

# Regulation round-up



October 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 October issue  
of *Regulation round-up*

David Geale, Director of Policy

*'...firms'  
communications  
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consumers  
make informed  
decisions...'*

**Welcome to the October edition of Regulation roundup.**

**I'm delighted to welcome you to the October edition of Regulation round-up. I'd like to take the opportunity to update you on our work to encourage Smarter Consumer Communications. In particular rethinking not just what, but also how key information is communicated to consumers.**

I'm sure we would all agree that firms' communications are vital in helping consumers make informed decisions but communication is only effective when consumers pay attention to the information, have the capacity to interpret it and are willing to incorporate it in their decision-making process.

In a recent [Feedback Statement](#) we share some real examples of how firms are improving their communications, utilising technology and the wealth of knowledge on how people engage. I encourage you to read them.

However, this journey is not over, we will continue to work with firms and we have committed to:

- host a Smarter Consumer Communications event to focus on key issues, including improving terms and conditions
- consider the issues raised around our social media

guidance to identify innovative further work around the use of social media and risk warning in particular.

- consult on changing disclosure rules or guidance where barriers have been identified
- consider the use and definition of 'durable medium' in our Handbook
- investigate instances where firms provide unhelpful disclosure or risk warnings to consumers
- work with the Association of Professional Financial Advisers (APFA), to help the industry develop guidelines for the preparation of suitability reports.

High quality, appropriate information can help consumers make informed decisions about the products or services they have or plan to buy. However, information alone is not sufficient to empower consumers to make informed choices as different people engage with information in different ways.

We have been encouraged by the engagement from firms, and we hope this continues as we work through the next stages.



### Hot topic:

## Prudential: Capital Requirements Directive IV

We are prudentially responsible for around 24,000 firms which include asset managers, investment firms, platforms and infrastructure providers. Prudential supervision is fundamental in carrying out our responsibilities to protect and enhance the integrity of the UK's financial system. Last month we sent out three communications about our prudential approach. The first was a [Dear CEO letter](#) sent to c.700 smaller IFPRU investment firms in which we described the FCA's prudential approach for those firms. This is part of our prudential work to continue implementing the Capital Requirements Directive IV (CRD IV), and meet the European Banking Authority's (EBA) guidelines.

When we carry out a Supervisory Review and Evaluation Process (SREP), we take into account the nature, scale and complexity of the firms. Where it is useful and relevant we also perform the prudential assessments in groups, allowing us to use peer analysis to ensure our approach is consistent across the relevant sector. We encourage all IFPRU investment firms to look at this document to remind themselves of the elements involved in undertaking our SREP of a firm's Internal Capital Adequacy Assessment

Process (ICAAP).

We also wrote to the [Chairs of Boards](#) of Significant IFPRU Investment Firms to provide them with our findings of a cross-firm review of compliance with CRD IV governance requirements. The third document was the [CRDIV Pillar 2 summary](#) which clarifies existing rules and provides some observations of good and poor practice in firms' assessments that we have recently seen.

[Find out more](#)



## Hot topic: Engaging with firms on Gabriel

### **Gabriel at Live & Local**

We have taken the opportunity at [Live & Local](#) to speak to delegates about Gabriel. We received and continue to draw valuable insights from this engagement, such as:

- Firms are interested in getting a better understanding of what we do with the data we collect and why we need it.
- There isn't always awareness of some of the resources that are available to help firms with their submissions.

Following feedback, we will soon publish an overview of why we collect Retail Mediation Activities (RMA) data. We will outline the rationale for collecting the data, why we need it in an electronic format, and how it feeds into our wider supervisory approach. It will also draw attention to some common RMA misreporting errors that firms should avoid.

We look forward to engaging with firms at the remaining Live & Local events, where Gabriel subject matter experts will be on hand to answer any system related queries.

### **Online training**

As well as [Gabriel help and FAQs](#), we also offer a [Gabriel online training package](#), which we have recently updated. We have made it easier to navigate and introduced some new topics:

- How to register for access to Gabriel.
- Performing system administrative functions.
- Submitting Product Sales Data.

## **Regulatory technology (RegTech)**

We believe that technology has a role to play in enabling more efficient and effective regulation and we have a particular interest in working with those involved in developing RegTech solutions. We are planning to hold a 'TechSprint' event later this year which will bring together a cross-section of firms to explore how technology could help streamline regulatory reporting and data sharing.

[Find out more](#)

## **Banks & building societies**

### **Treatment of customers with mortgage payment shortfalls**

We have published [our guidance consultation](#) on the treatment of customers with mortgage payment shortfalls (commonly referred to as arrears). [This guidance](#) covers remediation for mortgage customers who may have been affected by the way firms calculate these customers' monthly mortgage payments.

### **New measures to maintain firms' focus on culture**

We have marked the six months since the implementation of the [Senior Managers' and Certification Regime](#) by providing [feedback](#) on implementation so far and proposing measures to further strengthen the regime. The proposed rules will reinforce the importance of individual accountability at the most senior level of organisations.

### **Senior Managers & Certification Regime publications - Conduct Rule Breaches - Data Submission Update**

As part of the Senior Managers & Certification Regime, firms must submit annual data on breaches of our conduct rules linked to disciplinary action by conduct rules

## **Investment managers & stockbrokers**

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

We have published our third consultation paper on MiFID II implementation. This deals mainly with conduct of business issues, product governance and perimeter guidance. Our proposals pick up on several of the themes of our recent work in the UK on retail and wholesale conduct issues, and they also reflect areas that we have worked on to promote competition and market integrity. A fourth consultation paper is likely to be published towards the end of this year.

### **Investment and Corporate Banking Market Study**

We have published the findings of our investment and corporate banking market study and set out a targeted package of remedies to ensure effective competition in the market. We found that whilst many clients feel well served by primary capital market services there were some areas where improvements could be made to encourage competition, particularly for smaller clients.

### **CP: Transaction costs**

We are consulting on proposed rules and guidance to improve the disclosure of transaction costs in workplace pensions. The



staff other than Senior Managers using 'Form H' (listed as REP008 in Gabriel). Firms are reminded that the FCA notification of conduct rule breaches or 'Form H' (REP008) reporting window opened 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 these firms to submit Form H (REP008) via the Gabriel system, including nil returns. Firms can view the form via the [FCA Handbook](#).

### **Statement: Super -complaint from Which?**

Which? today submitted a super-complaint to the Payment Systems Regulator (PSR) and the FCA calling on them to ensure banks better protect customers who are tricked into transferring money to a fraudster.

### **Penalties against Sonali Bank**

We have fined Sonali Bank (UK) Limited £3,250,600 and imposed a restriction preventing it from accepting deposits from new customers for 168 days. We also fined the bank's former money laundering reporting officer (MLRO), Steven Smith, £17,900 and prohibited him from performing the MLRO or compliance oversight functions at regulated firms.

### **Speech: A more effective approach to combatting financial crime**

Megan Butler, Executive Director of Supervision - Investment, Wholesale and Specialist, spoke at BBA Financial Crime and Sanctions Conference. Megan said:

- The FCA takes a proportionate regulatory approach and wants to encourage innovation in this area.
- Banks should focus on outcomes and change processes that aren't effective.
- The FCA is committed to better cross-agency working and a closer dialogue with industry.

consultation paper aims to standardise the disclosure of the transaction costs incurred by pension investments.

### **Market Watch: Market maker thematic review**

We have recently completed a review of the market abuse systems and controls currently employed at several firms that engage in market making activities. This edition of Market Watch sets out our high-level observations. Although the review focused on small and mid-cap equity market makers, these findings will be of interest to all firms undertaking market making activities.

### **Former Investment Portfolio Manager charged with insider dealing**

We have instituted criminal proceedings against Mark Alexander Lyttleton, a former Investment Portfolio Manager at Blackrock Investment Management (UK) Ltd. Mr Lyttleton is charged with three counts of insider dealing.

### **Derivative Use Reports (UCITS FSA042)**

The reporting window for the Derivative Use Reports will open on 31 October 2016 with Gabriel being made available to receive the submissions on 21 November 2016. The Derivatives Use Reports requires UK authorised fund managers and UK management companies to notify us of their use of derivatives in UCITS schemes ([COLL 6.12.3A](#)). Please refer to the [Frequently Asked Questions](#) for further details.

## Financial advisers

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### **Live & Local: West Midlands**

We will be travelling to the **West Midlands** in November. Positive compliance will be on 1 and 2 November in Dudley, supervisory workshop on professional governance on 22 November in Coventry, a roundtable with a panel of FCA and industry representatives on 17 November in Birmingham and one-to-one surgery sessions on 9 November in Stoke-on-Trent. Register for these sessions on our **West Midlands webpage**.

### **Speech: Pensions and long-term retirement saving: a macroeconomic perspective**

Andrew Bailey, Chief Executive, delivered a speech at Gleneagles. The key points from his speech were:

- Looking at the issues on the FCA agenda, pensions and long-term retirement savings are probably top of the list in terms of their importance to our society.
- The lifetime model is a core building block of macroeconomics, and it remains an essential lens through which to assess today's challenges around retirement income and pensions.
- If there are two big investments in the life cycle model - a home and a pension - the cost of both in real terms has risen.
- There is an argument that

## Wealth managers & private banks

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pension saving would be assisted by people holding more housing in their stock of pension assets, based on the real appreciation in the value of housing.

### **Review of annuity sales practices**

We have published the findings of our review of non-advised annuity sales practices. We wanted to establish whether firms provided customers with sufficient information about enhanced annuities. We found no evidence of an industry-wide or systemic failure to provide customers with sufficient information about enhanced annuities through non-advised sales. The FCA found many of the firms provided clear and comprehensive information to customers with written communications tending to meet the standards required. At a small number of firms the FCA did have concerns when significant communications took place orally - normally over the phone - which was likely to have caused some customers to purchase a standard annuity when they may have been eligible for an enhanced product.

## Mortgage advisers

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## Insurers & insurance intermediaries

### **FS: Big Data**

Our Feedback Statement summarises the responses we have received to our Call for Inputs. We found that Big Data is producing a range of benefits for consumers in motor and home insurance, by transforming how consumers deal with retail General Insurance firms, encouraging more innovation in products and services, and streamlining parts of the customer journey. We also found some concerns about the impact on data protection, risk segmentation and pricing practices. To better understand developments in the

and 2 November in Dudley. Register for these sessions on our West Midlands [webpage](#).

### **Speech: The role of consumer decision-making in ensuring good market dynamics in the mortgage sector**

At the Mortgages Conference, Christopher Woolard, Director of Strategy and Competition, talked about the recent history of mortgage regulation, the evolution of our thinking since we first introduced the Mortgage Market Review, and why we intend to launch a market study in the sector later this year.

market, we will also start a piece of discovery work to look at pricing practices in a limited number of retail GI firms later this year.

**OP: Price discrimination** We published a paper to build a common understanding of our approach to certain pricing practices. This paper sets out the underlying economic principles and policy considerations relevant to the analysis of price discrimination and cross subsidy to help understand when intervention may or may not be appropriate. It illustrates this discussion with examples from retail financial markets, based on recent work undertaken by the FCA and other regulators.

### **Live & Local: West Midlands**

We will be travelling to the **West Midlands** in November. The culture and governance presentation will be on 3 November in Dudley, a supervisory workshop on delivering fair customer outcomes on 23 November in Coventry and a roundtable with a panel of FCA and industry representatives on 17 November in Birmingham. Firms in the West Midlands can also book a 30 minute telephone conversation with one of our supervisors to take place on 9 November. Register for the West Midlands sessions on our [webpage](#).

### **Enterprise Insurance Company indicates it is insolvent**

Brokers who have Enterprise Insurance Company (EIC) policyholders - time is running out to arrange replacement insurance cover for your customers as the provisional liquidator of EIC is intending to disclaim (i.e. make invalid) all EIC policies on 26 October 2016. Of particular importance is to replace motor insurance policies, as from 26 October it will be unlawful for those policyholders to drive under a disclaimed EIC motor insurance policy. More information on this can be found on the Gibraltar FSC's [website](#) and the UK FSCS [website](#).



## **Gable Insurance AG**

Following the order issued to Gable in September 2016 to stop writing new business, the Liechtenstein Financial Market Authority (FMA), on 10 October 2016, appointed PricewaterhouseCoopers AG Zurich as Special Administrator for Gable in order to secure protection for Gable's policyholders. More information on this is provided on FMA's website, including an email address for the Special Administrator for queries.

## **Speech: Pensions and long-term retirement saving: a macroeconomic perspective**

Andrew Bailey, Chief Executive, delivered a speech at Gleneagles. The key points from his speech are:

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- If there are two big investments in the life cycle model - a home and a pension - the cost of both in real terms has risen.
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## Consumer credit

### **Speech: Balancing regulatory objectives in the dynamic consumer credit market**

Jonathan Davidson, Director of Supervision – Retail and Authorisations, gave a speech at the Future of Lending Conference in London. During the speech Jonathan gave an update on the loan based crowdfunding sector. He outlined that the FCA have authorised 12 firms who are operating Peer-to-Peer (P2P) platforms and are currently assessing 86 additional applications, of which 39 are operating under interim permission.

### **PacNet Group**

We set out our expectations of firms using payment processing services provided by the PacNet Group. Following a decision by the **United States Department of the Treasury** to designate the PacNet Group as a 'significant transnational criminal organisation', the ceasing of PacNet Group firms' operations has led to some customer payments,

## Credit unions

### **Senior Managers Regime: Breaches of Conduct Reporting**

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### **Payday lender's interim permission cancelled**

We have banned Andrew Barry Hart, the sole director, controller and ultimate owner of Wage Payment and Payday Loans Limited (WPPL), from performing any role in regulated financial services. We

including direct debits, not reaching creditors and firms. We expect firms to ensure that customers affected are not penalised or treated unfairly.

### **CFO lending to pay £34m redress**

Payday firm CFO Lending has entered into an agreement with us to provide over £34 million of redress to more than 97,000 customers for unfair practices. The redress consists of £31.9 million written-off customers' outstanding balances and £2.9 million in cash payments to customers.

have also cancelled WPPL's interim permission and refused its applications for WPPL to be authorised to carry out regulated activities and for Mr Hart to be an approved person.

### **New measures to maintain firms' focus on culture**

We have marked the six months since the implementation of the Senior Managers' and Certification Regime by providing **feedback** on implementation so far and proposing measures to further strengthen the regime. The proposed rules will reinforce the importance of individual accountability at the most senior level of organisations.



## **News**

**Alex Hope sentence for failing to pay confiscation order**

**Diversity and inclusion**

## **Events & Publications**

**Live & Local: West Midlands**

Throughout November, Live & Local events will take place across the West Midlands 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. Supervisory workshops, one-to-one sessions with our supervisors, and roundtables with a panel of FCA and industry representatives are also

**open for registration**. For other regions, including **London in December**, visit our **webpage**.

**Complaints data: January to June 2016**

**Speech: The FCA's role in promoting innovation**

**Speech: Our approach to cyber security in financial services firms**  
**Policy Development Update**

**July Board Minutes**



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