

Regulation round-up



April 2017

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Welcome to the April issue
of Regulation round-up

Andrew Bailey, Chief Executive

"Our Mission is to serve the public interest through the objectives given to us by Parliament"

Welcome to this month's edition of Regulation round-up. I'd like to take this opportunity to discuss in some detail the documents that we have published today. Together, these documents provide greater clarity about how the FCA operates and more transparency about the way we make decisions.

Last October we published our Mission consultation to open a discussion on how we can make the biggest difference in making financial markets work well, now and in the future. Firstly, I would like to thank you for your engagement and feedback – it has helped inform our response.

Today we have published our final [Mission document](#) which gives firms and consumers greater clarity about how we prioritise our interventions in financial markets.

Our Mission is to serve the public interest through the objectives given to us by Parliament. It explains the intervention framework for the strategic decisions that we make, the reasoning behind our work and the way we choose the tools to do it.

Alongside the Mission, we have published our [Business Plan](#) and [Fees consultation](#). For the first time, we have also published our Sector Views, which highlight the issues and

developments we see in the sectors we regulate.

The annual Business Plan gives details of the specific areas of work the FCA is prioritising for the next year. These priorities are based on a combination of the intelligence gathered through the [Sector Views](#) and our intervention framework.

As a public body we aim to serve the public interest by improving how financial markets function and how firms conduct their business. I hope that you agree that the areas of focus within the Business Plan will go some way towards that.

These publications mark a clear step on setting our vision for all financial services firms and the areas where we see specific risks or concerns. I would encourage you to engage with them.

Hot topics

Business Plan: Sectors and the priorities

This year, our analysis has identified the most important issues in each of the sectors we regulate. The sectors are:

- Pensions and retirement income
- Retail banking
- Retail lending
- General insurance and protection
- Retail investments
- Investment management
- Wholesale financial markets

We encourage you to read the [sector views](#) and the relevant chapters within the business plan to gain insight into the outcomes we seek, issues and our planned activities for each sector.

The cross sector issues are longer term and we expect we will continue to address them in future business plans. They are:

- **Firms' culture and governance** – continue to promote the right cultures, behaviours and effective governance across the industry to deliver appropriate outcomes for consumers and the market.
- **Financial crime and anti-money laundering** – continue to use intelligence to prevent money laundering and agree how we will deliver our new responsibility of oversight of the professional bodies.
- **Promoting innovation** – sustain a regulatory environment where consumers and firms can grasp the opportunities of competition.
- **Technological change and resilience** – ensuring new technology is safely adopted and working with firms so existing systems can be more resilient.
- **Treatment of existing customers** – firms keep existing consumers informed about other available products and barriers are not created to reduce competition or discourage existing customers from changing providers or product.
- **Consumer vulnerability and access to financial services** – develop a vision for consumers as part of a consumer strategy which will set out how we meet our consumer protection objective.

Mission and Fees Consultation Paper

Mission

The [Mission](#) explains how delivering public value is at the core of our regulation and explains how this will affect the decisions we take. It explains:

- the intervention framework that allows us to make consistent regulatory judgements and to publically explain them
- why we focus our resources on issues within our regulatory remit and how and why we will intervene in activities outside this perimeter
- the introduction of a wider and more systematic measurement of the impact of our interventions and the way we will report on them

Before our next business planning round we will also publish documents to give a clearer explanation of how we carry out our main activities and how the Mission's approach affects Authorisation, Supervision, Enforcement and Competition.

Fees Consultation Paper

We have published our [Fees Consultation Paper](#) which sets out our annual funding requirement (AFR) for 2017/18 is £526.9m; an increase of £7.6m (1.5%).

We are proposing:

- An even distribution of the 1.5% increase across fee-payers other than for exceptions related to, for example, changes in our regulatory scope. Some fee-payers will therefore see a decrease in fees resulting from our allocations.
- To increase minimum fees by 1%. Our standard minimum fee will increase by £11 to £1,095 and the banded minimum fees for consumer credit will increase between £1 and £10 to £101 and £1,010. Around 36% of standard minimum fee-payers are small enough to only pay the minimum fee. Around 94% of consumer credit firms are small enough to only pay minimum fees.

We also set out proposals for the FOS, MAS, pensions guidance and illegal money lending levies.

Our Fees Calculator will be available from 19 April to allow firms to calculate their fees based on the draft fee rates.

Please send your response by **9 June 2017**.

Financial advisers

Assessing suitability of advice and disclosure

We will complete our project to identify the areas where problems in providing suitable advice and disclosure are most common. This work will tell us where firms might be providing good or poor advice. The findings will shape our future focus and establish a baseline for the level of suitable advice and disclosure provided in the investment advice

market.

Platforms market study

The interim report for the Asset Management market study identified a number of potential competition issues in the investment platforms market. These included complex charging structures, if platforms' investment tools and products enable effective choice, if investors achieve value for money and whether platforms have the incentives and ability to put competitive pressure on asset management charges. We will conduct a market study to explore: how direct to consumer and intermediated investment platforms compete to win new and retain existing customers; and whether platforms enable retail investors to access investment products that offer value for money.

Contract for difference (CFD)

We want to ensure that retail CFD products are targeted at and sold to suitable customers. Following our consultation at the end of 2016, we will introduce policy changes in 2017/18. We will also be conducting follow-up work to address the risks in the sector that we identified in previous work. It will focus on the failing we identified in relation to the appropriateness test and review how providers and distributors meet their responsibilities.

Client assets rules in peer-to-peer firms (P2P)

We have seen examples of P2P and crowdfunding firms that are not aware of, and do not comply with the client money requirements. We will continue to promote compliance and minimise risks to consumers' funds.

GC: FAMR

FAMR was launched in August 2015 to explore ways in which government, industry and regulators can take individual and collective steps to stimulate the development of a market to deliver affordable and accessible financial advice and guidance to everyone. We have led The Review jointly with HMT. Alongside HMT, we have published a [progress report](#) covering the FAMR recommendations. We have also published GC17/4, a [Guidance consultation](#) in relation to four of FAMR's recommendations: Streamlined advice, Fact find information, the Perimeter of regulated advice and a Factsheet for employers and trustees. The publication coincides with the issue of the FAMR Progress Report, which marks one year on from the publication of the FAMR Final Report and sets out the achievements so far.

PS: MiFID II

We have published our first policy statement setting out near final rules on the implementation of the Markets in Financial Instruments Directive (MiFID) II. These include changes to the trading of financial instruments including issues affecting trading venues, transparency of trading and algorithmic and high frequency trading. We have also provided an update on the taping of telephone conversations by retail financial advisers.

General insurance intermediaries and insurers

Value chain & perimeter issues

Insurance is distributed in a range of different ways and can involve numerous parties across the distribution chain and customer sale/post sale journey. Firms may have weak oversight of these complex, fragmented distribution chains. We will conduct a further review to understand the end-to-end relationships in these chains.

Pricing practices

In our Feedback Statement on Big Data in retail general insurance, we propose a specific

piece of discovery work to look at pricing practices in a limited number of retail general insurance firms. This will enable us to gain a better understanding of how these developments are affecting the market. We will look at how firms' pricing approaches and rating factors work in practice, as well as the drivers and the types of systems and data firms use to decide the price.

Market study on wholesale insurance market

We want to ensure that the wholesale insurance market is working well and fosters innovation and competition in the interests of a diverse range of consumers. We will conduct a market study to assess how effectively competition is working in these markets, including how firms ensure practices do not create market integrity and conduct risks.

Mortgage advisers and lenders

Mortgage market study

At the end of 2016 we published the terms of reference for a market study looking at consumers' ability to make effective choices in the first charge residential mortgage market. We want to understand whether consumers who use the tools available (e.g. advice and commercial relationships) give them clear and adequate information to make an informed choice. We will publish an interim report in summer 2017.

Mortgage arrears

In 2008, 22% of properties in arrears were repossessed. This figure was just 2.7% in June 2016. While firms are offering more forbearance to customers in financial difficulties, in some cases providing forbearance over a long term may not always be in the customer's best interests. We will assess how firms are using forbearance and how well they are delivering fair customer outcomes, and take further action if needed.

Interest-only mortgages

UK homeowners currently have around 1.8 million outstanding interest-only mortgages (excluding buy-to-let) and many do not have an appropriate strategy to repay them. We will look at how firms treat borrowers whose interest-only mortgages are approaching maturity and their readiness to ensure these customers are treated fairly.

Banks and building societies

Ring-fencing

By 2019 the largest banking groups must separate their retail and wholesale operations. We are concerned that the complexity of this undertaking will lead to increased operational risks and unintended consequences for consumers.

Senior managers & certification regime (SM&CR)

SM&CR came into effect in March 2016 and focuses on enhancing individual accountability at the most senior levels. In 2017/18 we will focus our work on firms that have not been able to meet this timetable, as well as on how firms have embedded the regime.

Strategic review of banking business models

The retail banking business model spans multiple product lines and the actions of firms in one market can affect consumers in another. In 2017/18 we will launch a piece of discovery work to examine the business models used in retail banking, focusing on the links between different parts of the business and their relative profitability.

Payment Services Regulation (PSD II)

A significant number of new and innovative non-bank payment firms have been entering the market, which presents consumers opportunities to make payments in new ways. We will be monitoring how the market develops, with a particular focus on the evolving technology, marketing and consumer adoption of these new services.

Non-bank payment firms

New entrants and innovation have led to some increased competition. In spite of this, retail banking is characterised by low consumer engagement and low levels of switching. We will continue to monitor how the market develops as a result of intervention activity such as the CMA remedies.

CMA remedies

In November 2016 we published our response to the CMA's final report on its investigation into competition in the retail banking market. We committed to take action to improve transparency for overdraft users, improve service information indicators and prompt increased customer engagement. We will continue to work with firms and other stakeholders to research the effectiveness of these interventions, whilst ensuring the work remains aligned with the broader CMA remedies.

Payment Protection Insurance (PPI)

In March 2017, we published a Policy Statement which introduces a PPI complaints deadline accompanied by an FCA-led communications campaign. The relevant rules will come into effect in August 2017 and if consumers want to make a complaint about PPI they must do so before 29 August 2019. The accompanying communication campaign will launch at the end of August 2017 and will run over the two years. We will be working with firms in the period before the new rules and guidance come into force to ensure that they are adequately prepared, and will be monitoring firms closely over the following two years to ensure that consumers receive the redress they are due in a timely manner.

CP: Payment Services Directive II

We have published a consultation on the revised [Payment Services Directive \(PSD2\)](#). This largely affects payment service providers subject to the Payment Services Regulations (PSRs). We are also consulting on some changes which affect credit unions. We are proposing to amend the Banking Conduct of Business Sourcebook (BCOBs) to extend a number of the new requirements introduced by PSD2 to retail banking services and service providers outside the scope of the PSRs, including credit unions, in respect of the payment services they provide.

[Tesco to pay redress for market abuse](#)

Tesco plc and Tesco Stores Limited have agreed that they committed market abuse in relation to a trading update published on 29 August 2014, which gave a false or misleading impression about the value of publicly traded Tesco shares and bonds. Tesco have agreed to pay compensation to investors who purchased Tesco shares and bonds on or after the 29 August 2014 and who still held those securities when the statement was corrected on 22 September 2014.

Pensions strategy

We will publish a strategy for the Pensions sector, setting out our regulatory approach. We will reflect on our current work and explain how we work with other regulators and Government to further our objectives and identify areas where further progress is needed.

Drawdown without giving advice

Our review will look at what steps we can take in the future to help consumers who do not get advice. We will review the sales processes and ongoing communications of a sample of firms making non-advised drawdown sales since the pension freedoms were introduced. We will assess whether firms are complying with our rules by giving customers adequate information to make an informed decision and if firms are giving customers adequate post-sale information.

Non-workplace pensions including SIPPS

We will undertake initial discovery work to find out if the non-workplace pensions market is sufficiently competitive to work effectively in consumers' interests. We will also undertake further work on non-standard assets and self-invested pension plans to look at the culture and governance of SIPP providers.

Decumulation and retirement outcomes

We launched the Retirement Outcomes Review in July 2016 to assess the impact of the pension reforms on competition in the retirement income market. We intend to publish an interim report in summer 2017, followed by the final report at the beginning of 2018. These reports will identify our findings and propose a package of remedies to improve competition to benefit consumers.

Pension scams

The next phase of our ScamSmart campaign will be to reduce both pension scams and the number of consumers falling victim to them. To complement ScamSmart, we will also look at ways we can work with the Government, other regulators and consumer organisations to create effective messages to help consumers understand fraudsters techniques.

Wake up pack disclosure

We will complete our work on how consumers react to wake-up packs, which are sent to consumers approaching retirement to encourage them to take action. We will analyse the effect these packs have on consumers' decision to use their pension savings and use the findings to decide if we should take action to improve these consumer communications.

Investment managers

Liquidity strategy

We will continue to participate in the ongoing debate with national and international authorities around the liquidity of funds, highlighted by many firms suspending open-ended property funds after the EU referendum vote. We have published a Discussion Paper on liquidity in open-ended funds. Following feedback we will review our policy options and the tools asset managers have available to manage liquidity when facing redemptions and valuation issues, and assess how adequate they are in managing conduct risks and addressing financial stability concerns.

Custody banks strategy

Custody banks provide critical support services to the funds industry and trading activities,

which require them to be accurate, secure and resilient. We are planning a number of interventions in this sector. We will continue our work to ensure firms meet our CASS standards, support the PRA's work to map and evaluate critical infrastructures and evaluate custody banks resilience and resistance to cyber-attacks.

[Asset management market study](#)

Our interim report identified a number of areas for further work or potential remedies. We proposed a significant package of remedies that seek to make competition work better in this market and we will publish the final report in Q2 2017 and consult on proposed remedies and interventions.

[Investment and corporate banking market study](#)

We completed our market study in 2016. We found that participants in these markets generally use a 'universal banking' model. While many clients felt this model works well, we found that some practices could hinder competition. We developed a targeted package of remedies to address these concerns and we will continue to implement these remedies in 2017/18.

[Market Abuse](#)

The Market Abuse Regulation took effect on 3 July 2017. Among other things, the regulation enhances, harmonises and widens the application of existing rules on inside information disclosure. From January 2018 the Markets in Financial Instruments Regulation (MiFID) will require firms to report to us a wider range of information about their trades and asset classes. We will continue work to embed and prepare for these new regimes.

[MiFID II](#)

MiFID II presents a comprehensive set of reforms which take effect on 3 January 2018. We will ensure the new regime is implemented effectively, continue to develop our own capabilities to supervise these requirements and work closely with firms to ensure that they are prepared for the changes.

[Listing review: effectiveness of UK primary markets](#)

Primary capital markets play a key role in supporting the wider economy by bringing together investors seeking appropriate opportunities to earn a return on their investments, and issuers wanting to access deep and liquid pools of capital to finance their business. We committed to review the primary markets, and we will make and implement final policy statements and possibly consult further.

[PS: MiFID II](#)

We have published our first policy statement setting out near final rules on the implementation of the Markets in Financial Instruments Directive (MiFID) II. These include changes to the trading of financial instruments including issues affecting trading venues, transparency of trading and algorithmic and high frequency trading. We have also provided an update on the taping of telephone conversations by retail financial advisers.

[Web pages: Five conduct questions](#)

In a [speech](#) in 2015, we launched our five conduct questions framework for assessing the progress the wholesale banking industry is making in improving its approach to managing conduct. We also produced a [video](#) setting out this framework. We have published [web pages](#) which contain some of our initial observations and an anonymised summary of what larger wholesale banking firms have told us about their approaches to the management of conduct risk."

[Former investment banker for sharing confidential information over WhatsApp](#)

We have fined Christopher Niehaus, a former investment banker, £37,198 for sharing client confidential information over WhatsApp. The FCA found that Mr Niehaus failed to act with due skill, care and diligence.

Wealth managers

Liquidity strategy

We will continue to participate in the ongoing debate with national and international authorities around the liquidity of funds, highlighted by many firms suspending open-ended property funds after the EU referendum vote. We have published a Discussion Paper on liquidity in open-ended funds. Following feedback we will review our policy options and the tools asset managers have available to manage liquidity when facing redemptions and valuation issues, and assess how adequate they are in managing conduct risks and addressing financial stability concerns.

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Consumer Credit

High cost credit

In November 2016 we issued a Call for Input covering high-cost products, overdrafts, payday loans, price cap and repeat and multiple high-cost short-term credit borrowing. We will look at all high-cost products to build a full picture of how these are used and whether they cause harm. We will then decide if we need to intervene further.

Point of sale fees and charges

We are concerned that firms may impose inappropriate fees or costs on consumers or inappropriately sell credit at the point of entering into a transaction. We will explore whether the fees, charges or other costs paid by consumers are influenced by commission, or other remuneration. We may also consider whether firms exploit a point of sale advantage to charge higher than normal fees.

Debt Management sector review

We will continue to monitor the debt management sector to ensure that it is fit for purpose and that firms are treating their customers fairly, particularly those in vulnerable circumstances. This follow-up work will ensure that the standards we have set as part of our recent debt management interventions are being met and maintained.

Motor finance

We are concerned that there may be a lack of transparency, potential conflicts of interest and irresponsible lending which may exist in the motor finance industry. We will conduct an exploratory piece of work to identify who uses these products and assess the sales processes, whether the products cause harm and the due diligence that firms undertake before providing motor finance.

[Credit Card Market Study](#)

We have published a consultation on new measures to address persistent credit card debt and to require credit card firms to use their data to identify customers at risk of financial difficulties. The consultation paper also sets out details of an agreement we have reached with the credit card industry to give customers more control over credit limit increases. These measures are part of our work to implement the findings of our study of the credit card market, which found that while the market works well for most consumers, there were significant concerns over the scale and persistence of potentially problematic debt.

[Speech: Keeping up with the credit sector: the FCA's view on the market today](#)

Jonathan Davidson, Director of Supervision – retail and authorisations, delivered a speech at Credit Summit in London. In his speech, Jonathan highlighted that we have to keep building and rebuilding our understanding of consumer behaviour in order to maintain a model of credit regulation that works for the long term.

[GABRIEL Reporting update: CCR007 Consumer Credit Data: Key data](#)

[Helptext](#) and [Frequently Asked Questions](#) have been created to help limited permission consumer credit firms complete their CCR007 return. Please note that the new guidance can be found [here](#) under the Consumer Credit reporting section.

Credit unions

[Senior managers & certification regime \(SM&CR\)](#)

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Fintech and innovative businesses

[Speech: Innovating for the future - the next phase of Project Innovate](#)

Christopher Woolard, Executive Director of Strategy and Competition, delivered a speech

at the Innovate Finance Global Summit. Christopher noted that Project Innovate is entering a new phase, to reflect the growing reach of our work. Central to this will be increasing our engagement with regional FinTech hubs, bringing our people to firms around the country, as well as working with international partners to develop a common understanding of the principles of good innovation.

He also announced that we will be expanding the scope of our Advice Unit to take in firms within the mortgage, general insurance and debt sectors, as well as firms that want to provide guidance instead of advice. Currently the Advice Unit assists firms developing automated advice models in the investments, protection and pension space.

[Discussion paper: Distributed ledger technology](#)

We have published a discussion paper to open a debate on the potential for future development of distributed ledger technology (DLT) in the markets we regulate. We are particularly interested to explore where the balance of risk and opportunities may lie in relation to DLT and we are inviting feedback by 17 July 2017.

[TechSprint on financial services and mental health](#)

In partnership with the Money and Mental Health Policy Institute, we held our third TechSprint on the theme of mental health on 14 and 15 March 2017. The two-day event challenged participating teams to develop technology tools and concepts to help break the link between financial difficulty and mental health problems.

[Podcast: Competition and innovation](#)

David Geale, Director of Policy, spoke to the FinTech Insider podcast about our work to promote competition and innovation through Project Innovate.

News and publications

[From advert to action: behavioural insights into the advertising of financial products](#)

We recently published an [Occasional Paper](#) examining the behavioural insights of financial products advertising. To further explore the behavioural science behind financial promotion and the academic, industry and regulatory viewpoints on this subject, we are hosting an event on **29 June 2017** at our London office. Speakers include Rory Sutherland, founder of Ogilvy Change; Joe Gladstone, assistant professor of consumer behaviour at UCL School of Management; and Laura Smart, co-author of this occasional paper. Visit the [event website](#) to find out more and to apply for a place.

[FCA refreshed brand](#)

You may have seen that we have refreshed the FCA brand which includes an updated logo. The existing FCA logo will be phased out over the next year. The new logo will be used on our publications and our website but it will not change on some of the materials you may receive. For example, if you receive a letter from the FCA, it may have the old logo on it. We have taken a phased approach to implementation to keep costs down. As a reminder, the use of the FCA logo isn't permitted. Further information can be found on our [website](#).

[Fake FCA emails](#)

[Speech: Culture in financial institutions: it's everywhere and nowhere](#)

[Web page: Durable medium](#)

[New Small Business Practitioner Panel Chair](#)

[Economical with the truth: three ways behavioural science can help to spot a misleading advert](#)

[Web update: S166 update](#)

[Statement on the FCA's enforcement investigation into issues relating to HBOS Reading](#)

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