

Regulation round-up



July 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 July issue
of *Regulation round-up*

Clinton Askew, Chair of the Small Business Practitioner Panel

'...We particularly support the FCA's Live and Local events...'

It's my pleasure to introduce this month's Regulation Roundup and to tell you about the FCA Smaller Business Practitioner Panel.

The same Act of Parliament which created the FCA required it to create a Panel to represent the interests of small and medium-sized regulated firms. It's made up of senior people with wide experience from across the sectors.

We meet regularly with the FCA. We look at whether changes to regulation could have a disproportionate impact on smaller firms. We emphasise the importance of value for money in a world where firms are faced with increases in fees and levies. We consider regulatory certainty – do smaller firms have the information they need to carry out their business? And we help the FCA develop its communication strategy for smaller firms.

We particularly support the FCA's [Live and Local events](#) for investment, general insurance and mortgage firms. These take place around the country and include compliance workshops, presentations and roundtables. We take part in these events and see first-hand the valuable opportunity this gives firms to interact directly with the FCA. Why not check out the events in your area?

You may have been asked to take part in the [FCA](#)

[Practitioner Panel's annual survey](#) earlier this year. Over 3,000 firms, mostly smaller businesses, filled in a questionnaire which asked their views on the FCA's performance. Overall, firms are reasonably satisfied, but think that staff knowledge, transparency and looking forward could all be improved. The Practitioner Panels will be working with the FCA to improve these scores for next year.

If you're interested in finding out more about our work, including our recent annual report, you can find us on our [website](#).



Hot topic:

RMA-B: Profit and Loss

We thought it would be helpful to flag the most common mis-reporting errors we pick up when monitoring section RMA-B Profit and Loss Account (P&L) in firms' Retail Mediation Activity Returns (RMAR), and our approach when firms submit a nil response.

Some firms have been completing their P&L with information for that reporting period only, but it should be reported on a cumulative basis throughout the firm's financial year. This means that the P&L for the year-end return must include the full 12-months profit and loss information for the firm for that year.

An alert is triggered in our system if a firm states that they have not generated any income from regulated activities. We receive nearly 500 alerts over a year, which suggest that firms have permissions which they are not using. If a firm reports '0' we may contact them to find out why and discuss their future plans. If we feel the firm will not be using their permissions in the future, then FSMA gives us the power to remove their permission if they are not going to carry out a regulated activity.

We pay particular attention to investment firms reporting that they have not used their permissions during a period of at least 12 months. We will be writing to firms requesting them to remove their permissions and we will continue to monitor the alerts generated by mortgage and general insurance firms.

Further common RMAR misreporting errors can be found on our [website](#).

Find out more



Hot topic:

Review of Signposting to Pension Guidance

Our review looked at whether firms are appropriately signposting the availability of pensions' guidance (Pension Wise) for customers looking to access their pension savings through non-advised sales channels. We also wanted to get a better understanding of how firms are highlighting the risks of pension fraud and scams to customers.

We undertook desk-based analysis of information provided to us by 20 firms - 10 Life Insurers and 10 self-invested personal pension (SIPP) operators. We found that the majority of firms in our sample were, on the whole, meeting our requirements around signposting to pensions' guidance. However, we did find a number of areas for improvement. When it came to raising customer awareness of pension scams, we were encouraged to see some of the firms in our sample taking a particularly proactive approach, identifying a number of good practices which other firms can adopt.

Our more detailed findings are [here](#). We encourage all firms engaging with customers who are looking to access their Defined Contribution (DC) pension savings through non-advised sales channels to review these and consider what action they should take in light of the findings.

Find out more

Banks & building societies

Cash savings: Sunlight remedy second report

We have published the second report into cash savings account

Investment managers & stockbrokers

Guidance on fund suspensions

Following the result of the EU referendum, we are aware that some asset managers are

rates under our sunlight remedy, following the first publication in December 2015. This is aimed at bringing to light firm's strategies towards their longstanding customers. This data displays the lowest interest rates available on open and closed easy access cash savings accounts and easy access cash ISAs at 1 April 2016. We will publish the next set of data toward the end of the year.

Attention, Search and Switching: Evidence on Mandated Disclosure from the Savings Market

Easy access savings accounts are the most popular and simplest way to save in the UK, with the main product feature being the interest rate. While significant rate differences exist on similar accounts both within and across providers, the majority of consumers rarely switch and so miss out on interest earnings. To inform the FCA's policy development, we tested the importance of disclosure design in protecting consumers and improving competition. More details of the design and findings of the trials can be found [here](#).

TR: UK Equity Market Dark pools

We have published the results of our thematic review into UK Equity Market Dark Pools. We did not find regulatory breaches on the part of the operators or users of dark pools, but we did identify some areas for improvement. They include, for example, clearer detail on the design and operation of the dark pool and identifying and managing conflicts of interest. Those using dark pools also need to undertake their own due diligence.

Speech: Getting culture and conduct right

Jonathan Davidson, Director of Supervision for Retail & Authorisations, spoke on 'getting culture and conduct right' at the City and Financial Culture and Conduct Forum on 12 July 2016.

experiencing higher than normal levels of redemption requests from investors in their funds. Fund managers have a duty to act in the best interests of all investors. Therefore they must consider how to ensure the on-going fair treatment of all investors in their funds in the context of the current market conditions. We expect all fund managers to understand fully their duties and responsibilities, as well as the tools they have in relation to all of the funds they manage, which will largely depend on the terms set out in that fund's prospectus and the instrument constituting the fund.

PS: DEPP and EG

We have incorporated feedback into our changes to the Decision Procedures and Penalties manual (DEPP) and the Enforcement Guide (EG) implementing the EU Market Abuse Regulation (EU MAR), which will apply from 3 July 2016.

CP: Package Retail and Insurance-based Investment Products

On 31 December 2016, the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation comes into effect. As this is a directly applicable EU regulation we will not be transposing it into our Handbook. However, we will consult on amending our current disclosure rules to highlight where it applies, to refer to it and amend or delete rules that duplicate or conflict with requirements in the regulation. Firms affected include:

- firms who manufacture PRIIPs, requiring them to prepare a Key Information Document (KID) for every PRIIP that they produce and to publish it on their website and
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Payment Services Stakeholder Liaison Group

To help inform how we implement the revised Payment Services Directive (PSD2), which must be implemented by 13 January 2018, we held the first meeting of the reconvened Payment Services Stakeholder Liaison Group on 12 July. You can find further details on our [website](#).

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UK MiFID firms being added to ESMA's Register

Following a lengthy exercise involving the FCA and UK firms covered by the EU Markets in Financial Instruments Directive (MiFID) to map the activities for which firms have FCA permissions with the terminology used in MiFID, the European Securities and Markets Authority (ESMA) is now adding details of authorised UK MiFID firms to its public register. The ESMA register can be found [here](#). This does not affect in any way the continued function of the UK FS Register and the information published in it.

Speech: Getting culture and conduct right

Jonathan Davidson, Director of Supervision for Retail & Authorisations, spoke on 'getting culture and conduct right' at the City and Financial Culture and Conduct Forum on 12 July 2016.

MAR comes into effect

On 3 July the new Market Abuse Regulation (MAR) regime began. MAR strengthens the existing UK market abuse framework by extending its scope to new markets, new platforms and new responsibilities. MAR aims to increase market integrity and investor protection, enhancing the attractiveness of securities markets for capital raising. It contains prohibitions for insider dealing and market manipulation, and provisions to prevent and detect these. There are a number of new notification requirements for firms, managers and issuers. We have published detailed information on our website.

Financial advisers

Financial Advice Working Group established

The Financial Advice Working Group has been established in response to the recommendations of the Financial Advice Market Review (FAMR). It will take forward the three recommendations which FAMR assigned to it.

Live & Local: Investment events, Scotland

In September, Live & Local reaches Scotland. We are holding Positive Compliance investment sessions focusing on the advice process. These sessions will be held in Falkirk on 6 and 7 September, in Kilmarnock on 8 September and in Aberdeen on 13 September. The Gabriel team will also be on hand for some of these sessions.

On 22 September in Stirling we are holding a roundtable where the FCA and an industry representative will take your questions. On 27 September in Glasgow we are hosting supervisory workshops on 'Professional governance within Financial Advice Businesses of all sizes'. If you prefer a 1-2-1 session, book onto one of our surgeries with a supervisor on 14 September in Perth. We will then be travelling to **East Anglia in October**. To find out more about Live and Local events in other regions, visit our **webpage**.

ToR: Retirement outcomes review

We have now published the **Terms of Reference** for our Retirement Outcomes Review. The review will assess the impact of the pension reforms on competition in the retirement income market by looking at how firms and consumers have responded to the new freedoms. The ROR is a follow-up to the

Wealth managers & private banks

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Guidance on fund suspensions

Following the result of the EU referendum, we are aware that some asset managers are experiencing higher than normal levels of redemption requests from investors in their funds. Fund managers have a duty to act in the best interests of all investors. We have issued guidance which you may find helpful.

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Retirement Income Market Study

(RIMS), published in March 2015, which identified a number of issues about consumer decision-making following the introduction of the new pension reforms. We want the views of both industry and consumers during this review to help inform our regulatory approach in this developing market.

As part of this process, we have set out some specific questions on the issues we have included in the scope of this review. We ask firms and other stakeholders to respond by **31 August 2016**. Alongside the Terms of Reference, we have published a [market update](#) that gives further information on the work we are undertaking on pensions and retirement income.

Review of Signposting to Pension Guidance

Our review looked at whether firms are appropriately signposting the availability of pensions guidance (Pension Wise) for customers looking to access their pension savings through non-advised sales channels. We also wanted to get a better understanding of how firms are highlighting the risks of pension fraud and scams to customers. Our findings are [here](#).

We encourage all firms engaging with customers who are looking to access their Defined Contribution (DC) pension savings through non-advised sales channels to review these and consider what action they should take in light of the findings.

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Five charge in alleged investment fraud

Following an investigation by the Financial Conduct Authority, Michael Nascimento, Hugh Edwards Stuart Rea, Ryan Parker and Jeannine Lewis were charged with conspiracy to defraud, together with offences under the Financial Services and Markets Act 2000 and the Fraud Act 2006. The offences relate to the promotion and sale of shares in Atlantic Equity LLC (formerly known as Berkeley Brookes LLC), between July 2013 and March 2014, through a succession of four alleged 'boiler room' companies.

European Pensions Management Ltd enters administration

Having reached an assessment that it was no longer solvent, EPML made an application to the court to formally initiate insolvency proceedings under special administration regime (SAR).

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Mortgage advisers

PS: FCA regulated fees and levies

We have published our PS which provides feedback on the response to the annual fees consultation. In the light of responses received to CP16/19 we have revised our proposals on consumer buy-to-let (CBTL) fees. These fees will no longer be applied to firms that are registered for CBTL activities and also undertake regulated activities e.g. mortgage brokers. All other proposals remain unchanged.

Live & Local: Mortgage events, Scotland

In September, Live & Local reaches **Scotland**. We are holding Positive Compliance mortgage sessions, focusing on the advice process, 6 and 7 September in Falkirk and 13 September in Aberdeen. Our Gabriel team will also be available to answer your questions. If you would like a 1-2-1 with a supervisor to talk about issues specifically for your firm, book on to one of our surgeries on the 14 September in Perth. We will then be travelling to **East Anglia in October**. To find out more about Live and Local events in other regions, visit our [webpage](#).

Insurers & insurance intermediaries

Live & Local: General insurance events, Scotland

In September, Live & Local reaches **Scotland**. We will be delivering a presentation on what culture and governance means to general insurance firms on 5 September in Falkirk. Our Gabriel team will also be available to answer your questions.

On 28 September in Glasgow, we are hosting supervisory workshops on 'Delivering fair customer outcomes'. There is also an opportunity, on 21 September in Stirling, to be part of a roundtable where you can ask the FCA and an industry representative your questions.

We are offering firms in Scotland a 15 minute telephone conversation with one of our supervisors to discuss specific concerns or issues facing your business. We will then be travelling to **East Anglia in October**. To find out more about Live and Local events in other regions, visit our [webpage](#).

QCP: Insurance Act Chapter

In our Quarterly Consultation Paper (QCP) we propose to make consequential amendments to the Insurance: Conduct of Business sourcebook (ICOBS) and the Conduct of Business sourcebook

(COBS) to align the claims handling rules with the Insurance Act 2015 (the Act) which will come into force on 12 August 2016.

Enforcement fine for client and insurer money failings

We have fined Towergate Underwriting Group Limited £2,632,000 for failings in relation to its protection of client and insurer money. Towergate holds both client and insurer money and accumulated a shortfall of £12.6 million in its client and insurer money bank accounts which, due to systems and controls weaknesses, went undetected for a number of years.

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Retirement Income Market Study

(RIMS), published in March 2015, which identified a number of issues about consumer decision-making following the introduction of the new pension reforms. We want the views of both industry and consumers during this review to help inform our regulatory approach in this developing market.

As part of this process, we have set out some specific questions on the issues we have included in the scope of this review. We ask firms and other stakeholders to respond by **31 August 2016**. Alongside the Terms of Reference, we have published a **market update** that gives further information on the work we are undertaking on pensions and retirement income.

Update on our work around pensions and retirement income

Pensions and retirement income is

a priority sector for us, given the fundamental recent changes to the market and further changes to follow in 2017. We have published a [market update](#) that provides further information on the work we are undertaking in this area.

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Annuity Comparator research

We have published the **results** of behavioural testing of the annuity comparison remedy we proposed in our Retirement Income Market Study (RIMS). Although annuity sales have fallen since the pension freedoms were introduced, significant numbers of consumers are still choosing to purchase an annuity. For these customers, RIMS proposed the creation of an annuity comparator to improve competition and help them get a better deal when they purchase a guaranteed retirement income. Our testing shows that depending on a variety of circumstances, the annuity comparator increased shopping around from 13% to 40%. As the research shows that the annuity comparator is an effective remedy, we intend to consult on necessary rule changes later this year to introduce this as a requirement for firms.

Consumer credit

Cancel payday lender's interim permission and director

We have published a **Decision Notice** issued to Andrew Barry Hart, director of Wage Payment and Payday Loans Limited (WPPL) and WPPL. We have decided to prohibit Mr Hart from performing any role in regulated financial services and to cancel WPPL's interim permission.

Credit unions

Complaints handling return

Further to the June issue in which we reminded all firms of the changes to DISP, effective from 30 June, credit unions should note that their complaints reporting requirements remain the same, as detailed in CREDS 9.

Consultation on credit union rules

We are currently consulting on changes to our rules for credit unions. The proposed rules concentrate on credit union deferred shares and subordinated debt. They also include some more

minor changes, including providing greater clarity on how all credit unions update their standing data, such as a change to their complaints contact. This consultation closes on 1 September.

Speech: Getting culture and conduct right

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July news round-up

EU referendum result

Speech: Competition in Financial Markets – the view from the regulators

Speech: Getting culture and conduct right

Speech: Innovation and improving outcomes

Bank of England, PRA, FCA and PSR review Memorandum of Understanding in relation to payment systems in the UK

Help us help you Connect

Want to make sure that you are keeping abreast of news, announcements and developments from the FCA? Remember to regularly update your contact details on our **Connect System**

Events & Publications

FCA: Live & Local: Scotland

Throughout September, Live & Local events will take place across **Scotland** 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 **East Anglia in October**, visit our **webpage**.

Annual Report

Primary Markets Bulletin

PS: FCA regulated fees and levies



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