

# Regulation round-up



January 2017

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



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

Andrew Bailey, Chief Executive

*'...2017 promises to be an interesting year, both for us as regulators and for you as the regulated community...'*

## **Welcome to January's regulation round-up**

January is often regarded as a time for reflection and an opportunity to look ahead to what the new year holds.

Our consultation on 'Our Future Mission' closes today. We have spent the last few months meeting many of you to discuss your views on the questions we have posed in the consultation - I would like to thank you for taking the time to share your thoughts with us. Some of the themes which have already begun to emerge include a desire for clarity - respondents are keen on a clearer rationale for our decisions, what we choose to do and not to do - and a preference for us to adopt a more active role in sharing lessons learned and good practice. We have published further information on the emerging themes on our [website](#). We will consider all responses and provide further details when we publish the Mission statement in a few months' time.

Looking ahead to some of the big issues that we will address this year; we will be reporting on progress on the Financial Advice Market Review (FAMR), we will consult on extending the Senior Managers and Certification Regime to all sectors of the financial services industry, we will conclude our review of the payday price cap and call for input on high cost credit

and we will publish our Mission statement alongside our annual business plan.

2017 promises to be an interesting year, both for us as regulators and for you as the regulated community.



## Hot topic:

### Asset Management Market Study

We published the [Interim Findings](#) of our asset management market study in November 2016. The study looked at whether retail and institutional investors can get value for money when purchasing asset management products and services. In the interim report we identify the following preliminary findings:

- price competition is weak in a number of areas of the asset management industry
- there is stronger competition on price for passively managed funds, though we did find some examples of poor value for money in this segment
- despite a large number of firms operating in the market, based on our sample, we found evidence of sustained, high profits over a number of years
- investors are not always clear what the objectives of funds are, and fund performance is not always reported against an appropriate benchmark
- we also found concerns about the way the investment consultant market operates

We have proposed a significant package of remedies to make competition work better in this market, and protect those least able to actively engage with their asset manager. These include a strengthened duty on asset managers to act in the best interests of investors, reforms to hold asset managers to greater account, introducing an all-in fee to make it easy for investors to see what is being taken from the fund, and measures to help retail investors identify the most appropriate fund.

We are consulting on the findings and remedies, and stakeholders have until 20 February 2017 to respond.

[Find out more](#)



## Hot topic: Firms' resilience to third party trading platform outages

Following the network failure of Bloomberg, we surveyed a number of small to medium sized wholesale banks with a particular focus on the fixed income area, looking at their dependencies on third party trading providers and the challenges faced by firms when such providers experience operational disruptions.

We saw from the sample of 22 firms in our review, that firms had satisfactory business continuity planning for this type of event. Firms had given careful consideration to the impact of such outages and the courses of action available to them. As expected, firms' business operation responses varied, depending on the firm's size, individual business model, the resources available to them, and where relevant, their relationship to the wider group. In terms of firm approaches we noted:

- A high number of firms would cease trading as they were solely dependent on one system to execute their trades. It was recognised that trading in poor market visibility could also pose a prudential risk to firms.
- A minority of firms had an alternative trading system which they would switch to if their primary trading system failed.
- A small number of firms stated they would switch to voice broking by accessing alternative data sources or group data sources where available.

While operational arrangements were broadly adequate, we encourage firms to ensure they manage client expectations appropriately by preparing a client communication plan for these scenarios.

### **Updated statement on Which? super-complaint on push payments**

The Payment Systems Regulator (PSR) has published its response to the Which? super-complaint on consumer safeguards in the market for push payments.

### **Advice Unit**

Our Advice Unit is currently open for applications until **3 February 2017** from firms that are supplying or aiming to supply automated advisory or discretionary investment management services. More information about the Advice Unit and how to apply is available on our [website](#).

### **MiFID II Application & Notification user guide**

We have published a MiFID II Application & Notification user guide. It is intended to assist and encourage firms who need to apply to be authorised for the first time under MiFID II (or firms already authorised who need to vary their permissions) to do so sooner rather than later in 2017 to help ensure that they are compliant by 3 January 2018, when the regime comes into effect. Our gateway for receiving MiFID II applications will open on 30 January 2017 for initial authorisations and variations of permissions, and 31 July 2017 for passport notifications.

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

We published our fourth consultation paper (CP16/43) on aspects of MiFID II implementation. This deals with a series of broadly technical Handbook changes that were not covered off in our previous MiFID II consultations. We also proposed some guidance on transaction reporting, including trading venues' use of Approved Reporting Mechanisms (ARMs), and a transitional rule for fees relating to draft applications for authorisation in MiFID II.

### **Guarantor Lending Guidance**

## **stockbrokers**

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### **CP: CASS 7A and the Special Administration Regime Review**

Following publication of final amendments to the Special Administration Regime (SAR) by the Treasury, we are now consulting on certain aspects of the client assets regime. In particular, we would like feedback on proposed changes to the client money distribution rules (CASS 7A) and their interaction with the SAR.

### **Web page: Contract for difference**

We have published a web page which sets out our expectations of providers and brokers of retail contract for difference (CFD) products, which include spread betting and rolling spot foreign

We have published guidance for firms on our interpretation of provisions in the Consumer Credit Act 1974 that are relevant to guarantor lending firms seeking to take payment from a guarantor when a borrower is in default. In particular, the guidance sets out how we consider firms are required to notify guarantors of their intention to take payment before they do so.

exchange (FX).

#### **Video: Contract for difference**

We held an event for CFD providers to set out our concerns and expectations of the sector. The topics discussed included prudential standards, suitability and the senior managers regime. This video features Robert Taylor, Head of Asset Management Global Strategy, and Gunnar Burkhart, a Senior Adviser, giving an overview of our concerns and what we will be working on in the future.

#### **Web cast: Prudential regime for investment firms**

A recent EBA discussion paper sets out a possible new, bespoke prudential regime for MiFID investment firms, which is quite different from the current regime under the CRD/CRR. On 17 January, we hosted an event to talk through the EBA discussion paper and explain the thinking behind the proposals and give firms the opportunity to ask questions. The EBA's consultation closes on 2 February 2017.

## Financial advisers

### **Live & Local: South East**

February sees our Live and Local programme travel to the **South East**. Our programme will begin with Positive Compliance which will run on the mornings of 1 and 2 February at the Crown Plaza, Gatwick Airport, the morning of 7 February at the Hilton, Maidstone and on the morning of 8 February at the Hampshire Court Hotel, Basingstoke.

One-to-one surgeries will be held on the 15 February at Holiday Inn, Guildford, giving you the chance to meet with a member of our supervisions team to discuss issues specific to your firm.

## Wealth managers & private banks

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A roundtable, based on your questions and issues, will run on 23 February at the Crowne Plaza, Reading and will be attended by a panel of FCA and industry representatives. There will be both a morning and afternoon session.

Our supervisory workshop, focusing on professional governance, will be held on 28 February as both a morning and afternoon session at the Copthorne Hotel, Slough.

Spaces are available at these sessions so please [register](#) on our South East webpage. To register for our remaining event in the North West in March, please visit our [webpage](#).

### **Advising on pension transfers – our expectations**

We have published an alert that highlights our requirements when firms provide advice on pension transfers, including advice in particular circumstances. We are aware that some firms have been advising on pension transfers or switches without considering the assets in which their client's funds will be invested. We are concerned that consumers receiving this advice are at risk of transferring into unsuitable investments or – worse – being scammed.

### **Pension scheme operators are at risk from smarter scams**

We have published an alert highlighting some of the risks arising from authorised firms failing to carry out appropriate due diligence on investment offerings. Scammers are becoming increasingly sophisticated in developing products designed to defeat firms' due diligence efforts. We want firms to be aware of the current threats and encourage them to review the effectiveness of their systems and controls.

### **Advice Unit**

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A recent EBA discussion paper sets out a possible new, bespoke prudential regime for MiFID investment firms, which is quite different from the current regime

investment management services. More information about the Advice Unit and how to apply is available on our [website](#).

### **Update on redress methodology for pension transfers**

We expect to consult during Q1 2017 on updating the pension transfer redress methodology.

### **MiFID II Application & Notification user guide**

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### **ScamSmart**

The next phase of our [ScamSmart](#) campaign will start on 6 February. Our radio and digital adverts will run until the end of March. The adverts include video case studies of investment fraud victims, interviewed by our campaign spokesperson Nick Hewer. You can watch one of the case studies [here](#). You can find out more about ScamSmart from our [website](#) and support the campaign by liking our

under the CRD/CRR. On 17 January, we hosted an event to talk through the EBA discussion paper and explain the thinking behind the proposals and give firms the opportunity to ask questions. The EBA's consultation closes on 2 February 2017.

## Mortgage advisers

### **Live & Local: South East**

February sees our Live and Local programme travel to the **South East**. Our programme will begin with Positive Compliance. This will run on the afternoons of 1 and 2 February at the Crown Plaza, Gatwick Airport, the afternoon of 7 February at the Hilton, Maidstone and on the afternoon of 8 February at the Hampshire Court Hotel, Basingstoke. It will focus on expectations of firms providing advice from a regulatory perspective, allow for the sharing of good practice, and will explore the findings of our thematic work.

Please [register](#) for these sessions on our South East webpage. To register for our remaining event in the North West in March, please visit our [webpage](#).

### **Guarantor Lending Guidance**

We have published guidance for firms on our interpretation of provisions in the Consumer Credit Act 1974 that are relevant to guarantor lending firms seeking to take payment from a guarantor when a borrower is in default. In particular, the guidance sets out how we consider firms are required to notify guarantors of their intention to take payment before they do so.

## Insurers & insurance intermediaries

### **Live & Local: South East**

February sees our Live and Local programme travel to the **South East**. The programme will begin with our culture and governance presentation, where we discuss our expectations of firms providing general insurance products and services, will run on the morning of 3 February at the Crowne Plaza in Gatwick.

Firms can also book for a 30 minute telephone conversation with one of our supervisors to take place on 15 February, giving them the chance to troubleshoot specific issues on a one-to-one basis.

On 22 February, we will be holding an industry roundtable, which will specifically focus on your questions and issues. This will be held at the Crowne Plaza in Reading and be attended by a panel of FCA and industry representatives.

A supervisory workshop on the topic of delivering fair customer outcomes will be held on 28 February at the Copthorne Hotel in Slough.

[Register](#) for these sessions on our South East webpage. To register for our remaining event this coming March in the North West, please visit our [webpage](#).

### **GI measures scorecard**

Our general insurance add-ons market study found poor value in both add-on and some stand-alone products sold by firms as well as a lack of commonly available measure of value. We have published the first set of data in our general insurance value measures pilot. The data focuses



on claims frequencies, claims acceptance rates and average claims pay-out by insurer and product for four general insurance products. By publishing this data, consumer groups, consumers and market commentators will have an additional measure of value for the insurers we regulate. We expect that the combined pressure generated by publicity, changes in consumer behavior, regulatory intervention and peer review will encourage firms to improve value.

### **Client Assets Audit**

We remind general insurance intermediaries of their obligation to ensure a **Client Assets audit** is completed within four months of the year end. Please refer to **Supervision (SUP) Sourcebook Chapter 3** to check when an audit is required and any relevant exemptions.

### **Web pages: Life Insurers & Pensions Providers**

We have recently created a dedicated landing page for Life Insurers alongside Pension Providers on our external website. These pages will now provide you with up-to-date information about reforms and changes to regulation, how they affect your business and your customers, along with relevant publications and information on how to carry out certain activities. This is one of many channels we are looking to use to engage with our firms and is part of our broader communication programme for 2017.

### **Advising on pension transfers – our expectations**

We have published an alert that highlights our requirements when firms provide advice on pension transfers, including advice in particular circumstances. We are aware that some firms have been advising on pension transfers or switches without considering the assets in which their client's funds will be invested. We are concerned that consumers receiving this advice are at risk of transferring into unsuitable investments or –

worse – being scammed.

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We have published an alert highlighting some of the risks arising from authorised firms failing to carry out appropriate due diligence on investment offerings. Scammers are becoming increasingly sophisticated in developing products designed to defeat firms' due diligence efforts. We want firms to be aware of the current threats and encourage them to review the effectiveness of their systems and controls.

### **Update on redress methodology for pension transfers**

We expect to consult during Q1 2017 on updating the pension transfer redress methodology.

## Consumer credit

### **CCA retained provisions review update**

In February 2016 we published a call for input on the planning phase of our review of retained provisions of the Consumer Credit Act (CCA). We have now published a short update on this work. We are planning to outline the scope for the review, and approximate timelines taking us up to 1 April 2019, in the first half of 2017. We will also publish a summary of the responses to the Call for Input.

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We have published guidance for firms on our interpretation of provisions in the Consumer Credit Act 1974 that are relevant to guarantor lending firms seeking to take payment from a guarantor for a borrower who is in default. In particular, the guidance sets out how we consider firms are required to notify guarantors of their intention to take payment before they do so.

## Credit unions

There are no specific updates for Credit Union firms this month. However, as a reminder, we have a **dedicated section** of our website which contains useful information for Credit Unions.

## Default and Arrears information sheets

We have published new versions of our default and arrears information sheets on our website. These will come into effect on 14 April 2017, and until then firms should continue to use the current versions. We have withdrawn a previous version of these information sheets that were intended to become effective on 18 January 2017. Any firms who downloaded the withdrawn versions must take care not to use them, as they contained an error.

## Live & Local Consumer Credit Event

You can now sign up to attend our Consumer Credit Live & Local event in Glasgow on **9 February**. This event will give you an increased understanding of our expectations now you are authorised for consumer credit. You will have the chance to hear from our Supervision, Policy and Fees teams, and there will also be a chance to put your questions to our panel of regulatory experts.

[Click here](#) to attend and for more information.



## January news round-up

### Registers and systems: supported browsers

Due to an upgrade to some of our systems and to improve your security, from March 2017 you will need a current or recent version of internet browsers such as [Chrome](#), [Internet Explorer 11](#), [Microsoft Edge](#), [Safari](#), [Firefox](#) and

## Events & Publications

### Live & Local: South East

Throughout February, Live & Local events will be taking place across the South East, visiting Crawley, Maidstone, Basingstoke, Guildford, Reading, and Slough with [sessions for investment, general insurance and mortgage firms](#). These include Positive Compliance

**Opera**, to access:

- Connect
- Financial Services Register
- Consumer Credit Interim Permission Register
- Electronic Submission System (ESS)
- web contact forms and web chat

### **2017/2018 fees and levies**

Firms that are intending to cancel their permission and do not wish to be liable for next year's annual fee (1 April 2017 – 31 March 2018) need to apply to cancel online, through **Connect** by 31 March 2017 otherwise they will be liable for the full annual fee.

### **User test our websites**

Could you help us improve the FCA and Handbook websites? We are looking for regulated firms, recently authorised firms, trade associations and media professionals to come to a one-hour session in Newcastle (8 to 14 February) or London (27 February – 3 March). Please fill out this short **online form** and if you have any questions please **email us**.

### **Fake FCA emails**

We are aware that an email has been sent which appears to be from webmaster@fca.org.uk. This email was not sent by the FCA and recipients should delete the email without opening.

### **Client Assets Audit**

We remind general insurance intermediaries of their obligation to ensure they complete a Client Assets audit within four months of the year end. Please refer to

#### **Supervision (SUP) Sourcebook Chapter 3**

to check when an audit is required and any relevant exemptions.

### **FCA 58th place in Stonewall's Top 100 Employers 2017 rankings**

### **HSBC voluntarily agrees to provide approximately £4 million redress for historical debt collection practices**

sessions for investment and mortgage advisers, focusing on the advice process, as well as a presentation on culture and governance for GI firms. Supervisory workshops for general insurance and investment firms will also be held, providing an opportunity to debate and explore best practices and consumer outcomes with peers. We will also be running industry specific roundtables on investment and general insurance, giving firms the opportunity to ask questions directly and discuss in an open forum alongside FCA leadership and industry representatives. We will also be holding surgeries, where firms can register for one-to-one sessions with our supervisors.

To **register** for our remaining event in March in the North West please visit our **webpage**.



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