan ahead to ensure "sound management of their financial resources". In response, senior executives from a number of major UK banks led the way by agreeing to forego some or all of their 2020 bonus awards.

In addition to these express mandates, financial services firms remain subject to codes governing their remuneration practices. Among other things, the codes require bonuses to be adjusted for current and future risks and paid only if it is sustainable according to the financial situation of the firm. The huge economic impact of the pandemic is bound to feature in these assessments and may well result in lower awards being made.

On top of these regulatory pressures, firms know that they will not fare well in the eyes of investors and the wider public if they award big bonuses this year. Dividend distributions have been suspended by many firms, meaning that shareholders will expect businesses and their staff to take their share of the pain.

With almost 80,000 workers across the sector still furloughed and potentially facing redundancy, there is a risk that that big bonus payments will provoke public backlash. The Investment Association has warned of "significant reputational ramifications" for companies which cancel dividends, claim public money or make redundancies without reflecting this in pay awards. For a sector keen to redeem its reputation after the 2008 financial crisis, this is not an attractive prospect.

**Options for employees**

While it would be wise for executives to lower their bonus expectations this year, there are still routes available to challenge awards that fail adequately to reflect contribution.

If an employee is entitled to be paid a guaranteed or contractual bonus (where the conditions triggering payment have been met), the employer will usually have to pay the bonus. Some contractual bonus conditions are easier to measure than others, such as profit targets. Contrast this with targets surrounding individual performance, which are inevitably more subjective. That said, employers are obliged to make such assessments reasonably and in good faith. If they fail to do so their decision is vulnerable to challenge.

Quite a few executives participate in discretionary bonus schemes, which provide the employer with greater latitude. Such schemes usually stipulate that there is no right to be paid a bonus and any amount awarded is made at the employer's discretion. This discretion is not unfettered, and it must be exercised honestly, in good faith and not in an arbitrary, capricious or irrational way. Inconsistent treatment either within the business, or in comparison with similar employers, may be enough to get a challenge off the ground.

A bonus decision could also be overturned if it can be shown that the firm's underlying decision-making process is unsound, for example, because it failed to take into account relevant information. Following market trends on cutting bonuses, without giving appropriate weight to factors favouring the awarding of a bonus, such as strong performance, may leave the process open to challenge.

**Is redundancy the easy way out for employers?**

Firms may seek to reduce their bonus bill in a simpler way, cutting staff numbers before bonuses fall payable. Most bonus schemes expressly provide that where an employee is
under notice of termination, or is not employed on the bonus payment date, the bonus will be lost. Where this is the case, redundancy is not necessarily the simple solution to the bonus conundrum.

If the redundancy is genuine (and it is true that many will be, given the impact of the pandemic) the fact that it has the effect of depriving the employee of a bonus is bad luck. If, however, an employee can demonstrate that they have been made redundant so that the employer can avoid having to pay a bonus, they may be able to claim breach of contract in the High Court or the Employment Tribunal. Damages for contract claims are unlimited in the High Court or capped at £25,000 in the Employment Tribunal.

Alternatively, if the employee can show that they have been unfairly selected for redundancy, they may be able to recover damages in respect of the lost bonus in a related claim. For example, if the employee was selected for redundancy because they had previously blown the whistle, such as for financial or regulatory breaches, this could give rise to an "automatic unfair dismissal" claim in the Employment Tribunal. Damages in such claims are uncapped and could potentially cover a lost bonus. Similarly, if the employee could show that the selection for redundancy was discriminatory, they may be able to bring a discrimination claim in the Employment Tribunal, for which damages are also uncapped.

It remains to be seen how financial institutions will respond to pressure not to pay bonuses, but executives do have options should COVID-19 cancel more than just Christmas.

**Lloyd's of London reviews insurance contracts due to COVID-19**

(Reuters) - Lloyd's of London is reviewing the way insurance products are designed and sold as it calls for simpler products in response to the coronavirus pandemic, the commercial insurance market said on Monday.5

Insurers have suffered reputational damage as a result of complex products which are hard for businesses to understand, leading to court cases over whether policyholders are covered for the pandemic in countries including Britain, France and the United States.

"The insurance industry must urgently reassess how it can better serve and support its customers," Lloyd's Chief Executive John Neal said in a statement.

He said it was imperative to build simpler insurance products that are more easily understood.

Lloyd's, which runs an insurance market of more than 90 syndicate members, said it would review how products were developed, designed and sold.

It also laid out recommendations for simpler products in a report published on Monday.

These include insurers carrying out a "linguistics review" of policy documents, investing in new products such as parametric insurance which pay out immediately when specific triggers are hit, and involving customers in product design.

A test case over business interruption insurance brought by the Financial Conduct Authority (FCA) against eight insurers, including several with a presence at Lloyd's, is heading for the appeal courts after the regulator said the initial judgment ruled mainly in favour of policyholders.

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5 Carolyn Cohn, Lloyd's of London reviews insurance contracts due to COVID-19, Reuters (October 13, 2020) at http://go-ri.tr.com/LL1GrO
The case, which is expected to affect more than 60 insurers, 370,000 policyholders and billions in insurance claims, is being closely watched overseas.

**Bank of England says bank buffers may need change to boost lending**

(Reuters) - The rules surrounding banks’ risk buffers may need to change to encourage lenders to tap their capital and avoid a squeeze on credit following the coronavirus pandemic, Bank of England Deputy Governor Jon Cunliffe said on Thursday.⁶

Even though regulators have given banks the green light to dip into buffers to help businesses survive the COVID-19 hit to the economy, there was a “first mover disadvantage” to doing so as it could limit dividends and other payouts, Cunliffe said.

“We will need to think through this question more as the recovery - albeit a bumpy one - gathers pace, as impairments mount and it becomes clearer how permanent the damage will be,” Cunliffe told an online event hosted by the Washington-based Peterson Institute for International Economics.

When a bank breaches its capital conservation buffer, the lender cannot pay bonuses to staff or dividends to investors.

Since economies went into lockdown in March to fight the pandemic, governments have backed the loans offered by banks, but this relief will be phased out in future.

Policymakers worry banks will then become warier of lending to struggling businesses.

Regulators such as the Bank of England and the global Basel Committee, which designed the capital buffer rules used across the world, have repeatedly said that lenders would be given sufficient time to rebuild buffers.

“Looking to the future, we may want to revisit the balance between the various capital buffers, with a view to having more in countercyclical buffers that are releasable by regulators, and less in the fixed buffers,” Cunliffe said.

**UK debt mountain to grow but don’t raise taxes yet - IFS think-tank**

(Reuters) - Britain’s debt mountain is likely to rise and hold above 100% of gross domestic product for at least the next few years but Prime Minister Boris Johnson should be in no rush to tackle it with tax hikes, a think tank said.⁷

Public borrowing in 2020 will hit a level unseen outside the two world wars, thanks to the government’s 200 billion-pound coronavirus spending surge and a 95 billion-pound hole in tax revenues, the Institute for Fiscal Studies said.

Britain’s public debt pile has already hit 2 trillion pounds, or just over 100% of gross domestic product.

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The IFS said it was likely to stand at 110% of GDP in the 2024-25 financial year, the end of its forecast period.

“Without action, debt – already at its highest level in more than half a century – would carry on rising,” IFS director Paul Johnson said. “Tax rises, and big ones, look all but inevitable, though likely not until the middle years of this decade.”

Just to keep debt at 100% of national income, the government would need to raise taxes - or cut spending - by about 2% of national income in 2024/25, or 40 billion pounds.

The world’s sixth-biggest economy has weaker growth prospects than some of its peers because of the large share of jobs hit hardest by the pandemic and the drag from Brexit, according to analysts at bank Citi who worked with the IFS.

At the same time, demands for higher spending on healthcare are unlikely to fade.

Finance minister Rishi Sunak ripped up the economic orthodoxy of his Conservative Party by unleashing a wave of public spending at the onset of the pandemic.

He says his priority remains to slow rising job losses although he has replaced his 50 billion-pound wage subsidy scheme at the end of this month with a less generous programme.

Sunak has also “promised to balance the books” in the medium term.

The IFS said borrowing was the right response to the crisis but the government’s low debt servicing costs - the smallest as a share of revenues since the 1600s - could vanish suddenly if the Bank of England has to raise interest rates.

“Any weakening of the independence of either the Bank of England or the Office for Budget Responsibility could be disastrous, as could any sense that the government did not have the health and stability of the economy and public finances at the centre of its concerns,” Johnson of the IFS said.

The government should try to lock in its low borrowing costs by raising the proportion of long-dated bonds that it sells while selling more inflation-linked gilts would dispel any concerns it might be tempted to inflate away debt, he said.

**Bank of England asks banks how ready they are for sub-zero rates**

(Reuters) - The Bank of England asked banks on Monday how ready they are for zero or negative interest rates, following up its announcement last month that it was considering how to take rates below zero if necessary.8

Other central banks have pushed rates into negative territory in an attempt to spur banks to lend more, and the BoE said in September it was looking into what such a policy might mean in Britain.

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“As part of this work, we are requesting specific information about your firm’s current readiness to deal with a zero Bank Rate, a negative Bank Rate, or a tiered system of reserves remuneration – and the steps that you would need to take to prepare for the implementation of these,” Deputy BoE Governor Sam Woods said in a letter to banks.

The BoE and lenders had to understand the implications of any such moves “since the MPC may see fit to choose various options based on the situation at the time,” he said, referring to the central bank’s Monetary Policy Committee.

Woods said he wanted to know if there were any technology challenges to implementing zero or negative rates.

“We are also seeking to understand whether there may be potential for short-term solutions or workarounds, as well as permanent systems changes,” he said.

The BoE set a deadline of Nov. 12 - a week after its next monetary policy announcement - for banks to respond.

Most euro zone banks have held off passing negative rates on to the bulk of their retail customers despite borrowing costs being below zero for the majority of this decade.

However, UK banks would likely face a sharper hit to profitability if they opted not to shift rates in line with the Bank of England due to their differing business models.

Banks in most euro zone countries charge customers a fee for having accounts, whereas in Britain such charges are rare, and lenders’ returns are largely based on the difference between lending and deposit rates.

Money markets last week pushed back bets that the BoE would cut rates below zero. Investors see rates falling below zero in May 2021, instead of March. BOEWATCH

The BoE cut its benchmark rate to record low of 0.1% in March to help the economy through the coronavirus crisis.

Its next move is widely expected to be an increase in its 745 billion-pound ($972 billion) bond-buying programme in November.

Sterling and British government bonds were little changed in early trade on Monday.

Governor Andrew Bailey repeated his comments that the BoE’s assessment of negative rates was not a sign that it would cut rates below zero.

“We have to ask the question, if they’re in the toolbox, can we use them? But we are not near, and we haven’t addressed the question (of) should we use them,” he said in a question-and-answer session with members of the public.

Banks earn money from interest and negative rates would hit profitability, but Wood’s letter made no specific mention of this, focusing instead on the technical preparedness of lenders.

An accompanying questionnaire asked banks how their retail and wholesale business’s IT systems could cope, and how much time and money it would cost to make short-term “tactical” and permanent “strategic” changes.
Banks are already under pressure to help households and businesses struggling with the pandemic. They also could face a reduction in access to markets in the European Union when Britain’s post-Brexit transition period expires.