

Regulation round-up



November 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 November issue
of *Regulation round-up*

Jonathan Davidson, Director of Supervision – Retail & Authorisations

'... even if inadvertent, this practice lacks transparency and can lead to poor customer outcomes...'

I'm delighted to welcome you to the November edition of Regulation round-up. I'd like to take the opportunity to raise awareness of our guidance consultation on the fair treatment of customers with mortgage payment shortfalls.

We identified that some mortgage firms (lenders and administrators) have automatically included customers' payment shortfall balances within their monthly mortgage payments which are recalculated from time to time, for example when an interest rate changes. We consider this practice to be 'automatic capitalisation' of payment shortfalls and a likely breach of our rules.

Effectively, because firms have not reset the payment shortfall to zero, they are collecting the payment shortfall over the remaining mortgage term through a higher monthly payment and also continuing to pursue the payment shortfall through their collections processes, treating them as immediately payable. We have written an example entitled 'John's Story' to show how the practice may affect customers.

We believe that the current practice might be driven by firm's calculation algorithms built into their IT systems and Mortgage Terms and Conditions, which aim to ensure that customers' monthly payments are sufficient to repay the

mortgage balance by the end of the term.

Even if inadvertent, this practice lacks transparency and can lead to poor customer outcomes.

We expect firms to take appropriate action to put this right, and ensure the practice ceases. We are [consulting on guidance](#) for a remediation framework, which is one way firms can approach remediation. The consultation period ends on 18 January 2017.

Customers do not have to take any action at this stage, as firms will contact them directly.



Hot topic: Our future Mission

The [Mission paper](#) covers a number of areas, such as ensuring markets work well, regulation and public policy. There are three other areas (overview below) which we encourage you to read and [submit your thoughts](#) on. In our short [video](#), Andrew Bailey discusses the Mission in more detail.

Role of disclosure

Regulators have historically focused on the need for firms to provide transparency and disclosure to consumers. Disclosure also helps reduce moral hazard by clearly differentiating between a firm's responsibility to provide information in an accessible form and a consumer's responsibility to take decisions based on this information. Research we commissioned identified good practice and practical examples of where behavioural insights have been used to improve firms' disclosure. This has fed into our [Smarter Consumer Communications](#) work.

Protecting consumers

While firms must meet minimum standards, the balance of consumer/firm responsibility will vary depending on the product or transaction. When things go wrong, consumers can claim redress. In our view, we have a role in ensuring that consumers receive redress and hold firms accountable.

In an environment where consumers are increasingly expected to take responsibility for their own financial decisions, what is the right level of consumer protection and how do we balance the responsibilities of firms and consumers?

Vulnerable consumers

People can become vulnerable at any time in their lives and it can be temporary or permanent. Our paper into [consumer vulnerability](#) found that vulnerability is not confined purely to a consumer's situation. It can be caused and exacerbated by firms' actions or processes. And we know that wealthy consumers may also be vulnerable.

We have a duty to meet the Public Sector Equality Duty of the Equality Act 2010. As a regulator, we aim to afford more protection to those with less financial capability. Our regulatory approach is flexible and we will continue to respond to emerging patterns.

FCA Handbook: We are also seeking suggestions on a proposed review of the FCA Handbook which sets out our rules for firms.

We are keen to hear your [views](#) on these issues and on the rest of the [questions](#) in the paper. The consultation will close on **26 January 2017**. The final Mission Paper will be published alongside our 2017/18 Business Plan.

[Find out more](#)



Hot topic: EU Benchmarks Regulation

We want to raise awareness of the EU Benchmarks Regulation, which comes into effect in January 2018, superseding our existing legislative regime. It will introduce a common framework and consistent approach to benchmarks regulation across the EU. Whilst some of you may not think you will be affected, we urge you to read on as that may not be the case.

The Regulation defines an index as a figure which is publicly available and is regularly determined, either by applying a formula to or making an assessment of a representative set of underlying data. Once an index is used in financial instruments, mortgage or consumer credit contracts or to measure the performance of investment funds, it becomes a benchmark.

The Regulation will introduce new regulatory requirements for index providers located in the EU that provide benchmarks used within the EU. Once their benchmarks are

used, these providers will become benchmark administrators and will be expected to apply for FCA registration or authorisation.

You may also be affected if:

- you are an authorised person and you use a benchmark to determine the amount payable under a financial instrument or a mortgage or consumer credit contract by referencing an index
- you measure the performance of an investment fund through an index either to track the return of the fund or to define its asset allocation
- you issue a financial instrument which references an index
- you are a contributor to a benchmark

If you are unsure whether you fall within scope, please email us at eubenchmarkregulation@fca.org.uk. Our [website](#) includes further detail.

[Find out more](#)

Banks & building societies

Statement on the FCA's review of Royal Bank of Scotland's treatment of customers referred to its Global Restructuring Group

Our statement addresses the announcement made by RBS regarding customers transferred to its Global Restructuring Group (GRG), gives a summary of the findings of the report by Promontory Financial Group (Promontory) and sets out the next steps which we will take.

Investment managers & stockbrokers

Packaged Retail and Insurance-based Investment Products (PRIIPs)

On 9 November 2016 the European Commission announced that it was extending the date of application of the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation by one year to 1 January 2018. Given this, the disclosure rule changes we consulted on in CP16/18 to reflect this directly applicable regulation will not be published in their final form or take effect this year. We will consider the revised Regulatory Technical Standards when they are available and plan to publish a Policy Statement during the first half of 2017. This will take account of the revised PRIIPs framework, summarise the feedback to CP16/18, and include final rules which will take effect from 1 January 2018.

Financial advisers

Live & Local: London

December brings our Live and Local programme to **London**. Our supervisory workshop, focusing on professional governance, will be held on December 1. We will then hold one-to-one surgeries on 2 and 5 December, giving you the chance to meet one-to-one with a member of our supervisions team to discuss issues specific to your firm.

Positive compliance sessions will run on the mornings of 6, 7, 8 December. A roundtable attended by a panel of FCA and industry representatives will be held on 13 December. Spaces are available at these sessions so please register on our **London webpage**.

PS: Capping early exit pension charges

We have published our final rules on capping early exit charges for consumers eligible to access the Government's pension reforms from age 55. From 31st March 2017, early exit charges will be capped at 1% of the value of existing contract-based personal pensions, including workplace personal pensions. Early exit charges that are currently set at less than 1% may not be increased. Firms will not be able to apply an early exit charge to personal pension contracts entered into after these rules take effect.

CP: Lifetime ISA

We have published our **proposed approach** to regulating the promotion and distribution of the Lifetime ISA (LISA). The introduction of the Lifetime ISA was announced in the 2016 Budget and the government intends for it to be available from April 2017. The LISA is designed to allow people under the age of 40 to save or invest flexibly to either provide a deposit for a first home or save for retirement.

Wealth managers & private banks

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FS: Regulatory barriers to social investments

Following our **Call for Input**, we have concluded, that we do not believe regulation is preventing the social investment market from developing. On the contrary, regulation can ensure strong practices are developed which in turn lead to investor confidence.

Data Bulletin: RMAR

This issue focuses on the retail intermediary sector and is based on new analysis of our Retail Mediation Activities Return (RMAR). The RMAR is submitted by approximately 12,000 FCA regulated firms who provide intermediary services arranging and/or advising on mortgages, non-investment insurance or investment products. We've analysed trends in activities and revenue, information about capital requirements and data on advice and charges. The bulletin also includes the latest trends in the retirement income market between January to March 2016. We also include the findings of our annual firm feedback questionnaire.

Mortgage advisers

Live & Local: London

December brings our Live and Local programme to **London**. Positive Compliance mortgage sessions will run in the afternoons of 6, 7, 8 December.

On 12 December we will also be holding our first **mortgage roundtable**, focussing on lending into retirement. The roundtable will be attended by a panel of FCA and industry representatives. Please register for these sessions on our **London webpage**.

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Insurers & insurance intermediaries

Live & Local: London

December brings our Live and Local programme to **London**. A supervisory workshop on delivering fair customer outcomes will be held on 2 December while our culture and governance presentation will run on the morning of 9 December.

We will also be holding a roundtable with a panel of FCA and industry representatives on 12 December.

Firms can also book a 45 minute one-to-one surgery session with a supervisor on 5 December, giving you a chance to troubleshoot specific issues on a one-to-one basis. Register for these sessions on our **London webpage**.

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Consumer credit

Debt purchaser Motormile Finance agrees to redress
Motormile Finance UK Limited, a

Credit unions

There are no specific updates for Credit Union firms this month. However, as a reminder, we have a

debt purchase and collections firm, has entered into an agreement with the FCA to provide redress to more than 500,000 customers for historic failures in its due diligence and collections process.

CMA Investigation into retail banking

On 3 November, we announced action we will take to improve competition in the current account market. This follows a series of recommendations proposed by the Competition and Markets Authority (CMA) as part of its investigation into retail banking. We have published our response to the CMA's final report on our website, which includes further detail of the action we will take forward.

dedicated section of our website which contains useful information for Credit Unions.



News

Financial Crime Conference 2016

We hosted our **Financial Crime Conference** on 10 November 2016. The conference brought together those at the forefront of the fight against financial crime to discuss their approaches and inform debate on the wider financial crime political landscape. The conference included speeches from **Andrew Bailey** (Chief Executive Officer) as well as speeches and comments from **Nausicaa Delfas** (Acting Chief Operating Officer) and **Rob Gruppetta** (Head of Financial Crime). Here's some of the feedback we received about the conference:

- *"Excellent line-up of speakers, very impressive list of attendees,*

Events & Publications

Live & Local: London

Throughout December, Live & Local events will be taking place at various locations in **London** with sessions for **investment, general insurance and mortgage** firms.

They include Positive Compliance sessions for investment and mortgage advisers focusing on the advice process, and a presentation on culture and governance specifically for GI firms. There will also be supervisory workshops, focusing on professional governance for investment firms and delivering fair customer outcomes for GI firms.

We will also be holding investment,

and the right content"

- *"Very informative and lots of food for thought"*
- *"Insightful and an opportunity to understand FCA priorities"*

Sandbox firms unveiled

We have announced details of the firms who successfully applied to begin testing in the first cohort of the regulatory sandbox. Part of Project Innovate, the regulatory sandbox aims to create a 'safe space' in which businesses can test innovative products, services, business models and delivery mechanisms in a live environment while ensuring that consumers are appropriately protected. Firms can apply to be part of our second sandbox cohort from 21 November 2016.

GI, and, for the first time, a mortgage roundtable with a panel of FCA and industry professionals, giving firms the opportunity to question and discuss in an open forum. Additionally we are offering surgeries, where GI and investment firms can register for one-to-one sessions with our supervisors.

To register for our events in other regions, including

Yorkshire and the Humber in

January, the **South East** in February and the **North West** in March, please visit our **Live & Local webpage**.

Data Bulletin

CP: Regulatory fees and levies: policy proposals for 2017/18



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