Financial Conduct Authority

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Regulation round-up

November 2015

Banks & building societies // Investment managers & stockbrokers
Financial advisers // Wealth managers & private banks
Mortgage brokers // General insurance & insurers
Consumer credit // Credit unions

Welcome to the November issue of *Regulation round-up*

Jonathan Davidson, Director of Supervision – Retail & Authorisations

'...now is a good time for lenders to review their approaches for dealing with customers who could experience payment difficulties...'

Welcome to the November edition of Regulation round-up. This is my first contribution to Regulation round-up so I thought I would take the opportunity to reflect on the key strategic forces that are changing financial services and creating a degree of uncertainty. These are legislation; technology; macroeconomics; and demographics.

Legislation

One of the most significant changes in terms of legislation is the introduction of the Senior Managers and Certification Regime.

I firmly believe that the core principles of the new framework are positive for both firms and regulators. Knowing who is in charge and responsible for decision-making across an organisation is imperative to the sound running of a business and good risk management.

The Government's proposals to extend the regime, announced in October, will mean that all regulated financial services sectors will be subject to the regime if the proposals are agreed (currently going through the parliamentary process). In the meantime, the current in scope firms need to continue to prepare for the start of the new regime. This includes grandfathering relevant Approved Persons to the new functions and submitting documentation such as the

Statement of Responsibilities and Firm Responsibilities Map by 8 February 2016.

Technology

There is no question that technology has been a key driver of change in financial services in recent years and has significantly affected consumer habits. Finance and technology have converged more and more to the extent that it is now fairly common to see people paying for coffee or other small items with a tap of their phone or watch. These new innovations are changing our traditional view of banking.

Macroeconomics

The Bank of England estimates that 280,000 households could really struggle as and when the base rate rises. Now is a good time for lenders to review their approaches for dealing with customers who could experience payment difficulties, and to consider the different options they may be able to offer to them to ease the burden.

Demographics

Finally, the ageing population is one of the biggest policy and social challenges of our time and has the potential to affect every aspect of our lives. It has implications across the entire financial services sector, and is an area we are currently considering through a project led by my colleague Linda Woodall.

So these are some of the forces we are currently facing that are producing a significant amount of change and some uncertainty. They are things that we will need to work collaboratively on in order to achieve a competitive, profitable industry delivering good customer outcomes.

As a regulator, we need to ensure we understand how the industry is changing and how we can be relevant in order to ensure regulation is supportive of innovation and beneficial change.

I hope you find this edition of Regulation round-up interesting and useful.

Hot topic:
Enforcement and use of restriction and suspension power

At our recent Treasury Select Committee appearance, we explained that we would use restrictions and suspensions in enforcement actions where they would be more effective than financial penalties in changing behaviour.

Our power to restrict or suspend authorised firms and approved persons came into force on 8 June 2010. It is a disciplinary sanction primarily for deterrence, rather than a protective measure for addressing the harm caused by a breach.

We first used our restriction power in July 2014 when we imposed a recruitment ban on the Financial Group for 126 days for failing to control its appointed representatives. Were it not for its financial position, we would also have imposed a financial penalty.

More recently, we fined the Bank of Beirut and stopped it from acquiring new customers from high-risk jurisdictions for 126 days for repeatedly providing misleading information about its financial crime systems and controls.

In both cases we intervened directly in the way the firms ran their business. These restrictions demonstrated that we can target a firm's regulated activities linked to the breach, as well as specific revenue streams of different types of business. The cases also showed that we can impose a restriction or suspension, either together with a financial penalty, or as an alternative sanction if a financial penalty would cause serious financial hardship. This approach is consistent with our policy on restrictions and suspensions which we view as primarily being a deterrent.

Further information can be found in our handbook.

Find out more

Hot topic:
Firms applying to operate an electronic platform in relation to lending

Firms previously regulated by the Office of Fair Trading (OFT) before the transfer of consumer credit regulation on 1 April 2014 could get our interim permission to cover them until we invited them to apply for authorisation. This included P2P firms and, at 1 April 2014, 185 firms registered with us for interim permission for P2P activities.

Many of these firms don't actually offer P2P services, and our initial analysis suggests just 42 firms will apply to us for authorisation for P2P activities. We expect the other 143 firms with interim permission for P2P to apply for other consumer credit permissions that better reflect the services they offer. Despite some media reports, this is very clearly not about P2P firms leaving the market. It is about firms understanding which permissions are right for them and applying for those that are the best fit for their business model. We have also received 42 applications from new to market firms.

So far, we have authorised six P2P firms, of which 2 held an interim permission. We have not yet refused authorisation for any firm, whether they held interim permission or were new to market. P2P interim permission firms can continue to apply to us for full authorisation up until 31 March 2016.

Banks & building societies

Senior Managers Regime: Grandfathering notification

There are now just 3 months to go until the 8 February 2016 deadline for submitting your grandfathering notification forms. We have provided practical steps to help you get ready, which you can access via the link. The new Senior Managers Regime starts on 7 March 2016, and we're expecting high volumes of submissions in January and February. We recommend you send us your notifications as soon as you are ready, as this will enable us to process these forms more quickly.

DP: Innovative Finance ISAs

The Government has proposed to allow loan-based crowd funding investments, known as peer-to-peer (P2P) loans, to be included in ISAs from April 2016. They will form a new component to be known as the Innovative Finance ISA. At the same time, advice to invest in P2P loans will become a regulated activity. We have published a discussion paper (DP) to explain our initial thinking on the changes needed to our rules and

Investment managers & stockbrokers (retail & wholesale)

Recovery and Resolution Directive

Earlier this year, we published our final rules to implement the RRD for the investment firms that we regulate prudentially (IFPRU 730k firms) as well as certain group entities. We require two submissions from firms. Please read our RRD webpage for more information on the submissions which are due this quarter and how to submit them.

Asset Management Market Study: terms of reference

We have published the terms of reference for our asset management market study. The three areas we are looking at are:

- how asset managers compete to deliver value, whether asset managers are willing and able to control costs and quality along the value chain
- what effect investment consultants have on competition for institutional asset management

guidance to reflect these developments. These include introducing guidance on the disclosures firms should make to prospective investors, and rules for firms that recommend P2P loan investments to their clients. Our aim is to ensure that investors are suitably protected.

OP: Methods for analysing mortgage markets

The core element of the 2012 Mortgage Market Review (MMR) recommendations – the responsible lending rules – aimed to ensure that borrowers would in future only be able to take out ‘affordable’ mortgages. During the development of the new policy and to explore its likely impact, a method was needed to measure and judge mortgage affordability, using the data available at the time. Our paper presents research undertaken for the MMR into three potential mortgage affordability metrics.

Speech: Trust in banking

Our Chairman, John Griffith-Jones, told the recent Trust in Banking Conference that it is not for the regulator to tell businesses how to run themselves. Instead, he sees three priorities for firms seeking to restore trust. They are: the link of trust to business purpose; behaviour and or conduct and having an adequate system of control to detect and prevent.

- potential barriers to innovation and technological advances

While we are not focusing on wealth management services, we will include firms that provide asset management products and services.

MiFID II Wholesale Conference: videos available

On 19 October we were joined by over 550 delegates from a wide range of investment firms, trading venues, information providers and advisers. You can watch videos of every session and get news on the progress of MiFID II implementation on our website.

MiFID II: Implementation Roundtable

On 22 October we held a MiFID II roundtable with trade associations. We discussed a range of topics, including implementing measures and our communication and consultation plans.

Financial advisers

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Pensions market update

Wealth managers & private banks

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- what effect investment consultants have on competition for institutional asset management
- potential barriers to innovation and technological advances

We have issued an update on the pensions market on our website. We are keen to explore the level of charges faced by different consumers in decumulation pension products, and the circumstances in which consumers are required by firms to take advice for those products. We have sent a request for information to a range of firms offering access to pension products that allow customers to take flexible incomes.

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- potential barriers to innovation and technological advances

While the study will not include financial advisors that use platforms on behalf of end investors, we welcome views from financial advisors on how effective competition is within the asset management sector. We are particularly interested in any areas where they feel that investors are not getting value for money from the asset management value chain.

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Mortgage brokers

Speech: Changes in mortgage regulation
Our Director of Supervision - Retail and Authorisations, Jonathan Davidson, gave a speech on the 'Changes in mortgage regulation' at the CML conference earlier this month.

OP: Methods for analysing mortgage markets
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Speech: Moving towards a sustainable model of regulation
Speaking at the ABI Conference, Tracey McDermott, Acting Chief Executive, underlined the value of competitive, innovative markets that meet consumers' needs. She also highlighted the need for consumers to have trust and confidence in insurance providers, and the importance of transparent and well-regulated capital markets to support long-term growth and provide a long-term return to investors.

Call for input: Big Data
We are seeking your views, supported by examples and evidence where possible, of how Big Data is, and is likely to, affect consumer outcomes and competition in the retail general insurance (GI) sector. We would also like views on whether our regulatory framework affects developments in Big Data or hinders innovation in the interest of consumers. Please send your comments to us using our online form by 8 January 2016.

Consumer credit

Credit card market
We analysed the credit card accounts of 34 million consumers over five years and surveyed around 40,000 card holders. We found that competition in this market is working fairly well. However, we are concerned about the scale of potentially problematic debt for

Credit unions

Improving individual accountability: Workshops for credit unions
We recently held a series of roadshows that provided an overview of the Senior Managers and Certification Regime and how it will apply to credit unions. The slides from our roadshow are now

consumers who are just above default levels and the incentives for firms to manage this.

CashEuroNet to provide £1.7m redress to customers

CashEuroNet UK LLC, trading as Quick Quid and Pounds to Pocket, has agreed to provide £1.7m redress to almost 4,000 customers, following our concerns about their lending criteria.

CP: Proposals in response to CMA's recommendations

Our CP gives proposals for additional standards for price comparison websites (PCWs) which compare high-cost short-term credit (HCSTC) products. It also addresses other important areas, including: the use of real-time data sharing to enable informed credit assessments, measures to improve shopping around without affecting consumers' credit ratings and improved disclosure on the costs of borrowing and credit broking.

Dollar to provide £15.4m of redress

Dollar - trading as The Money Shop, Payday UK, Payday Express and Ladder Loans - have announced that it agrees with our findings and will provide over £15m of redress to more than 147,000 customers. The redress is a combination of cash refunds and balance write downs for failings that include lending customers more than they could sustainably afford and errors in late fees charged.

available on our website, along with information on how to submit your Grandfathering notification form.

Regulating consumer credit for credit unions

We have recently published a new page on our Firms website explaining the regulated consumer credit activities for credit unions, the permissions they need to carry them out, and what they need to do to get authorised.

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November news round-up

Speech: The rapidity of change

Tracey McDermott, Acting Chief Executive,

Publications

CP: Smarter Consumer Communications

delivered a speech at the City Banquet, looking at the future of regulation. She said that we need to make sure we have a landscape that ensures clean markets and protects consumers, through fostering competition and innovation. She also explained why it is critical that we have a sustainable approach to regulation, which breaks the 'regulate, deregulate, repeat' cycle.

Regulatory sandbox

We have announced our plans for implementing a 'regulatory sandbox'. The sandbox will allow businesses to test out new, innovative financial products, services or business models without incurring all the normal regulatory consequences. Firms that do not yet have authorisation will be able to make use of the sandbox. For authorised firms, we propose to use tools that give confidence enforcement action will not be taken at a later date in relation to testing activities.

Move from ONA to Connect

We are consulting to remove a number of disclosure requirements which we identified as ineffective in informing consumers about products or services. Our proposals will also reduce the regulatory burden on firms, which reflects our commitment to create a sustainable regulatory framework.

GC: Cloud guidance

We are seeking views on our proposed guidance to clarify the requirements for firms when outsourcing to the cloud and other third-party IT services.

CP: Fees

HBOS Group review

Primary Market Bulletin No.12

Call for input: RegTech

CP: Market Abuse Regulation

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