

The background of the slide is a dark blue gradient overlaid with various financial market data visualizations. These include green and red candlestick charts, several blue and red line graphs representing different market indicators, and a prominent red dashed diagonal line. The overall aesthetic is high-tech and professional, typical of a financial institution's branding.

Financial Regulation Monthly Breakfast Webcast

21 May 2025

LATHAM & WATKINS

Today's Topics

The FCA's final rules on investment research payment optionality for fund managers	Rob Moulton
An ESG update, including the PRA's proposals to update SS3/19, and the latest on SFDR and the EU regime for ESG ratings providers	Nicola Higgs and Anne Mainwaring
The FCA's findings from its review of asset managers' business models in relation to conflicts of interest and the Consumer Duty	Jonathan Ritson-Candler
Government consultation on Consumer Credit reform and final proposals for BNPL reform	Becky Critchley
An update on PISCES, following publication of the final legislation	Rob Moulton



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The FCA's final rules on investment research payment optionality for fund managers

Rob Moulton

UK Investment Research Payment Optionality and Background

- MiFID II contains two options
 - Option one - PL
 - Option two - RPA
- 2024 consultation led to introduction of third option
 - Option three - CSA+
- PS25/4 - Second stage of finalising reforms, for regulated funds and AIFMs

Guardrails

- Guardrails amended to permit a holistic view across funds following similar strategies
 - One written policy across all funds
 - Common budget and cost allocation can be aggregated across funds
- Disclosure when budget exceeded can be the proportion of the increase (rather than absolute amount)
- For authorised retail funds, treated as a significant change requiring unit holder and FCA notification

Some Quotes from PS25/4

- FCA says it is “promoting effective competition in the interests of investors”
- FCA says “respondents agreed that the joint payment option is more operationally efficient than the existing payment option of RPA”
- “Regarding consultation responses on corporate access, this was not in the scope of our consultation”
- “The rules preventing bundled payments were introduced for good reason”
- “This will enhance UK fund managers’ competitiveness internationally”

CSA+ Structure

- Manager can execute through several brokers
- Manager agrees with each broker separately the proportion of execution commissions that relate to research
- Each broker retains those amounts on its balance sheet (until told where to pay it)
- Manager calculates value of research received and rebalances the execution payments by instructing brokers to pay competitors for research
- Complex – could use a professional aggregator to do the administration

EU Approach to Reform

- Permits full rebundling – with care
- No need for a CSA, but:
 - Must comply with best execution requirement (not really new)
 - Must not pay significantly more than what otherwise would have been the case
- With some luck, full rebundling could occur
 - But managers must be ready to pivot



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An ESG update, including the PRA's proposals to update SS3/19, and the latest on SFDR and the EU regime for ESG ratings providers

Nicola Higgs and Anne Mainwaring

ESG ratings: Update from the EU

- **2 July 2026:** Date confirmed for EU ESG Ratings Regulation (ERR) entry into force
- ESMA is now consulting on draft RTS for the rulebook applicable to ESG ratings providers looking to operate under the ERR. That framework includes:
 - Applications for authorisation and recognition
 - Conflicts of interest
 - Organisational requirements that are applicable to all ESG rating providers
 - Technical and control measures that apply in the case of certain specified activities
 - Disclosure
 - To the public
 - Rated items
 - Issuers of rated items
 - Users
- ESMA consultation closes 20 June 2025, with final report due in Q4 2025

Sustainable Finance Disclosure Regulation – latest updates


- SFDR Review – the Commission has launched a call for evidence which will be open for feedback until 30 May 2025
- Follows a comprehensive assessment launched in 2023 and aims to simplify the SFDR framework, enhance its usability, and prevent greenwashing
- The review will aim to adapt the SFDR framework to the potential changes to corporate reporting obligations under the Corporate Sustainability Reporting Directive and EU Taxonomy rules
- There is also a continued focus on exploring the case for categorising financial products that make sustainability-related claims
- The proposals for the revision of SFDR are now expected in Q4 2025

CP10/25 – PRA consultation on Enhancing banks' and insurers' approaches to managing climate-related risks

- The PRA is consulting on enhancements to its supervisory expectations set out in SS3/19
- Accompanied by a speech by David Bailey – Maintaining Momentum: Managing Climate risk in a changing world
- The enhancements are not intended to represent a change of direction in the PRA's approach to climate risk – rather an update to incorporate the lessons learnt over the last 5 years and to bring the guidance up to date by adding detail to those areas where the understanding of best practice has matured

CP10/25 – PRA consultation on Enhancing banks' and insurers' approaches to managing climate-related risks (cont.)

- Key areas of development:
 - **Scenario analysis:** the updated expectations place greater emphasis on the rigorous use of scenario analysis. Firms will be expected to show a strong understanding of how they will take the outputs from the scenarios they design and construct and use them to actively inform the business decisions they take.
 - **Risk appetite:** the updated expectations stress the need for firms to have a clear statement of risk appetite that cascades down from the top of the firm to individual business lines.
 - **Risk management:** the PRA proposals introduce clearer expectations for each element of the risk management framework and clarify how the existing PRA policies related to management of all risks to firms should be applied to climate-related risks.

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The FCA's findings from its review of asset managers' business models in relation to conflicts of interest and the Consumer Duty

Jonathan Ritson-Candler

FCA publishes outcome of review of smaller asset managers' business models

- FCA published its findings on 8 May 2025
- Aim was to identify any features of smaller asset managers' business models which may increase risk of consumer harm
- Focus on “smaller asset managers” with less than £1bn AuM
- FCA surveyed 410 firms, which it states accounts for 40% of UK smaller asset managers
- Worked in phases between April 2023 and September 2024
- Key observations coming out of review:
 - Marketing of high risk investments and product governance
 - Conflicts of interest
 - Consumer Duty
- Firms should therefore use the results as a benchmarking tool (including proportionality determinations)

High risk investments

- HRIs = RMMIs and NMMIs
 - Focus on units in unregulated collective investment schemes – which typically amount to NMMIs
- Updated financial promotions rules applied from 1 February 2023 for marketing certain non-readily realisable securities to retail clients
- FCA links financial promotions restrictions to product governance controls regarding the identification of a target market (TM) for these products and ensuring that marketing and distribution is only targeted to that TM
 - FCA reminds firms of its [observations on good and poor practice following update of financial promotions rules for HRIs from December 2024](#)
- Firms should understand how to categorise their products as either RMMIs or NMMIs before then assessing if they meet the needs of the identified TM and then applying customer journey controls
- Observations of poor practice included firms with unclear risk warnings on websites and social media, incomplete costs and charges disclosures, and being unable to explain likely investment returns

High risk investments (cont.)

- FCA reviewed firms' opt up procedures for elective professional clients
 - Demonstrative of the FCA's concerns clients may be opted up to circumvent retail protections
 - Did not observe widespread poor practices
- FCA also reviewed firms' approach to running appropriateness assessments or preliminary assessments of suitability (under the NMMI rules when making promotions to retail clients who are also HNWI or self-certified sophisticated investors)
 - Some firms selling to non-advised retail had failed to implement the requisite processes, including the necessary personalised risk warning and 24h cooling off period, as well as the preliminary suitability assessment
 - Firms are encouraged to differentiate between the pass / fail criteria of preliminary suitability assessments for HNWI v self-certified sophisticated investors (*i.e.*, not to conflate wealth and sophistication)
 - Assessments should therefore have clear scoring matrix to determine knowledge and experience
 - Set minimum investment size commensurate with complexity and risk profile and in line with wealth and sophistication of target market

Conflicts of interest

- FCA maintains its ongoing focus on management of conflicts and notes:
 - Conflicts registers typically required updates and additional information on conflicts mitigation strategies and explanations of ongoing monitoring arrangements
 - For smaller firms with 1-2 senior managers, firms must consider whether this presents additional conflicts concerns
 - Conflicts policies should be tailored to the firm (FCA observed reliance on “off the shelf” policies)
 - Where conflicts cannot be managed, mitigated or avoided, firms must make appropriate disclosures to clients

Consumer Duty

- Consumer Duty applies across the distribution chain to firms involved in the manufacture, promotion and distribution of, and advice relating to, financial products and services for retail clients
 - This includes being part of a retail distribution chain where the firm can have a material influence over retail customer outcomes
 - Links to ensuring products are suitable for the target market and distribution strategy
 - Ties back to concerns regarding opting clients up to elective professional status to avoid Consumer Duty
- Firms must be able to articulate and evidence consideration of what amounts to good and poor outcomes for consumers
- FCA states it has taken action against firms for failures in Consumer Duty implementation including restrictions on firms' licences, ordering product withdrawals, and commencing orderly winding down of firms

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Government consultation on Consumer Credit reform and final rules for BNPL reform

Becky Critchley

Consumer Credit Act Reform – Phase 1 consultation

- Published 19 May 2025 and responses due by 21 July 2025
- Reform is split into two phases:
 - Phase 1 – the Government's overall 'vision' for a reformed regime, information requirements, sanctions and criminal offences
 - Phase 2 – covering how the Government intends to reform the scope of regulation, and rights and protections under the CCA
- Currently planned to be one legislative vehicle to deliver all changes
 - No detail on the timeline for putting forward legislation
- Detail on a transitional regime will be included within legislative proposals in Phase 2

Consumer Credit Act Reform – Phase 1 consultation

Key proposals for change

- Information requirements to be recast in FCA rules ‘where required’
 - Government does not expect this to be a copy and paste exercise
 - FCA review and consultation to follow
- Concurrent amendments for small agreements, modifying agreements and multi agreements
- Sanctions for non-compliance with information requirements
 - HM Treasury research concludes that “*sanctions are providing little practical benefit directly for consumers, or at the strategic or pre-emptive level to drive up standards in the market*”
 - Proposes a repeal of these sanctions without a recast or restatement elsewhere
 - Sanctions for non-compliance with the new rules proposed to be under existing FCA powers
 - Firms should take note of obligations under the Senior Managers Regime

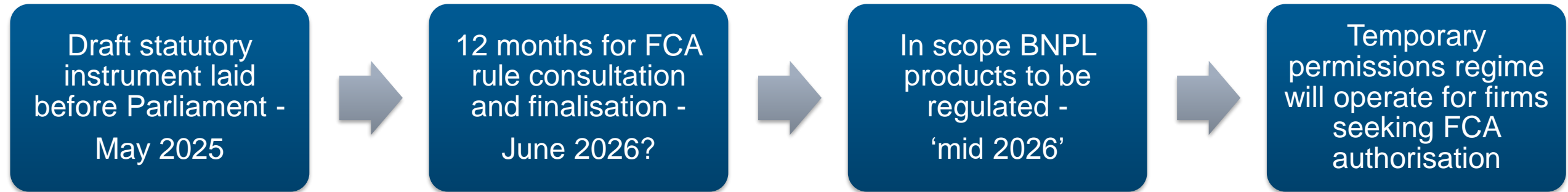
Government response to BNPL regulation consultation

- Scope:
 - In scope of lending: Lenders who are not the merchants providing the goods which are to be financed by the credit
 - Out of scope of lending: Merchants providing the goods which are to be financed by the credit
 - Out of scope of credit broking: Merchants referring the purchasers of their goods to third-party BNPL credit provider

Government response to BNPL regulation consultation (cont.)

- Firms offering BNPL products will be required to:
 - Perform affordability checks on borrowers; and
 - Offer clear product information to consumers to prevent unaffordable borrowing, and help borrowers make informed decisions
- Majority of CCA information disclosure requirements are disapplied for BNPL agreements
 - FCA to develop information disclosure rules specifically for BNPL lending to ensure consumers have access to clear and accessible information about their BNPL agreements
- Section 75 CCA will apply
- Borrowers receive access to the FOS

BNPL regulation timeline





An update on PISCES, following publication of the final legislation

Rob Moulton

PISCES – HM Treasury Update

- 15 May 2025, HM Treasury statement on PISCES:
 - Amendments to Finance Bill to allow Enterprise Management Incentives and Company Share Option Plans to be exercised without losing tax advantages
 - This will have retrospective effect
 - Sits alongside exemptions from Stamp Duty for PISCES transactions

PISCES – Sandbox

- FSMA 2023 (PISCES Sandbox) Regulations 2025
 - Who can be an operator
 - FCA's approval process
 - Who can participate in PISCES trading events
 - Liability regime for forward-looking information
- FCA plans to make final rules on PISCES in June (final piece of the jigsaw), and then sandbox will open for applications

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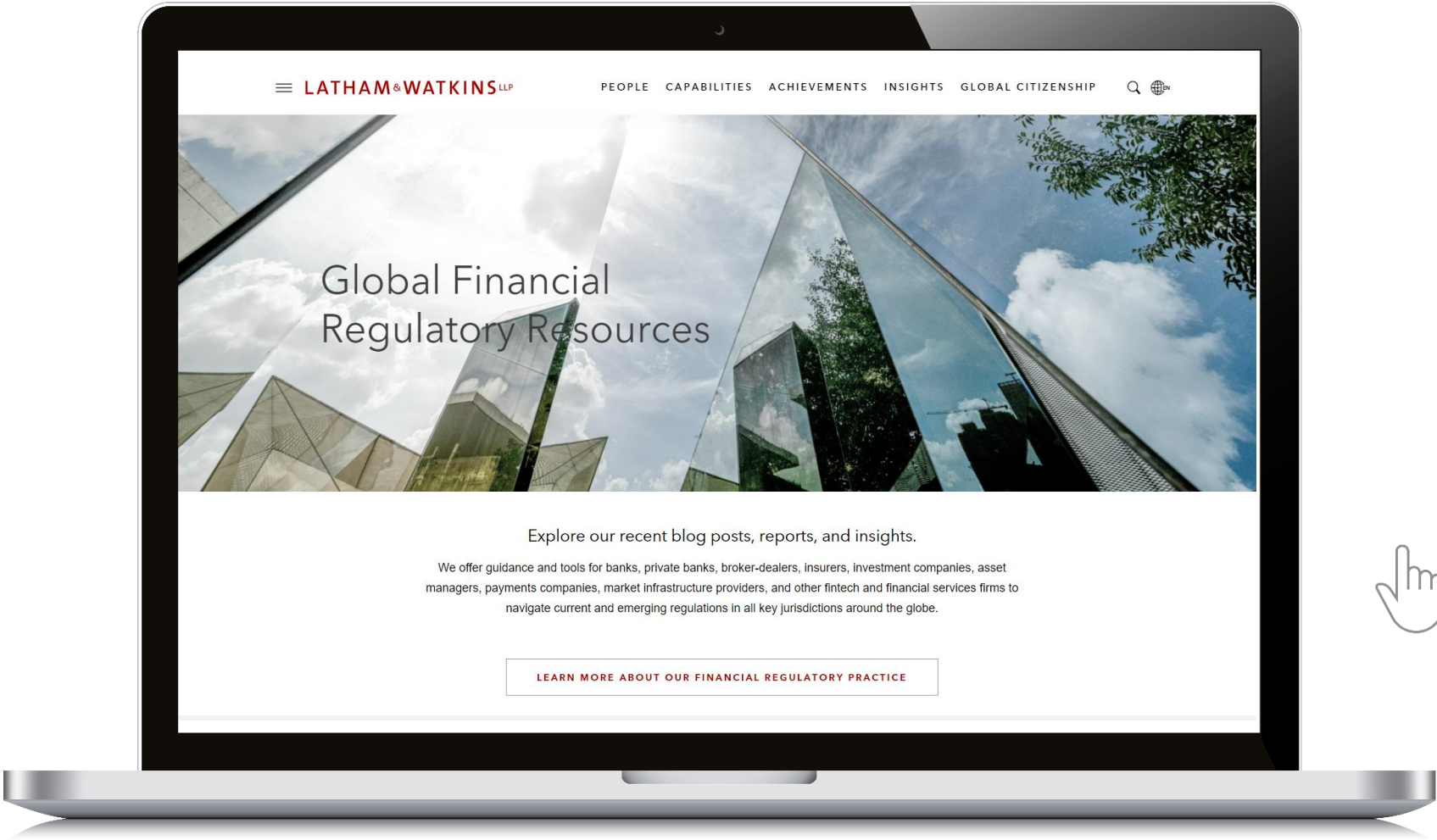
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