

# Regulation round-up



August 2016

Banks & building societies // Investment managers & stockbrokers  
Financial advisers // Wealth managers & private banks  
Mortgage advisers // Insurers & insurance intermediaries  
Consumer credit // Credit unions



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

Simon Green, Director of General Insurance & Conduct Specialists

*'...we found widespread examples of poor practice and significant shortcomings in a number of areas, which could lead to mis-selling...'*

**Welcome to the August issue of Regulation round-up. We recently published the findings of our [thematic review](#) looking at principals and their appointed representatives (ARs) in the general insurance (GI) sector.**

ARs are an established feature of the UK general insurance market with over 20,000 operating under the permission of their principal. Even though they are not directly regulated, the principal has a regulatory responsibility for their actions.

Unfortunately, we found widespread examples of poor practice and significant shortcomings in a number of areas, which could lead to mis-selling.

In our sample, we found that:

- principals were either unable to articulate a clear risk appetite in relation to ARs or could not explain how some of their existing ARs' activities were consistent with their risk appetite
- principals could not consistently demonstrate that they had effective risk management, oversight and control frameworks to identify, monitor and mitigate the risks arising from their ARs' activities
- the shortcomings outlined above gave rise to risks to customer outcomes, as the principal was not able to

ensure compliance with the relevant requirements (PRIN and ICOBS) and

- potential mis-selling and customer detriment may occur as a result of the ARs' actions, with most of these issues not previously identified by the principal

We expect all principals to be able to demonstrate that their ARs consistently comply with the regulatory obligations and deliver fair customer outcomes.

Even though we focused on the GI sector, all principal firms should consider these findings and look again at their practices. Our [Dear CEO](#) letter sets out the actions firms should take to address the issues raised in the report.



### Hot topic:

## Increasing transparency and engagement at renewal

Last year we [consulted](#) on how we could increase transparency and engagement at renewal in general insurance markets. Consumers may renew products by default without considering whether or not they offer good value or remain suitable for their needs. We wanted to ensure that consumers are engaging and making informed decisions.

Our [Policy Statement](#) sets out that from **1 April 2017** firms will be required to:

- disclose the previous year's premium at each renewal (accounting for mid-term adjustments where relevant)
- include text to encourage consumers to check their cover and shop around, and
- from the fourth renewal, give consumers an additional prescribed message encouraging them to shop around

We have also confirmed non-Handbook guidance to help firms meet their obligations.

During our ongoing engagement with firms ([Live & Local](#)) some firms have asked questions about the requirements.

**Scope of the measures:** We can confirm that the new disclosure requirements, including the 'shopping around' messages, apply across all channels (including renewals

through intermediaries and insurers).

**Timing of the additional prescribed 'shopping around' message:** This is designed to provide an additional prompt for customers who are less likely to engage with the previous year's premium disclosure because their premiums are increasing at a slower rate.

Aggregated data from three home insurance providers suggests that price increases reduce after five years, on average. So we decided the fourth renewal stage (which would generally be at the five year point) was the best time to introduce this prompt.

We expect our new requirements will prompt consumers to engage, shop around and make better-informed decisions. The measures will also increase firms' focus on renewal practices and so improve consumer outcomes.

[Find out more](#)



### Hot topic: Unauthorised introducers

We have highlighted some of the risks of authorised firms accepting business from unauthorised introducers/lead generators and/or other authorised firms (the 'introducer').

An authorised firm which accepts business from an introducer must meet its regulatory requirements. If customers are given unsuitable advice by an introducer, the authorised firm may be held responsible and subject to regulatory action. Many authorised firms receive customer introductions from introducers. We are very concerned at the increase we have seen in cases in which the introducer has an inappropriate influence on how the authorised firm carries out its business, in particular where the introducer influences the final investment choice.

We also have concerns where the authorised firm delegates regulated activities. Examples include outsourcing their advice process to unauthorised entities or to other authorised firms that do not have the relevant permissions, or are not their appointed representatives.

Many authorised firms we have visited do not have adequate

input or control over the advice they are ultimately responsible for giving to customers. This has been particularly evident in advice on switching and the transfer/conversion of pension benefits. We have specific concerns where this advice involves movement of pension pots to unregulated, high risk illiquid products, whether they are based in the UK or overseas.

[Find out more](#)

## Banks & building societies

### **PS: Payment Accounts Regulations**

In this Policy Statement, we summarise the feedback we received to our Consultation Paper and set out our response. We have made some changes to our Handbook to reflect the requirements of the **Payment Accounts Regulations (PARs)**. Both the PARs and our Handbook changes come into effect on 18 September 2016. We have also issued finalised guidance on the definition of a 'payment account' for the purposes of the PARs, and on implementing the provisions on packaged accounts.

### **PPI complaints handling**

We have issued our **feedback statement** and further consultation about payment protection insurance (PPI) complaints. The feedback statement confirmed that we believe that, overall, the package of proposals laid out in **CP15/39** should be taken forward. However, we are also **consulting further** on some changes to the proposed rules and guidance on handling PPI complaints in light of the Supreme Court judgment in *Plevin v Paragon Personal Finance Ltd*.

### **New Bank Start-up Unit Seminar**

The PRA and FCA New Bank Start-

## Investment managers & stockbrokers

### **Fair and Effective Markets Review: Implementation report**

On 28 July 2016, the Chairs of the Fair and Effective Markets Review published a full implementation report to the Chancellor of the Exchequer, the Governor of the Bank of England and the Chairman of the Financial Conduct Authority. The report explains the significant progress that has been made to implement the Review's recommendations.

### **FX remediation programme**

In 2014 we launched a remediation programme to ensure UK foreign exchange (FX) firms addressed the root causes of failings and to drive up standards across the market. The firms have now concluded their work. We are starting to see real improvements in their control environments, as well as in their overall culture and the quality of their governance arrangements.

### **Redress methodology for pension transfers**

We have announced our intention to consult in autumn 2016 on updating the methodology used to calculate levels of redress due in cases of unsuitable advice on transfers from defined benefit (DB) occupational pension schemes to personal pensions.

### **CP: MiFID II implementation**



up Unit will be holding a seminar on 10 October 2016. The event will look at the issues facing organisations thinking about becoming a bank in the United Kingdom. It will also look at the issues for firms currently going through the bank authorisation process and those affecting recently authorised banks.

There has been a lot of interest in the seminar. However, there is **still time to register** interest, so as a reminder, the seminar is specifically aimed at:

- senior executives who are, or are likely to play, a key role in the business planning and development of an application to become a new bank
- senior executives of a recently authorised bank
- senior executives/partners at professional services firms that are currently giving advice and support to firms on becoming a new bank

We will give priority to these registrants and so may not be able to accommodate others. We will confirm attendance with registrants in September.

### **SM&CR: Submitting data on Conduct Rule breaches**

We are reminding firms that the FCA notification of Conduct Rule breaches or **Form H** reporting window opens on 1 September 2016 and will close on 31 October 2016. It covers the timeframe from 7 March 2016 to 31 August 2016. It is mandatory for firms to submit Form H, including nil returns.

We have published our second consultation paper (CP16/19) on MiFID II implementation. This consultation primarily covers a range of issues including position limits and reporting for commodity derivatives, systems and controls requirements for firms providing MiFID investment services, fees and client asset protections. We published our first consultation paper (CP15/43), covering mainly markets issues, on 15 December 2015. We intend to consult again, mostly on changes to our Conduct of Business sourcebook, later this year.

### **Principals and their appointed representatives**

Our thematic review found significant shortcomings in the control and oversight of appointed representatives by their principal firms in the general insurance (GI) sector. Even though this review focused on the GI sector, the findings can be applied to all principal firms. We encourage firms with AR's to review our report and ensure that they are meeting our requirements, including, for example, having appropriate contractual agreements in place, robust monitoring and oversight to ensure suitability of products and services for clients.

## Financial advisers

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## Wealth managers & private banks

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### **Live & Local: Investment events, Scotland**

In September, Live & Local reaches Scotland. We are holding Positive Compliance investment sessions, focusing on the advice process, on 6 and 7 September in Falkirk, 8 September in Kilmarnock and 13 September in Aberdeen. Our Gabriel and Handbook teams will also be on hand to answer your questions. On 27 September in Glasgow, we are hosting supervisory workshops on 'Professional governance within Financial Advice Businesses (of all sizes)'. On 22 September in Stirling there is also an opportunity to be part of a roundtable where you can ask the FCA and an industry representative your questions. For a 1-2-1 session, book onto one of our surgeries with a supervisor on 14-15 September in Perth. To find out more and register visit our [Scotland webpage](#).

### **Live & Local: Investment events, East Anglia**

We will then be travelling to East Anglia in October. Positive Compliance will be on 4 and 5 October in Norwich, supervisory workshop on professional governance on 18 October in Stansted, a roundtable with a panel of FCA and industry representatives on 20 October in Peterborough and 1-2-1 surgery

the Chancellor of the Exchequer, the Governor of the Bank of England and the Chairman of the Financial Conduct Authority. The report explains the significant progress that has been made to implement the Review's recommendations.

### **FX remediation programme**

In 2014 we launched a remediation programme to ensure UK foreign exchange (FX) firms addressed the root causes of failings and to drive up standards across the market. The firms have now concluded their work. We are starting to see real improvements in their control environments, as well as in their overall culture and the quality of their governance arrangements.

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sessions on 25 October in Newmarket. Register for these sessions on our [East Anglia webpage](#).

## **Principals and their appointed representatives**

Our thematic review found significant shortcomings in the control and oversight of appointed representatives by their principal firms in the general insurance (GI) sector. Even though this review focused on the GI sector, the findings can be applied to all principal firms. We encourage firms with AR's to review our report and ensure that they are meeting our requirements, including, for example, having appropriate contractual agreements in place, robust monitoring and oversight to ensure suitability of products and services for clients.

## Mortgage advisers

### **Live & Local: Mortgage events, Scotland**

In September, Live & Local reaches Scotland. We are holding Positive Compliance mortgage sessions, focusing on the advice process, 6 and 7 September in Falkirk, 8 September in Kilmarnock and 13 September in Aberdeen. Our Gabriel and Handbook teams will also be on hand to answer your questions. If you would like a 1-2-1 with a supervisor to talk about issues specifically for your firm, book on to one of our surgeries on the 14 September in Perth. To find out more and register visit our [Scotland webpage](#).

### **Live & Local: Mortgage events, East Anglia**

We will then be travelling to East Anglia in October. Positive Compliance will be on 4 and 5 October in Norwich. Register for these sessions on our [East Anglia webpage](#).

### **Principals and their appointed representatives**

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## Insurers & insurance intermediaries

### **CASS 5**

We have provided firms with an update on [Consultation Paper : Review of the client money rules for insurance intermediaries](#), where we proposed some changes to the rules and guidance in Chapter 5 of our Client Assets Sourcebook (CASS). Since the consultation was published, the FCA has been working very closely with the industry, including trade bodies. We believe the industry has increased its focus on protecting client money and engaging with us on its policies in this area.

### **Principals and their appointed representatives**

Our thematic review found significant shortcomings in principal firms' control and oversight of their appointed representatives in the general insurance sector. This included failures in the sales process and practices which could lead to mis-selling. We expect all principles to be able to demonstrate they consistently comply with their regulatory obligations. This includes: assessing solvency and

oversight of their appointed representatives in the general insurance (GI) sector. While this review focused on the GI sector, the findings apply to all principals. We encourage firms with AR's to review our report and ensure they are meeting our requirements including, for example, contractual agreements, monitoring and suitability.

suitability, compliant contractual agreements and having adequate monitoring processes in place. We have sent a **Dear CEO** letter to all principal firms operating in the GI sector.

### **PS: Increasing transparency and engagement at renewal**

Last year we **consulted** on how we could increase transparency and engagement at renewal in general insurance markets. Our **Policy Statement** sets out that from **1 April 2017** firms will be required to:

- disclose the previous year's premium at each renewal (accounting for mid-term adjustments where relevant)
- include text to encourage consumers to check their cover and shop around, and
- from the fourth renewal, give consumers an additional prescribed message encouraging them to shop around

### **Live & Local: General insurance events, Scotland**

In September, Live & Local reaches **Scotland**. We will be delivering a presentation on what culture and governance means to general insurance firms on 5 September in Falkirk. Our Gabriel and Handbook teams will also be on hand to answer your questions. On 28 September in Glasgow, we are hosting supervisory workshops on 'Delivering fair customer outcomes'. On 21 September in Stirling there is also an opportunity to be part of a roundtable where you can ask the FCA and an industry representative your questions. We are offering firms in Scotland a 30 minute telephone conversation with one of our supervisors to discuss specific concerns or issues facing your business. To find out more and register visit our **Scotland webpage**.

### **Live & Local: General insurance events, East Anglia**

We will then be travelling to **East Anglia** in October. The culture and governance



presentation will be on 6 October in Norwich, a supervisory workshop on delivering fair customer outcomes on 19 October in Stansted and a roundtable with a panel of FCA and industry representatives on 20 October in Peterborough. Firms in the East Anglia region can also book a 30 minute telephone conversation with one of our supervisors. Register for the East Anglia sessions on our [webpage](#).

### **Historical Employers' Liability Insurance Tracing**

In 2013 we introduced specific **rules** about tracing historical UK employers' liability (EL) insurance policies. Firms with actual or potential liability for UK EL insurance claims are required to take reasonable steps to carry out an effective search for EL policies issued or renewed before April 2011 when they receive a request to do so. Firms must have in place a documented policy for conducting these searches. The rules also stipulate how the firm is required to respond when a historical search is requested. We would like to remind all relevant firms of their obligations under these rules.

## Consumer credit

### **Consumer credit market study**

We have published the findings of our credit card market study and set out a package of measures, including a series of industry-led proposals, to help consumers take better control of their spending. The report follows the interim report we published last year. This report found that while competition worked fairly well for most consumers, we had concerns about the scale of potentially problematic debt.

**OP: Can we predict which consumer credit users will suffer financial distress?**

## Credit unions

### **Consultation on credit union rules**

We are currently consulting on changes to our rules for credit unions. The proposed rules cover credit union deferred shares and subordinated debt. They also include some more minor changes, including providing greater clarity on how all credit unions update their standing data, such as a change to their complaints contact. This consultation closes on 1 September.

### **SM&CR: Submitting data on Conduct Rule breaches**

We are reminding firms that the

This paper was authored by John Gathergood from the University of Nottingham and is based on independent data from the Office of National Statistics. The research was compiled with the aim of taking a wider view on what is meant by 'financial distress', how it relates to an individual's wellbeing and how easily this can be predicted. We will use the findings to inform our policy work on areas such as consumer credit.

FCA notification of Conduct Rule breaches or **Form H** reporting window opens on 1 September 2016 and will close on 31 October 2016. It covers the timeframe from 7 March 2016 to 31 August 2016. If there have been no breaches of the Conduct Rules within this timeframe, credit unions do not need to submit Form H.



## July news round-up

**UK established Fin Tech Bridge with Republic of Korea**

**Cenkos Securities fined for failure to maintain the high standards required of a firm providing Sponsor Services**

## Events & Publications

### **FCA: Live & Local: Scotland**

Throughout September, Live & Local events will take place across **Scotland** with sessions for investment, general insurance and mortgage firms. These include Positive Compliance sessions for investment and mortgage advisers which focus on the advice process, and a presentation on culture and governance specifically for GI firms. Supervisory workshops, 1-2-1 sessions with our supervisors and roundtables with a panel of FCA and industry representatives are also **open for registration**. For other regions, including **East Anglia in October**, visit our **webpage**.

### **Financial Crime Reporting**

### **Policy Development Update**

### **Response to Annual Public Meeting questions**



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