

Regulation round-up



December 2014

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



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

Chris Woolard, Director of Policy Risk & Research

'...while the Guidance Guarantee will perform an important role, firms' own communications with their customers will remain of central importance...'

I am pleased to introduce the December edition of Regulation round-up. This month's edition focuses on our ongoing Policy work.

As the Executive Committee member responsible for policy and competition work, I oversee our efforts to ensure that financial services work in the best interests of consumers, now, and in the future.

It's been a busy lead up to the Christmas break, no more so than in the retirement income space. The Government's reforms that will come into force next April are a game changer for this market, with people being given greater freedom and choices regarding their pension savings.

Our own work in this area has seen us publish the standards for the bodies responsible for delivering the Government's new Guidance Guarantee. We have also published rules requiring pension provider firms to direct their customers to the guidance service when they retire.

More recently, we have published the interim findings of our market study into retirement income as well as the findings of our thematic review into annuity sales practices. From this work we have made a series of recommendations to improve the way firms communicate with customers about their retirement income options. While the Guidance

Guarantee will perform an important role, firms' own communications with their customers will remain of central importance.

The recommendations are aimed at ensuring that the pension reforms work and that people have trust and confidence in the products they are buying. We look forward to working with firms in this exciting and challenging new environment.



Hot topic: Retail Distribution Review

Post-implementation review

We have published the first part of our [Post Implementation Review](#) (PIR) of the Retail Distribution Review (RDR), whose first rules were implemented at the end of 2012. Though it will be years before the RDR's full effects are known, early signs from the PIR are positive in many ways:

- The removal of adviser commission has led to shifts away from products that used to pay high commission to products that paid little or no commission.
- The industry is becoming more professional e.g. 95% of advisers are now fully qualified with our standards and increasing numbers are going beyond them.
- Firms appear better placed to deliver on their long term commitments. Industry revenue and profitability have grown.
- Despite early falls in adviser numbers, capacity remains in the market, including for consumers who have less to invest.
- More time is needed to see if the early positive signs will lead to better quality advice, better value for money and an increase in trust.
- Also, consumers have weak understanding of adviser charges and the independence/restricted labels. So we'll work on new ways for key advice information to be disclosed to consumers.

Retail Distribution Review: Cycle 3

Following the introduction of the Retail Distribution Review on 31 December 2012, we began a three-cycle thematic review into how firms implemented its requirements in January 2013. In the first two cycles we focused on whether firms were complying with our independence and charging and service disclosure requirements.

Cycles one and two found that firms had made progress in implementing the RDR, but identified some areas where they were failing to meet our requirements, particularly around adviser charging disclosure.

We have now completed the third cycle of this thematic review, which included a repeated assessment of adviser charging and service disclosure, and a review of how firms design and deliver the services they provide to clients in return for an ongoing charge.

We have published [TR14/21](#) which sets out our findings, including some good and poor practice examples of firms' design and delivery of their ongoing services. We have also published some independent consumer research, carried out by NMG Consulting, into consumers' expectations of ongoing services and their experience of these being delivered. We believe the findings are very instructive for firms and we encourage them to review this research.

[Find out more](#)



Hot topic:

Wealth managers: looking at risks

We recognise the importance of the wealth management and private banking sector and how their business models are different to other investment firms. For this reason, last year, we set up a dedicated supervision department.

As with the rest of the FCA, we look at risks through thematic reviews and ongoing supervision. No matter the size of the firm, you are all expected to put consumers at the heart of your business model and this needs to be driven from senior management all the through to frontline staff.

We have seen areas where improvements need to be made. For example, our RDR thematic review on [disclosing costs and services](#) found that this sector continues to fail to explain the cost of charges in cash terms when operating on a percentage basis. We expect firms to look at the material available and make the necessary changes.

In other areas, we were pleased with the results. Last month, we published our [thematic report](#) looking at how firms manage the potential conflicts of interest arising from

in-house investment products (IHPs). We were pleased to find, for example, senior management had a heightened focus on IHPs and had taken steps to identify and manage weaknesses in their controls. We also found the due diligence processes in selecting investment products and monitoring their performance appeared to be consistent between IHPs and third party products.

We expect senior management to manage all relevant risks and ensure in every aspect of their business, from product governance to advice, that the consumer is at the forefront of their mind.

[Find out more](#)

Banks & building societies

MIPRU simplification

We have published consultation on the review of credit risk capital requirements for non-bank lenders (NBLs) that came out of the Mortgage Market Review (MMR). This is the second, simplification phase of the review and should be welcomed across the sector of NBLs. It will significantly simplify the current, first-phase rules for calculating credit risk capital requirements that the generally larger NBLs are subject to, and that came into force on 26 April 2014. The remaining, mainly smaller, NBLs were granted a modification by waiver so that the Handbook rules existing prior to that date continued in force for them for a year. We are planning to implement the revised rules such that all NBLs should switch directly to the second-phase, simplified regime on 26 April 2015.

Speech: Creating a fair and competitive environment for retail banking in the interests of consumers

Karina McTeague, Director of Retail Banking Supervision, set out the FCA's vision for retail banking and focused on competition and innovation. She talked about the challenges to competition and innovation, how we're addressing them, and the role of industry in addressing

Investment managers & stockbrokers (retail & wholesale)

Additional benchmarks into the regulatory and supervisory regime

Following the publications of the Treasury's Fair and Effective Markets Review, the Treasury has proposed that the following seven benchmarks are brought within our regulatory scope:

- Sterling Overnight Index Average (SONIA)
- Repurchase Overnight Index Average (RONIA)
- ISDAFIX
- WM/Reuters (WMR) Spot FX Rate
- London Gold Fixing (Soon to be replaced by the LBMA Gold Price)
- LBMA Silver Price
- ICE Brent Index

In line with Government policy, we propose that the entire supervisory framework – including applicable Handbook provisions that currently apply to the LIBOR administrator and submitters – should apply to firms that administer or submit to these benchmarks.

Conflicts of interest with in-house investment products

these challenges.

Immigration Act 2014

Section 40 of the Immigration Act came into force on 12 December 2014. It places new obligations on banks and building societies operating in the UK, prohibiting them from opening (or adding signatories or beneficiaries) to current accounts for people who do not have leave to remain in the UK. Under the Act, the FCA has a duty to monitor and enforce compliance with this legislation.

Credit card market study

We have published the terms of reference for our market study on credit cards. We plan to focus on credit card services offered to retail consumers by credit card providers, including banks, mono-line issuers and their affinity and co-brand partners.

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Financial advisers

We found that firms recognise the potential risks to their customers, their reputation and market integrity from conflicts of interest in relation to in-house investment products. Senior management had taken steps to identify and manage weaknesses in their controls in this area. There are three areas where improvements can be made. We expect firms to:

- Clearly state how IHPs fit within their business model and customers' interest.
- Monitor the level of IHPs in customer portfolios to allow better oversight of how the potential conflicts are being managed.
- Be clear on the service provided and the extent of the use made of IHPs in their communications to customers.

Even though this report focused on wealth managers and private banks, we believe that other firms which manufacture and distribute IHPs may be interested in the results.

Wealth managers & private bankers

Long-stop complaints to FOS

We are continuing our work to consider the case for a 15 year long stop on complaints to FOS. Implementing the Alternative Dispute Resolution Directive in the way we are consulting on would not preclude the introduction of a long stop should it be decided it was appropriate to do so in the future. We will publish the outcome of this review in due course.

Webcast: Assessment of risk

Assessment of Risk remains an area that we are asked about frequently. Over the past few months we have been presenting to the Personal Finance Society (PFS) on this subject. We focus on the issues that you may face when assessing the level of risk that a client is willing and able to take, as well as looking at the key considerations in this area. It details our expectations when assessing risk, using examples of good and poor practice in matching client's risk profiles to suitable investment recommendations. You will need to [register](#) to access the webcast.

Speech: The vital relationship between the regulator and the advisory industry

John Griffith-Jones, Chairman of the FCA, recently spoke at the Association of Professional Financial Advisers (APFA) Annual Gala Dinner. John reiterated the importance of the advisory industry and the FCA's eagerness in facilitating the transition from industry to profession.

Conflicts of interest with in-house investment products

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Speech: Conduct risks

At the recent conduct risk briefings for the Boards and Senior Management, Rob Taylor, Head of Wealth Management and Private Banking, said he will make certain that boards and senior management are taking a closer look at conduct risk. They include anti-money laundering, politically exposed persons and sustainability.

Mortgage lenders & brokers

MIPRU simplification

We have published our consultation on the review of credit risk capital requirements for non-bank lenders (NBLs) that came out of the Mortgage Market Review (MMR). This is the second simplification phase of the review and should be welcomed across the sector of NBLs. It will significantly simplify the current, first-phase rules for calculating credit risk capital requirements that the generally larger NBLs are subject to, and that came into

Insurers & insurance intermediaries

GI add ons: GAP

In July 2014, we confirmed our findings from the general insurance add-ons market study that competition is not effective where products are sold as an add-on and that markets for these products are broadly not working for consumers. We proposed four remedies, one of which relates specifically to the GAP market. The objectives for the proposals set out in the paper are to reduce the advantage enjoyed by the add-on distributor and to

force on 26 April 2014. The remaining, mainly smaller, NBLs were granted a modification by waiver so that the Handbook rules existing prior to that date continued in force for them for a year. We are planning to implement the revised rules such that all NBLs should switch directly to the second-phase, simplified regime on 26 April 2015.

empower customers to make informed and active decisions on whether to buy GAP insurance and, if so, from where.

Retirement income market study

This interim report presents our provisional findings on how the current market is operating and a series of recommendations to improve the way firms communicate with customers about their options. Whilst we have identified some future risks, we have also recognised some welcome developments in the market, such as new tools and business models to support consumer decision-making, and the emergence of more flexible retirement products.

Thematic review into annuities sales practices

We have found evidence indicating that firms' sales practices are contributing to consumers not shopping around and switching. At times, consumers are potentially buying the wrong type of annuity, in particular not purchasing an enhanced annuity when they may be eligible for one. As a result, consumers may be missing out on a potentially higher income in retirement. We are asking some firms to do further work to determine if our findings in relation to enhanced annuities are indicative of a more widespread problem and/or have led to poor consumer outcomes when buying annuities.

Guidance guarantee

We have published standards for the bodies responsible for delivering the Government's new Guidance Guarantee aimed at those with defined contribution (DC) pensions. We have also published rules requiring pension provider firms to direct their customers to the guidance service at retirement. In March 2014, the Chancellor announced changes to the choices that people in DC schemes will have at retirement. To support this people will be entitled to free, impartial, guidance on the choices they face when deciding how to use their retirement savings.

Changes to the Approved Persons Regime for Solvency II firms

Our Consultation Paper proposes changes to the Approved Persons Regime for Solvency II firms to address:

- Our role in reviewing firms'

assessments of the fitness and propriety of certain important individuals within these firms, to support the implementation of Solvency II.

- Provisions in the Financial Services (Banking Reform) Act 2013, which allow the regulators to apply Conduct Rules to certain individuals in FSMA-authorised firms
- The PRA's proposed reforms to the scope of its pre-approval regime

Consumer credit

New credit broking rules

Our new rules will ban credit brokers from charging fees to customers, and from requesting customers' payment details unless they comply with our new requirements. Customers must now be given clear information about who they are dealing with, what fee will be payable, and when and how the fee will be payable. The rules come into force on 2 January 2015. The new rules have been made without prior consultation because we believe that any delay arising from the time it would take to consult would be prejudicial to the interests of consumers

Engaging with trade associations

We hosted representatives from all of the major consumer credit associations to provide an opportunity for them to hear first-hand how the new regulatory regime was developing, and identify common mistakes made by firms during their application for consumer credit permissions. Delegates were also encouraged to hear, and then feed back to their members, on the latest regulatory updates in areas such as credit broking and the Mortgage Credit Directive.

Webcast: Mortgage Credit Directive

In advance of the changes required as a result of the Mortgage Credit Directive, we will be producing a webcast in January. It is aimed at mortgage lenders, brokers, administrators and intermediaries in both the first and second charge mortgage markets. The webcast will focus on the authorisation process, answer commonly asked questions and outline what we expect to see in applications. Details will be posted on our website when they become available.

Credit card market study

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December news round-up

Handbook survey

Have your say on what the new FCA Handbook will look like.

Davis Review and the FCA's response

We have published Simon Davis's review (Davis Review) in full and our formal response.

New strategic approach

We have set out details of how we intend to meet the regulatory challenges ahead following a detailed review of our strategy, priorities and ways of working.

Enforcement Conference

On 2 December we held our Enforcement Conference looking at where we are on culture and governance in the industry, the role of individual accountability and the place of enforcement action in helping drive change. The event was attended by senior executives and also compliance and legal advisers. The speeches of [Martin Wheatley](#), Chief Executive, and [Tracey McDermott](#), Director of Enforcement, can be found on our website.

Events & publications

Positive Compliance

There are still a number of places remaining for our 2015 Positive Compliance workshops running from January to March, so be sure to book your place now. This year's workshops focus on the requirements of RDR and Centralised Investment Propositions/replacement business.

Complaints Consultation Paper

Following our thematic review, we are proposing changes to the current complaints handling rules. They include:

- Extending the time period for dealing with a complaint informally from the end of the next business day following receipt of the complaint to the end of three business days.
- Requiring firms to send a written communication to all consumers whose complaints are handled by the end of three business-day explaining that they have the right to refer a complaint to the Financial Ombudsman Service if they are unsatisfied.
- Amending our rules to allow consumers to refer their complaint immediately after they receive a response, without having to wait for the current eight-week period to elapse.
- Ensuring that firms report and publish all complaints to us.
- Preventing firms from using premium rate 0845 telephone numbers for customers.
- Setting out our proposed approach to implementing the ADR Directive and an overview of the areas in which our existing rules will change.

Fees proposals

We consulted on proposed changes to the

underlying policy of the fee and levy regimes of the FCA, the Financial Ombudsman Service, the Financial Services Compensation Scheme (FSCS), the Money Advice Service and, from 2015/16, the Payment Systems Regulator (PSR).



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The Financial Conduct Authority
25 The North Colonnade London E14 5HS
www.fca.org.uk