

Regulation round-up

June 2014

Banks // Insurers & insurance intermediaries
Financial advisers // Mortgage lenders & brokers
Investment managers & stockbrokers // Wealth managers &
private bankers



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

Tracey McDermott, Director of Enforcement and Financial Crime

*'...we expect
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consider the
lessons from
enforcement
cases...'*

I'm pleased to introduce this Enforcement-focused edition. Enforcement is one of the tools the FCA can use to tackle misconduct and improve standards both in individual firms and across the industry.

We take enforcement action in a relatively small proportion of cases, but we intend those cases to send a message about the consequences of serious misconduct and to provide pointers and lessons to the wider industry about risks your business may be running or issues you may need to address.

Enforcement does not operate in a vacuum. We work closely with other parts of the FCA to ensure we drive changes in the areas that matter most. We expect all firms to consider the lessons from enforcement cases and to consider not just the specific facts but to look at the root cause of the failures and consider whether similar problems could arise in your business.

The FCA has been focused on improving standards across the industry and in particular looking at culture and governance. Recent examples of enforcement action, [Lloyds Banking Group](#), [HomeServe](#) and [Swinton](#) for instance, have targeted firms which do not have the right incentive structures in place, or do not properly design or control them.

In next month's issue, we'll explain our early intervention

approach. But for now, please read our hot topic below to find out about the other indicators of poor culture and governance where you can expect us to take action. Occasionally we give awareness briefings on Enforcement issues. Please email enforcementevents@fca.org.uk if you would like to receive information about Enforcement briefing events.



Hot topic:

When do we take Enforcement action?

We take action against firms without the right culture and governance. Read on to find out more and to review your firm's practices against examples of poor behaviour, such as:

- repeat offenders or firms which fail to tackle root causes of misconduct (eg [Policy Administration Services Ltd](#) for poor complaints handling of mobile phone insurance policies sold by Phones 4u Ltd)
- firms which fail to co-operate with us, or fail to do what they say they will (eg [Prudential](#))
- failures to manage conflicts of interest (eg [Barclays and Daniel James Plunkett](#), and [FXCM](#)), and
- misconduct by those holding Significant Influence Functions – holding individuals to account when things go wrong and when the tone from the top does not drive the right behaviours (eg Mark Bentley Leek and Mustafa Dervish, and Arnold Gary Eber)

Our cases cut across all sectors and types of misconduct. Here are just some of our current priorities with investigations underway:

- Anti-money laundering (AML) – aligned with the thematic work we described in May's edition, we continue to see weaknesses in identifying and managing high-risk customers, and around transaction monitoring (eg [Standard Bank](#)).
- Low value insurance cases, where customers don't get the benefits they were promised or are sold benefits that are useless to them, are often characterised by high sales levels but low numbers of claims against policies. We fined [Card Protection Plan Limited](#), announced a [major redress scheme](#) for CPP customers, and have more cases in the pipeline.
- Self-invested personal pensions (SIPPs) – we banned [two partners of a firm](#) (1 Stop) which advised customers to switch into SIPPs, enabling those customers to invest in unregulated and often high-risk products, regardless of

suitability. SIPP operators and advice continue to be an area of focus.

- We're acting swiftly to help set the [FCA's expectations](#) in consumer credit, with several investigations underway, as well as early intervention work. Check out the [list](#) of OFT-licensed firms without interim permission – if you're aware of any firms acting without permission to do so, let us know.

There are regulatory lessons to be learned from all our actions – whether or not that action is in your sector.

Find out more



Hot topic: Approach to supervision

'Tackling serious failings in firms' publication

Our approach to supervision is focused on the causes of conduct failure. In our 19 June publication, '[Tackling Serious Failings in Firms](#)' we set out how we would apply an 'Enhanced Supervisory Approach' where we have serious concerns over governance, culture and standards within a firm. The publication explains the factors that may result in a firm being subject to Enhanced Supervision and what firms can expect if they are placed in Enhanced Supervision.

Pillar 1 roll out for C4 firms

Earlier this year we launched the '[FCA's Approach to Supervision for C4 Firms](#)' Guide. It gave a high-level summary of our interaction with C4 firms through our conduct supervision work and outlined the principal features of our three pillars supervision model and how this approach will affect C4 firms.

Our Pillar 1 approach allows us to proactively engage with C4 firms to assess whether you have the interests of your customers and the integrity of the market at the heart of your business. We will engage with you to look across your firm and measure the effectiveness of your senior management in identifying and addressing risks and the controls you have in place. We will assess each C4 firm, looking at your business model and future strategy,

understand how culture affects the way your firm is run, look at key processes that affect how customers are treated and assess controls and governance. We will also look at the controls you have in place to protect against financial crime and the financial soundness of solo-regulated C4 firms.

Our Pillar 1 approach is already underway for retail intermediary and credit union firms with regional assessments across the UK to individually assess every C4 firm once every four years. We will begin sector-specific approaches from July 2014 onwards to C4 firms in other sectors. This means that all C4 firms can expect to receive a four-yearly assessment - either a face-to-face interview, a telephone interview or an online or paper-based assessment.

We will write to you ahead of your assessment to tell you where, when and how it will take place. We will be contacting relevant trade bodies to let them know about the roll out of the Pillar 1 approach across all C4 firms.

[Find out more](#)



Hot topic:

Greater access to dispute resolution schemes

The Alternative Dispute Resolution (ADR) Directive is intended to give European consumers greater access to ADR schemes if something goes wrong with their purchase of goods or services. Member States have until 9 July 2015 to implement the Directive.

We plan to consult on the changes that will need to be made to the dispute resolution (DISP) rules in autumn 2014 (after the Department for Business Innovation and Skills have published their final plans for implementing the Directive).

One key change will be to the amount of time that consumers have to refer their complaint to the Financial Ombudsman Service (ombudsman service).

Currently under our DISP rules, consumers must refer their complaint to the ombudsman service within six months of receiving a final response from the firm. However, under the

Directive, a consumer will have a minimum of one year to submit a complaint to an ADR entity from the date that they submit their complaint to the trader.

We are still considering implementation options but firms should be aware that consumers will have at least one year to refer complaints to the ombudsman service once the Directive is implemented and this may apply even to complaints that are made before the implementation date.

We do not expect firms to take any action at this stage and will be consulting on the detailed amendments to our rules in the autumn.

Banks

Interest-only mortgages

We have responded to the Council of Mortgage Lenders' announcement that lenders have met the 2020 interest-only mortgage commitment. Our chief executive, Martin Wheatley, said: 'This forward looking and consumer-at-the heart type of action is a prime example of a model demonstrating good conduct outcomes and putting customers first; it's good to see that real progress is being made. What I am particularly pleased with is how industry, regulator and consumer have come together to address this problem as one in a collaborative way. It's too soon to declare success, but these are encouraging findings.'

'Everyone needs to keep the momentum going. Our advice for borrowers is unchanged: you must engage with your lender; this is a shared problem and you need to work together to resolve it.'

Insurers & insurance intermediaries

Conflicts of interest – report on the thematic project



We have found that inherent conflicts within insurance intermediaries are not being properly managed. We recently looked at seven of the largest intermediaries who serve small business clients and concluded that in some firms, control frameworks and management information have not developed at the same pace as business models. We are concerned that if conflicts are not properly managed there is the risk that decisions are made in the interest of firms rather than their small business customers. This could result in some small businesses over-paying or buying products they don't need. While the review focused on larger firms, all intermediaries should note the findings and ensure any conflicts are appropriately managed. We will be working closely with the industry to communicate the results of the review and, with the firms involved, will use appropriate regulatory tools to address specific issues.

Thematic review on household and travel insurance claims handling

Following the announcement of our initial findings on 9 April, we published the full report of our thematic review of insurers' management of household and retail travel claims. This thematic work was designed to assess the extent to which insurers put consumers making claims at the heart of their businesses. The **report** includes consumer research and the findings of a survey of CII members.

General insurance conference

Our first General Insurance Sector Conference, held in London on 2 June, was attended by around 350 delegates. The theme of the conference was 'working towards consistent consumer outcomes by raising conduct standards' to reflect our objective to ensure that consumers can trust the firms that provide them with financial services and where firms can thrive in a competitive market. During the day we discussed the work we had undertaken in the sector over the past year, and outlined our strategy to build on this work in the years ahead. The Conference was chaired by Zitah McMillan (our Communications and International Director), and featured key note speeches by Martin Wheatley, Clive Adamson (Director of Supervision) and Christopher Woolard (Director of Policy, Risk and Research), as well as by Manuela Zweimüller, Head of Regulations at the European Insurance Occupational Pensions Authority.

Retirement income market study

On 9 June, we published an update setting out our current and ongoing work on the retirement income market. As part of this, we revised the Terms of Reference for our market study into retirement income. The update follows changes made to the pension and retirement income landscape announced by the Government in the 2014 Budget.

Financial advisers

Investment managers &
stockbrokers (retail &
wholesale)

RDR disclosure assessment template



To help firms meet the disclosure requirements we have published an [assessment tool](#) and [accompanying notes](#) so firms can review their disclosure documents against the key disclosure requirements of the Retail Distribution Review (RDR). This is similar to the template we used to assess compliance with the disclosure requirements in the second cycle of our RDR thematic review. Cycle 3 starts in July.

Client money held in ISAs



The changes announced in the 2014 Budget will soon allow cash savings to be held in stocks and shares ISAs, permitting individuals to use stocks and shares ISAs for both deposit and investment purposes. We are [consulting](#) on a proposal that all monies investment firms hold within stocks and shares ISAs should be held as client money. If these rules remain unchanged, the changes announced in the Budget would require firms to separate client money from non-client money within the ISA wrapper. We need consultation responses by 25 June 2014.

Mortgage lenders & brokers

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CASS rulebook changes



We have published our Policy Statement for investment firms holding client money and custody assets. The extensive and detailed changes include a rewrite of our client money rules and substantial amendments to our custody rules, as part of our CASS sourcebook. The changes will improve firms' systems and controls around segregation, record keeping and reconciliations and set out how investment firms must address risks to client money and custody assets within their business. The changes will be implemented in three stages: 1 July 2014, 1 December 2014 and 1 June 2015. To help you plan and make changes to meet the different deadlines, we have produced a table setting out a high-level summary of the key changes.

MiFID web pages

We have updated our web pages to help keep market participants, firms and consumers informed of developments relating to MiFID II. Firms can also [register](#) for MiFID II updates.

Wealth managers & private bankers

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June news round-up

Martin Wheatley speech: Making innovation work

Martin Wheatley speech: Regulating high frequency trading

Tribunal upholds FCA's decision to find Ian Hannam guilty of market abuse

Events & publications

Foreign Account Tax Compliance ACT (FATCA)

To find out if you are impacted by FATCA, read our one-minute guide.

Quarterly Consultation Paper (QCP)

Connect system launch date

From **1 October 2014** we will be launching our new Connect system. Approved Persons, Appointed Representatives, Cancellations, Standing Data and Variation of Permissions applications and notifications that are currently submitted on our Online Notification and Applications system (ONA) will be submitted on Connect from this date.

Over the coming months you will begin to hear more about the change and how the move to Connect will affect you. **You do not need to do anything now or take any action.**



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