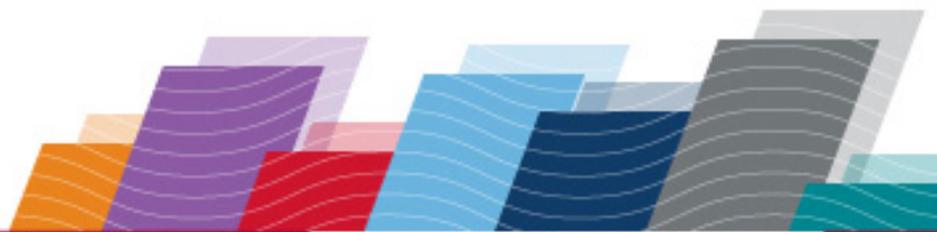


Regulation round-up



March 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 March issue
of *Regulation round-up*

Megan Butler, Director of Supervision
– Investment, Wholesale and Specialist

'...the regimes will hold individuals working at all levels within relevant firms to appropriate standards of conduct...'

Welcome to the March edition of Regulation round-up. This month I would like to take the opportunity to talk about the new accountability regimes for banks and insurers, and the upcoming introduction of the Market Abuse Regulation.

Senior Managers & Certification Regime and Senior Insurance Managers Regime

The Senior Managers & Certification Regime for the banking sector and the Senior Insurance Managers Regime both came into force on Monday 7 March 2016. You will remember Jonathan Davidson's discussion on the importance of this in the [November 2015 Regulation round-up](#), and I would repeat his view that this is a positive for both firms and regulators.

The new rules provide greater clarity as to individual responsibility. The regimes will hold individuals working at all levels within relevant firms to appropriate standards of conduct and ensure that senior managers are held to account for misconduct that falls within their area of responsibility.

Market Abuse Regulation

There are now just over three months to go before the new EU Market Abuse Regulation (MAR) regime comes into force. MAR strengthens the existing UK market abuse framework

by extending its scope to new instruments, new markets, new platforms and new behaviours. The manipulation offence has been extended and will also capture attempted manipulation (including benchmarks).

Trading venues and persons arranging or executing transactions will be required to monitor and report suspicious transactions and orders. Firms will also need to comply with a new soundings regime, provide detailed information in insider lists and present investment recommendations in a particular way. More information can be found on [our website](#).



Hot topic:

Financial Advice Market Review (FAMR)

On 14 March, the Treasury and FCA published the Financial Advice Market Review (FAMR), which looks at how financial advice can work better for consumers. The Review was co-chaired by Charles Roxburgh, Director General, Financial Services at HM Treasury and Tracey McDermott, acting CEO at the FCA.

The Review looked at the individual and collective steps which government, industry and regulators can take to stimulate the development of a market to deliver affordable and accessible financial advice and guidance to everyone. It builds on improvements made to the financial advice industry from the Retail Distribution Review (RDR).

The Report's recommendations are aimed at:

- providing affordable advice to consumers
- increasing the access to advice
- addressing industry concerns about to future liabilities and redress, without watering down levels of consumer protection

Some of these recommendations are for the FCA and Government, but there are also recommendations for employers, service providers and consumers groups.

We will consult on specific aspects of the regulation which will come from these recommendations.

[Find out more](#)



Hot topic: Assessing suitability: Research and due diligence

Research and due diligence is a key part of the investment advice process. For all personal recommendations, the adviser should assess the nature of the investment, the risks and benefits and the provider they use to ensure good outcomes for their clients.

In February, we published our [Thematic Review](#), looking at how advisory firms review the market to ensure they recommend suitable solutions to retail clients. Generally firms demonstrated some good practice when undertaking research and due diligence. However, few firms were consistently good across all products and services; there is still room for improvement.

The culture of a firm was important to the success of their processes, especially when it was at the centre of their advice model. Firms which could demonstrate good practice made research and due diligence a central function of their advice process and could clearly show that their clients were at the centre of their business model.

We found that a culture of challenge at a firm worked better for clients. Where this wasn't the case, we found that firms did not seek to understand or challenge their own bias towards products, services or providers and did not manage their conflicts of interest.

Research and due diligence is one of the key elements for advisers in ensuring they deliver suitable advice. Without undertaking proper due diligence, firms will find it difficult to judge whether solutions are suitable for their clients. We encourage firms to review our findings and assess whether, and how, their current processes may need improving.

[Find out more](#)

Banks & building societies

DP: Ageing population and financial services

Changing demographics and trends in health and society mean that developing more inclusive financial products and services is increasingly important. Our recent Discussion Paper encourages firms to do more to support the UK's ageing population and ensure that consumers can access the financial products and services they need at every stage of their life. This is an important first step in our conversation with firms, consumer groups, and other stakeholders to agree how we and industry can work together to tackle the range of issues which many older consumers face when they engage with financial services.

FS: General insurance value measures

As part of our upcoming pilot, general insurers will be required to publish 'scorecards' showing claims frequencies, acceptance rates and average pay-outs for insurance products. These changes aim to help consumers decide which standalone and add-on products will offer them the most value. Our pilot will launch this summer and will run for 24 months, with all firms who offer general insurance products participating in it. This pilot will help us design our final remedy ahead of consultation, as well as providing further evidence of the remedy effectiveness and costs. We will continue to engage with stakeholders about the pilot design ahead of the launch.

Senior Managers Regime (SMR)

The Senior Managers & Certification Regime for the banking sector and the Senior Insurance Managers Regime both came into force on 7 March 2016. The new regimes hold individuals working at all levels within relevant firms to appropriate standards of conduct and ensure that senior managers are held to account for misconduct that falls within their area of responsibility. As previously announced, the PRA and FCA will both apply key principles of the Senior Managers Regime to senior members of staff in their organisations. The PRA and FCA have **published** an explanation of how they will apply the regime internally. This includes a description of the core

Investment managers & stockbrokers

Good practice in liquidity management

At the request of the Financial Policy Committee (FPC), we have been working with the Bank of England to assess risks posed by open-ended investment funds investing in the fixed income sector. As part of this work we have engaged with a number of large investment management firms to understand how they manage liquidity in their funds. We have published the good practice that we saw during the project, which is relevant across the investment fund industry.

DP: CASS 7A

We have published a discussion paper on CASS 7A and the Special Administration Scheme Review. This discussion paper is asking for feedback on a number of aspects of the client assets regime, in particular, the client money distribution rules (CASS 7A) and their interaction with the Special Administration Regime (SAR). The deadline for submitting comments is 9 May 2016.

Deutsche Bank trader banned

We have banned Michael Ross Curtler, a former trader at Deutsche Bank AG, from the UK financial services industry for lacking honesty and integrity following a criminal conviction for fraud in the US.

Statement on compliance with EBA Guidelines on Sound Remuneration Policies

The Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA) have notified the European Banking Authority (EBA) that the regulators will comply with all aspects of the EBA Guidelines on Sound Remuneration Policies, with one exception. This is the provision that the limit on awarding variable remuneration to 100% of fixed remuneration, or 200% with shareholder approval (the bonus cap), must be applied to all firms subject to the Capital Requirements Directive (CRD).

responsibilities of those carrying out Senior Management Functions.

PS: Consequential changes to the SMR

We have published our Policy Statement which confirms the final policy and forms. These changes reflect HM Treasury's removal of the requirement for firms to report known and suspected breaches of our conduct rules to the FCA, as set out under section 64B (5) of the Financial Services and Markets Act 2000 (FSMA).

CP: Payment Accounts Regulations

The Payment Accounts Directive has been implemented in the UK through the **Payment Accounts Regulations** (PARs). The provisions on switching, basic bank accounts and packaged accounts take effect on 18 September 2016. To reflect the new requirements, we are proposing some amendments to our Handbook. We are also consulting on draft guidance on the definition of a 'payment account' for the purposes of the PARs and on how to implement the provisions on packaged accounts.

FG: FCA's approach to the implementation of ring-fencing and ring-fencing transfer schemes

We have published our Finalised Guidance following our Guidance Consultation (September 2015) on our approach to ring-fencing transfer schemes (RFTSs) and, more generally, our key responsibilities in supporting the wider implementation of ring-fencing in the UK. This Guidance should be read together with the Prudential Regulation Authority's (PRA) Statement of Policy setting out its approach to RFTSs.

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Mortgage Credit Directive (MCD)

All home finance firms should now have completed the MCD Data Collection form, which is still available to complete in [Connect](#). We will publish the intermediary details (person responsible for MCD intermediation and tied credit intermediary status) on the Financial Services Register from 21 March 2016. If your firm has not submitted this form, your Connect principal user should do so immediately. You can find more information on [our website](#).

Consumer buy-to-let (CBTL)

Mortgage and consumer credit firms (holding certain regulated activities) not registered for CBTL mortgage business will have a standard requirement, which specifies that they are unable to carry on CBTL activity, added to their firm's permission on 21 March 2016 and displayed on the Financial Services Register. This is a requirement of the Mortgage Credit Direct Order.

Financial advisers

TR: Research and due diligence

Research and due diligence is a key part of the investment advice process. For all personal recommendations, the adviser should assess the nature of the investment, the risks and benefits and the provider they use to ensure good outcomes for their clients. Generally firms demonstrated some good practice when undertaking research and due diligence. However, few firms were consistently good across all products and services; there is still room for further improvement.

Update to Retail Distribution Review (RDR) reporting requirements

As of 7 March 2016, we have updated three Retail Distribution Review reporting templates. These cover Professional Standards Data (PSD), Form G (RIA complaints notification form) and RIA competence notification form. Firms should download and use these new forms, available on [our website](#).

Wealth managers & private banks

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Advising on P2P agreements

As well as the Innovative Finance ISA, a new regulated activity of advising on P2P agreements will come into force on 6 April 2016. Legislation made yesterday means that all eligible firms whose Part 4A permission includes the regulated activity of advising on investments are to be treated as having that permission varied to include the advising on P2P agreements activity from 6 April. We shall be issuing further information to impacted firms on what this means for them very shortly.

FCA: Live & Local

Our Live & Local sessions across the country have begun. There are still a few places left in the supervisory workshops on 'Professional governance within Financial Advice Businesses' on 23 March in Bodmin – [register here](#). FCA: Live & Local then travels to **Northern Ireland in April** with a Positive Compliance investments session in Belfast, supervisory workshops in Templepatrick, surgeries with our supervisors in Cookstown and a roundtable with a panel of FCA and industry representatives in Belfast. [Find out more](#) about what's on offer.

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Mortgage advisers

Insurers & insurance intermediaries

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TR: Fair treatment of long-standing customers in the life insurance sector

Our recent thematic review assessed the treatment of closed-book customers. We found a mixed picture, with most of the eleven firms demonstrating good practice in some areas and poor practice in others. One of the purposes of the review was to gain an understanding of the levels of exit and paid-up charges paid by long-standing customers, and firms' behavior in applying those charges. We found that even where customers are aware of these charges, the impact these charges can have on customers' returns can be significant and may create barriers to customers shopping around. To improve consumer outcomes, we will convene an industry-wide discussion with the aim of industry reaching a voluntary solution to capping or removing exit and/or paid-up charges on investments of the type assessed in this review.

Retirement Income Market Data

We welcome action taken by a number of pension providers to review and strengthen their competition compliance. While we did not have competition concerns with the majority of the arrangements we looked at, there were some specific ones that we wanted to understand better and in the report we committed to engaging with a number of firms to obtain further information. We would encourage other firms to review their distribution and marketing arrangements to ensure that they comply with competition law. In particular, when engaging with actual or potential competitors, firms should take care not to disclose any commercially sensitive information.

DP: Ageing population and financial services

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FCA: Live & Local

We will be in **Northern Ireland** throughout April with sessions for the GI sector, including a 'culture and governance' session in Belfast, supervisory workshops in Templepatrick, surgeries with our supervisors in Cookstown, and a roundtable with a panel of FCA and industry representatives in Belfast.

Consumer credit

Consumer buy-to-let (CBTL)

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Debt Management

We have written to the 16,000 remaining customers of a debt management firm to help them to get free help and advice, after the firm was refused authorisation to engage in regulated activity. We found widespread and substantial failings in the firm's advice to customers, including their failure to identify particularly vulnerable customers and deal with them appropriately and that they did not have appropriate staff resources, management information or quality assurance processes in place. Our **Final Notice** in this case, explaining our decision to refuse authorisation to the firm, is likely to be of interest to other debt management firms.

Credit unions

There are no updates to report in the credit union sector this month.

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 next month's Regulation round-up.



March news round-up

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W H Ireland Limited fined for market abuse risks

We have fined W H Ireland Limited

Events & Publications

FCA: Live & Local

We will be in **Northern Ireland** throughout April with sessions for the investment, GI and mortgage sectors, including Positive Compliance sessions for investment and mortgage advisers, culture and governance session for GI, supervisory workshops, surgeries with our supervisors, and roundtables with a panel of FCA and industry representatives. For other regions, including

£1.2million. The firm is also restricted for a period of 72 days from taking on new clients in its corporate broking division.

the [North East](#) in May and [East Midlands](#) in June, click on the [interactive map](#) on our Live & Local webpage for dates and locations.

[Speech: UK FinTech: Regulating for innovation](#)

[OP: Liquidity in the UK corporate bond market: evidence from trade data](#)

[FS: Regulatory barriers to innovation](#)

[CP: Payment Accounts Regulations 2015 - draft Handbook changes and draft guidance](#)

[Policy Development Update](#)

[Handbook user survey](#)

[Handbook Notice 30](#)



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