

Regulation round-up



February 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 February issue
of *Regulation round-up*

Tracey McDermott, Director of Supervision and Authorisations

*'...we welcome
your feedback on
the methods and
tools we use....'*

Welcome to February's edition of Regulation Round-up; my first as Director of Supervision and Authorisations.

We [announced](#) our intention to review our supervisory approach in December 2014 as part of our wider strategy.

We are seeking to ensure that our overall approach to regulation is a sustainable one that recognises the differences in approach required across the industry, given the enormous variety of firms and sectors we regulate.

We expect to place even more emphasis on sector and market-wide work and to take a more differentiated approach between large and smaller firms. We want to enable you to take responsibility for meeting regulatory requirements and, more importantly, for delivering the right outcomes for your customers, clients and counterparties.

As part of our work on developing the new approach, we are therefore particularly focused on how we can most effectively communicate with you, both as you first become authorised and on an ongoing basis, to ensure that you have a good understanding of key regulatory issues and risks. We welcome your feedback on the methods and tools we use

that you find most (and least) helpful.

A key part of our strategy is ensuring we make the best use of all of the information we have available to us to identify emerging risks or potential concerns. As market participants you often have valuable information and intelligence about emerging trends. Providing this information to us helps us to nip potential problems in the bud and we welcome the fact that so many of you take the time to share this with us.

It is often the coming together of a number of individually small pieces of information that enables us to put together the whole picture. So we strongly encourage you to tell us if there is something you are concerned about.

In the meantime, I hope you find this month's edition useful.



Hot topic: Managing conflicts of interest

Principle 8 requires a firm to manage its conflicts of interest fairly. We are increasingly taking action against firms and individuals who fail to manage their conflicts of interest.

Last month, the Upper Tribunal agreed with our decision to [prohibit and fine two senior individuals](#) at Arch Financial Products LLP for being reckless in their management of conflicts of interest. Arch acted as investment manager for both the Arch Cru funds and the Guernsey cells that the funds invested in, which created a conflict of interest. It said that Arch and the two individuals lacked integrity, because they failed to ensure that Arch adequately identified and took appropriate steps to record and mitigate the conflicts of interest in its business.

In April 2014, we banned two partners at [1 Stop Financial Services](#) for its advice on self-invested personal pensions (SIPPs) and for failing to disclose and manage conflicts of interest. The partners were directors of EGI, a firm that referred almost a quarter of 1 Stop's SIPP customers in exchange for commission payments.

It is senior management's responsibility to set clear standards for the firm. You should identify any potential conflicts and record how your firm intends to manage them, taking a broad view of the risks posed to your business.

Responsibility for identifying conflicts and how to manage them should be clearly allocated and the controls in place

should be reviewed regularly. You should make sure that you have clear guidance for staff on how to recognise a potential issue and when to escalate it to management.

[Find out more](#)

Banks & building societies

Gathering evidence on PPI

We are planning to gather evidence on current trends in complaints on PPI. We will assess whether the current approach is meeting the objectives set and consider if further interventions may be appropriate.

Investment managers & stockbrokers (retail & wholesale)

Wholesale competition

Wholesale financial markets play a crucial role in the economy and it is important that they are not only clean but also competitive. Based on our analysis of the market and the feedback received, we will be undertaking a market study to investigate competition in the investment and corporate banking sector. We will consider undertaking a market study looking at asset management and related services later in the year. This would focus on how purchasers get value for money when buying asset management and related services.

Dealing commission Feedback Statement

In July 2014 we published a discussion paper that detailed our thematic work and policy analysis on the dealing commission regime. No substantive new evidence was submitted to us. We maintain our view that the benefits of reform would outweigh the potential negative impacts. We therefore support ESMA's final advice which proposes restrictions on inducements for portfolio managers. This prevents them from receiving more valuable research linked to their execution arrangements with brokers and transactions costs passed to customers. Any changes to our domestic rules on the use of dealing commission (COBS 11.6) will be in line with the final reforms under MiFID II.

Fund supervision and authorisation web pages

We have updated our web pages to report on our work on derivative reporting and disclosure, and our depositary/trustee valuation & liquidity

oversight review.

Market abuse controls

We have published our thematic review looking at asset management firms and the risk of market abuse. We found that asset managers had put in place some practices and procedures to control the risk of market abuse, but these were only comprehensive in a small number of firms. In many firms, further work is required to ensure procedures operate effectively and cover all material risks. Our report contains examples of good and poor practice that firms may find useful.

Financial advisers

Crowdfunding: review of the market

We undertook a review of the regulatory regime for crowdfunding and the promotion of non-readily realisable securities by other media. Our aim, with the rules we put in place in April, is to ensure that the growth we're seeing comes with appropriate investor protection in place.

Pension freedoms: additional protections

We have written to the CEOs of pension providers to outline plans to introduce additional protection for consumers accessing their defined contribution pension pot from April. Under the new additional protection rules firms will be required to ask consumers about key aspects of the circumstances behind the decisions they are making about their pension pot. These include issues such as health and lifestyle choices or marital status. This will come into force from April.

MAS Retirement Adviser directory registration

Financial advisers who meet the specified criteria for the new Money Advice Service retirement adviser directory are invited to register their firms. The directory aims to make it easier for consumers to find a regulated financial adviser specialising in retirement planning, and complements the government's new service; *'Pension*

Wealth managers & private bankers

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wise: *Your money. Your choice!*. This seeks to help people who are retiring or accessing their pension understand what their choices are and how they work.

Mortgage lenders & brokers

Buy-to-let mortgages: implementing the Mortgage Credit Directive Order 2015

The Mortgage Credit Directive (MCD) introduces EU-wide conduct standards for firms selling mortgages. The government has chosen to use an exemption in the MCD that means Member States do not have to apply the Directive's requirements to buy-to-let mortgage activity. We have published a consultation paper outlining our proposed approach to implementing a legislative framework for 'consumer buy-to-let' (CBTL) mortgages, including our proposed Handbook changes, to allow us to use those powers when necessary. This consultation will affect lenders, administrators, intermediaries and consumers in the buy-to-let mortgage market and we are seeking your response to our proposal before our 19 March deadline.

Insurers & insurance intermediaries

Independent Governance Committees

We have published rules that require the providers of workplace personal pension schemes to set up and maintain independent governance committees (IGCs). The rules come into force on 6 April 2015. The role of IGCs will be to represent the interests of scheme members in assessing the value for money of pension schemes, challenging providers to make changes where necessary.

Independent Governance Committees Chairs Forum

We have written to firms that operate group personal pension schemes or group stakeholder pension schemes about their new responsibility to set up an Independent Governance Committee (or equivalent) by 6 April 2015. We intend to host an event for all IGC Chairs and representatives of third parties providing governance advisory arrangements on 30 March.

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Modification by consent of COBS 13 and 14

From 6 April 2015, members of defined contribution pension schemes who meet the minimum age requirement (currently age 55) will be given an additional option for flexible access to their pension funds. This will be known as Uncrystallised Funds Pension Lump Sum (UFPLS). Our modification by consent to COBS 13 and 14 is intended to ensure that there is a methodology for projections for UFPLS payments consistent with the methodology required for drawdown pension projections, given that these are defined separately in legislation. It also makes clear that, where a customer intends to withdraw their fund in full, whether by drawdown or UFPLS, any requirements to produce a projection are waived.

Pension Wise Signposting letter

Pension providers and schemes will be required to signpost their customers or members with defined contributions pots approaching retirement to the new Pension Wise service. The Government has issued guidelines for a template letter which we would encourage firms to use to help ensure compliance with these requirements. The letter outlines what Pension Wise is and how it can benefit those coming up to retirement. The guidelines and supporting templates can be found on the Pension Wise website.

Consumer credit

Mortgage Credit Directive webcast

The Mortgage Credit Directive (MCD) introduces a European framework of conduct rules for firms selling both first and second charge mortgages. The UK government has decided that second charge mortgage regulation should move from the FCA's consumer credit

Credit unions

There are no updates to report in the Credit Unions area for February.

Please visit [our website](#) to keep up to date on recent announcements in this area, and we will be back with the latest developments in March's Regulation round-up next month.

regime into the mortgage regime as part of implementing the directive. We have produced a downloadable webcast that answers some commonly held questions from firms regarding how these rules will impact them and their authorisation. This will be relevant to trade bodies representing lenders, administrators and intermediaries.



February news round-up

Compensation package agreed for consumers sold card security products

We have reached an agreement with Affinion International Limited and eleven high street banks and credit card issuers, following voluntary negotiations. This will pave the way for customers to claim compensation if they have concerns about the way that card security products were sold.

New Chairs of FCA Panels announced

Three new Chairs for our independent Panels have been appointed.

Practitioner Panel:

Alison Brittain, Group Director of Retail, Lloyds Banking Group

Markets Practitioner Panel:

Robert Mass, Head of International Compliance and Global Head of Securities Division Compliance, Goldman Sachs

Smaller Business Practitioner Panel:

Clinton Askew, Director, Citywide Financial Partners

Events & publications

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Positive Compliance

Our current programme of positive compliance workshops, covering RDR and centralised investment propositions / replacement business, ends in March and we will be closing the bookings for these events shortly. If you would like to attend, you can [register here](#) for the last few remaining spaces.

Data Bulletin

Our quarterly Data Bulletin gives you some key information about what we do and the markets we regulate. This edition covers authorisations, financial promotions, approved persons, our events and policy initiatives & data implications.