

Regulation round-up



June 2015

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



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

David Geale, Director of Policy

'...a well-functioning market needs informed and engaged consumers...'

I'm delighted to welcome you to the June edition of Regulation round-up, my second as Director of Policy. This month, we are focusing on how effective communication can help consumers make informed decisions and how we can work with firms to better engage and empower consumers.

A well-functioning market needs informed and engaged consumers. It needs consumers to have access to high quality, appropriate information so they can understand the product or service they have or plan to buy. But, as we all know, it's not just what information consumers receive but how they get it that makes a difference.

With this in mind, today we publish our [Discussion Paper](#) on Smarter Consumer Communications. This is our first step aimed at sparking a debate about how information can be delivered to consumers in more innovative and effective ways.

Our regulatory approach has always required firms to have due regard for the information needs of their customers, and to communicate information in a way which is clear, fair and not misleading. That is the regulatory baseline, but we expect all firms, including small and medium sized firms, to develop a culture where communicating effectively with

consumers is recognised and prioritised. It's particularly important to think about the information needs of potential customers when developing a product or service as well as throughout the life-cycle of that product or service.

I'm genuinely excited at the opportunity we have to work together to develop communications which really empower consumers to make good decisions.

We welcome your views on our paper and encourage you to share your ideas or research about improving consumer communications. You can send feedback through the traditional routes, our [online form](#), or if you have good ideas you want to share you could just have a chat with the team. The closing date for feedback is 25 September 2015.

I hope you find the round-up helpful.



Hot topic:

Pensions: Insistent clients and pension transfer

When we have been out and about meeting advisers recently, it seems that the topic of insistent clients is on everyone's lips. In response to this, we have produced a [3-page factsheet](#) that provides a helpful reminder of our position on insistent clients, in light of the pension reforms introduced in April 2015.

The Handbook does not refer to insistent clients, but there may be occasions where the client wishes to take a different course of action from the one you recommend and wants you to facilitate the transaction against your advice; ie they are an insistent client.

If you are dealing with insistent clients there are three key points to be aware of:

- You must provide advice that is suitable for the individual client, and this advice must be clear to the client. This is the normal advice process.
- It should be clear to the client that their actions are against your advice
- You should be clear with the client what the risks of the alternative course of action are

We are considering if there are any other issues or topics where advisers would find it helpful for us to bring further clarity.

Please e-mail any suggestions you have to adviserfeedback@fca.org.uk. We won't be responding to individual questions but will identify and consider common themes and issues raised by advisers.

Find out more



Hot topic:

Principle 11: Co-operating with the Regulator

It is vital that all firms co-operate with us. Principle 11 states that a firm must deal with its regulators in an open and co-operative way, and must disclose to the appropriate regulator anything relating to the firm of which the regulator would reasonably expect notice. There can be heavy penalties for misleading us.

This means that firms should tell us at the earliest opportunity if they identify any potential or actual misconduct, significant risks, or anything that might affect their ability to comply with our rules and regulations. They should also ensure that they co-operate with us during investigations, answer our requests for information in an open and timely fashion, and think about whether there is any useful information that they can volunteer to us even if we have not asked for it.

We take it very seriously if a firm or individual does not co-operate with us. For example, we fined [Bank of Beirut](#) £2.1m for repeatedly providing us with misleading information after it was required to address concerns regarding its [financial crime systems and controls](#). Its former compliance officer and internal auditor were also fined, as they provided false assurances to us that our concerns were being met.

We also recently fined [Deutsche Bank](#) £227m for LIBOR and EURIBOR related misconduct. The fine was especially large because the bank misled us; it failed to provide timely, accurate and complete information, failed to disclose a relevant report and falsely attested to us that its systems and controls were adequate.

During the last year, we have also cancelled the permissions of a number of small firms for not co-operating with us because they failed to respond to our repeated requests for financial information, and failed to discuss concerns about

their businesses.

Conversely, we are inclined to give credit to those who assist us in unravelling potential misconduct and help us conduct our enquiries quickly and efficiently. More guidance on the benefits of co-operating with us can be found [here](#).

Find out more

Banks & building societies

Insistent clients factsheet

This factsheet provides further help on issues such as what file records to keep and what should be in a suitability report.

Speech: Debating trust and confidence in banking

Martin Wheatley's speech at the ResPublica Vocational Banking event in London focused on the two areas that industry leaders need to look at to address cultural issues; governance and structure and individual accountability.

Fair and Effective Markets Review (FEMR)

FEMR made a number of findings and published 21 recommendations designed to ensure that wholesale Fixed Income, Currency and Commodity (FICC) markets are fair and effective, and enhance the measures already in progress to tackle issues highlighting in the findings. The key themes underpinning the recommendations are:

- Raising standards, professionalism and accountability of individuals
- Improving the quality and clarity and market-wide understanding of FICC trading practices
- Strengthening the regulation of FICC markets in the UK
- Launching international action to raise standards in global FICC markets, particularly the spot FX market

Investment managers & stockbrokers (retail & wholesale)

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We encourage firms active in the FICC markets to read the report and consider whether any of the findings of the Review are relevant to your business. While the FEMR does not change any FCA rules itself, as we take forward the recommendations changes are likely, and will be consulted on in the normal way.

CP: Fair, reasonable and non-discriminatory access to regulated benchmarks

We published our final rules for

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PS: Restrictions on CoCos

We are setting permanent rules imposing restrictions on the retail distribution of CoCos following our temporary product intervention rule in August 2014. We are also placing certain requirements on the sale of mutual society shares to ordinary retail investors.

Lloyds Banking Group fined

Lloyds was fined £117m for failing to treat their customers fairly when handling Payment Protection Insurance (PPI) complaints between March 2012 and May 2013. During the relevant period Lloyds assessed customer complaints relating to more than 2.3m PPI policies and rejected 37 percent of those complaints. Firms are required to assess complaints impartially and can reject unfounded claims.

Call for input: terms and definitions for services linked to payment accounts

We have published a Call for Input on terms and definitions for services which are linked to payment accounts and subject to fees. This is part of our work on the implementation of the Payment Accounts Directive (PAD). PAD requires that the terms and definitions used by providers to describe the key services linked to payment accounts, including current accounts, are standardised. This process is to take place over a number of years and involves actions at national and EU levels. The responses we receive will help to inform the UK position when some of the terms and definitions are standardised at EU level. Responses are requested by 17 July 2015.

regulating and supervising the seven additional benchmarks coming into regulatory scope. We noted that some respondents to our consultation had raised concerns regarding the unconstrained ability of administrators to set the prices of benchmarks. In our response, we stated that we would consider whether additions to the MAR 8 rules in this regard were necessary. We have subsequently reflected on this issue further and determined that there is likely to be merit in additional rules.

Recovery and Resolution Directive

Earlier this year, we published our **final rules** to implement the RRD for the investment firms that we regulate prudentially (IFPRU 730k firms) as well as certain group entities. The date on which the first recovery plan and resolution plan must be submitted is dependent on the type of submission (general or simplified) and, for recovery plans, total balance sheet assets. The date for the submission can be found on our **webpage** (under "Recovery plans" and "Resolution plans"). We also have published additional tools and information to help firms to understand and take action so they are compliant with the Directive. This includes a **webcast** and **slides** of the RRD session at our recent Prudential Forum and **information** on how to submit a recovery plan and resolution plan information.

Speech: Capital Markets Union - a regulator's perspective

David Lawton's speech recognised that CMU represents a potentially massively important initiative for Europe. The programme needs to recognise the macroeconomic context, and the work that is already in place or impending to embed a single capital market.

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DP: Smarter consumer communications

Elements of the Smarter Consumer Communications discussion look specifically at asset management and

we would be grateful for your suggestions for making client information more effective and engaging. Please use our [online form](#) to send your feedback by 25 September 2015.

Financial advisers

CP: Capital resource requirements

We are proposing to change the current capital resource requirements for personal investment firms. Generally, the proposals are a minimum capital requirement of £20,000 or 5% of your firm's income from investment business, whichever is higher. We have produced a [calculator](#) so you can get an idea of the changes based on these proposals.

DP: Smarter consumer communications

Elements of the Smarter Consumer Communications discussion looks specifically at what can be done to address the complexity of terminology and language used in the retirement income market. We are keen to encourage providers, advisers and trade associations to come together to agree and improve descriptions of key pension concepts and terms in a clear, non-technical and simple manner. We are also asking whether a sticker or poster could help clients understand the services an investment adviser provides and the associated costs. Please use our [online form](#) to send your feedback by 25 September 2015.

CP: Investing in authorised funds through nominees

We are proposing to revoke rules and guidance in the Conduct of Business sourcebook (COBS) that relate to certain disclosures and interactions between firms' nominees and consumers who are beneficial owners, in respect of holdings of units in authorised investment funds (COBS 14.4.1R – 14.4.9R inclusive). We are considering the effectiveness of disclosures in a discussion paper expected very shortly, in addition we announced a market study into asset management to begin later this year. We intend to reconsider the substance of

Wealth managers & private bankers

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these rules in the light of feedback from the discussion paper and any issues emerging from the market study.

Mortgage lenders & brokers

PS: Buy-to-let mortgages - implementing MCD

In our consultation we outlined our proposed approach to implementing the Government's legislative framework for consumer buy-to-let (CBTL) mortgages set out in the Mortgage Credit Directive Order. We summarise the feedback we received and our response, indicating where we have adjusted our approach to take respondents' views into account. We are also publishing final Handbook rules and guidance, effective from 21 March 2016.

DP: Smarter consumer communications

Elements of the Smarter Consumer Communications discussion look specifically at the mortgage market and we would be grateful for your feedback on how the market could help consumers better:

- Compare products
- Understand all associated costs

Please use our [online form](#) to send your feedback by 25 September 2015.

Former director banned from conducting regulated activity

Kevin Allen was sole shareholder of NMB, while holding controlled functions at New Life offering equity release mortgage products. Between 2009 and 2013, Mr Allen made illegitimate transfers totalling £1,000,000 from New Life to NMB without the knowledge of the other New Life directors. Mr Allen failed to act with honesty and integrity, and has been banned from conducting any regulated activity.

Insurers & insurance intermediaries

TR: Delegated authority: outsourcing in the GI market

Our report sets out the findings from our thematic review that looked at delegated authority arrangements in the general insurance market. The review focused on concerns over firms' oversight of outsourced arrangements and the potential impacts any shortcomings could have upon the delivery of products and related services to customers.

TR: Delegated Authority webinar

Our webinar presents the findings of our thematic review into delegated authority arrangements in the general insurance market, and includes a Q&A session with the FCA team that conducted the review.

TR: SME claims webinar

Our webinar presents the findings from our thematic review which looked into the handling of claims from SMEs. We wanted to understand the extent to which claims from SMEs, who are less likely to be sophisticated customers and who often exhibit similar knowledge and experience to that of retail consumers, were handled promptly and fairly. We also wanted to understand the role that different firms played in the handling of claims, particularly given the prevalence of outsourcing of claims by insurers

DP: Smarter consumer communications

Elements of the Smarter Consumer Communications discussion look specifically at general insurance and we would be grateful for your feedback on:

- Whether the industry could do more to provide total fee information
- Explain better the key features, benefits and exclusions
- Develop a common set of terminology

Please use our [online form](#) to send your feedback by 25 September 2015.

DP: GI Add-ons Market Study - Remedies: Value Measures

We have published our discussion paper exploring a range of options for introducing a measure, or measures, of value in GI markets. We see value measures being introduced on a market wide basis, and being used to publicly shine a light on poor value. We do not intend to require firms to provide consumers with value measures during their purchasing journey at this stage. The potential value measure options in the discussion paper include:

- Claims ratio as a stand-alone value measure
- A package of measures: claims frequencies, claims acceptance rates and average claim pay-outs
- Claims ratio plus claims acceptance rates

These options are not intended to be exclusive or exhaustive. We welcome suggestions from stakeholders on other ways to highlight product value and create the right incentives for firms to improve the value they offer to consumers. We are asking for comments on this Discussion Paper by 24 September 2015.

PS: Pension transfer rules

We have published our Policy Statement on our proposed changes to our rules following an amendment to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO). The new rules will come into force on 8 June 2015. Financial advisory firms advising on pension transfers, pension providers receiving transfer business and employer sponsors of occupational schemes must make any changes necessary to comply with the rules.

Consumer credit

TR: Debt Management

Between June 2014 and May 2015, we reviewed how both fee-charging and free-to-customer debt management firms are complying with the consumer

Credit unions

CP: Reform of the legacy Credit Unions sourcebook

We have jointly published a Consultation Paper with the Prudential Regulation Authority (PRA) on the reform of the

credit rules, including the advice provided and whether customers are treated fairly. Although many firms have made an effort to improve their practices in the last 12 months, we found the quality of the advice provided by some fee-charging debt management firms was unacceptably low. 'Free-to-customer' firms were generally of a higher standard but there is still room for improvement

legacy Credit Unions Sourcebook (CREDS), one of the modules of the Handbook inherited by the two new regulators from the Financial Services Authority. The PRA and FCA invites feedback on the proposals set out in this consultation before it closes on Wednesday 30 September 2015. Please address any comments or enquires to CP22_15@bankofengland.co.uk.

June news round-up

New Director of Enforcement and Market Oversight and Director of Risk

We announced the appointments of two key executive roles, with Mark Steward becoming the new Director of Enforcement and Market Oversight and Barbara Frohn the new Director of Risk and Compliance Oversight.

Connect update

Towards the end of July existing Connect and new users will be able to submit additional notifications via Connect including:

- UK firms 'Passporting Out' into the EEA for the following directives; MiFID, IMD, AIFMD, UCITS and PSD
- Adding/amending/removing PSD UK Agents

All Users with Advanced User Management will have the new notification types added to their profile with no permissions defined i.e. data entry, submitter. These additional permissions will need to be added by the Principal User of the firm.

PS: Fees

We have published rules on our 2015/16 regulatory fees and levies for the FCA, the

Events & publications

Annual Public Meeting

Our Annual Public Meeting will take place on Tuesday 22 July at the QEII Centre, Westminster, London, SW1P 3EE. For further information and to book your place, visit our webpage.

Speech: Confidence to crisis and back

Martin Wheatley delivered a speech at the IOSCO conference and he reflected on the dramatic changes the financial services industry has experienced over the nine years since he opened the 2006 IOSCO conference in Hong Kong.

Call for input: Digital and mobile

We are looking for feedback about specific rules and policies that are restricting innovation or that should be introduced to facilitate innovation in digital and mobile solutions. We would be grateful for input by 7 September 2015. Interest parties can send input via an online form and we will be reviewing input as we go along.

Quarterly Consultation Paper

We are proposing to:

- Transpose the UK Corporate Governance Code
- Make changes to the new capital

pensions guidance levy, the Financial Ombudsman Service (ombudsman service) general levy, and the Money Advice Service.

- rules for self-invested personal pension operators
- Make minor amendments to MCOB and TC
- Make minor amendments to various parts of the handbook in relation to the Consumer Rights Act
- Make technical amendments relating to HM Treasury's SME finance measures

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