Financial Conduct Authority

Regulation round-up

March 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 March issue of *Regulation round-up*

Martin Wheatley, Chief Executive Officer

'...we want to make sure that there are adequate protections and information offered for people approaching retirement....'

It's a pleasure to introduce the March edition of the Regulation round-up, which looks at some of the key issues facing firms ahead of the pension reforms in April.

Our Business Plan 2015/16, published on 24 March, is set against the backdrop of the most fundamental changes to the UK pensions landscape seen in over a generation. Following the introduction of auto-enrolment, the Government has introduced a series of new pension freedoms that will give people greater choice over their retirement savings.

As the regulator, we want to ensure that people who are starting to save for their retirement are enrolled into schemes that are well-governed and offer value for money. We also want to make sure that there are adequate protections and information offered for people approaching retirement.

Following our rules on Independent Governance Committees last month, we have finalised our rules on charges in workplace pensions to protect savers from high charges and from paying for services they do not need. We have also issued a joint discussion paper with the Department for Work and Pensions to explore ways to improve the transparency of investment transaction costs.

At the other end of the spectrum, we have introduced further protections for consumers wanting to access their pension savings by requiring firms involved in the sale of retirement income products to give additional warnings tailored to those consumers. Additionally, the final report of our Retirement Income market study confirms our interim findings on the market and the remedy proposals we will be taking forward this year.

We look forward to working with firms and Government partners as we approach this challenging but exciting new frontier in retirement savings.

Hot topic:
Our 2015/16 Business Plan and Risk Outlook

On 24 March, we published our Business Plan 2015/16, setting out the key areas of work we will undertake in the forthcoming financial year. We have produced this video to provide a brief summary of this year's Business Plan.

This year's Business Plan follows on from our announcement in December 2014, where we said we would be sharpening our focus and taking a more markets-led approach. To enable us to do this, we will make better use of intelligence, data and analysis to prioritise our activity on fewer but high-impact pieces of work. Our strategy now places more emphasis on sector and market-wide analysis. This will put us in a stronger position to identify and address the risks outlined in the Risk Outlook.

During 2015/16 our priorities will cover the following areas, alongside our business as usual activities. They are:

- **Market approach** (inc. market studies, thematic reviews, wholesale market integrity and competition)
- **Protecting consumers** (inc. consumer credit and pensions
- **Individual accountability** (inc. culture, senior managers and certified regime, remuneration)
- **International issues** (inc. engaging with the EU agenda and financial crime)
- **Our people** (investing in our staff, diversity and inclusion)

We have also published a timetable for ongoing and new thematic reviews, market studies and current EU initiatives for 2015/26. This can be downloaded here.

Alongside the Business Plan, we have set out details of the two divisions that will undertake our supervisory and authorisations work, each led by a director who will sit on the Executive Committee.

Supervision Investment, Wholesale and Specialists will be led by Tracey McDermott, whilst Linda Woodall will head up the Retail and Authorisations Division as acting Director. Our April edition of Regulation round-up will provide more detail of these changes, which formalise the integration of supervision and authorisation announced as part of our new strategy.

Find out more

Hot topic:
Performance management

A firm's approach to performance management is a key driver of culture, and we expect customers' interests to be at the heart of how firms do business. The role of culture is a key part of the six consumer outcomes.

There can be pressure from challenging and stretching objectives and regular discussions about progress against objectives, which is not unexpected in any job. Where poor performance management practices exist, staff can experience undue pressure regarding sales results, which can cause mis-selling.

We have seen an increase in the level of intelligence about poor performance management practices at different types of firms. We have not identified evidence of widespread issues but we have identified instances of poor practice. We have not undertaken a programme of direct assessments of how firms manage performance.

It is not our role to prescribe how firms manage the performance of their staff but we expect firms to manage the risk effectively.

Our forward-looking report highlights good and poor practice, and we are also consulting on draft guidance to help firms to:

- satisfy themselves that the risk of mis-selling from performance management can be, and is being, managed
- monitor performance management in practice and look for indicators of undue pressure to identify poor practices, including encouraging staff to provide feedback and taking appropriate action

This applies to all firms with staff who deal directly with retail customers, giving advice, undertaking sales or providing a service, and where performance management practices are in operation.

It does not apply where the business owners are the only individuals selling products or services, or providing advice to retail customers (e.g. sole traders, partners or directors). The approaches your firm might take to manage these risks will depend on the nature, scale and complexity of your firm's business.

Find out more

Banks & building societies

Improving responsibility and accountability in the banking sector
We have confirmed our approach to improving individual responsibility and accountability in the banking sector by publishing feedback that sets out how we will implement the Senior Managers Regime (SMR). We also provide further information on our plans for the Certification Regime (CR) and new Conduct Rules. These policies are significant and will make it easier for firms and regulators to hold individuals to account. Martin Wheatley also spoke in relation to these publications, **'Nothing to fear from high standards'**.

Governance of structured products
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Investment managers & stockbrokers (retail & wholesale)

Governance of structured products
Our discovery work of retail and wholesale firms, found weaknesses in some of their approaches to product governance. Firms need to match product design with customer needs, demonstrate product value through robust stress-testing and provide potential customers with clear, balanced information on the product and any risks. Firms must do more to put customers at the heart of their approach.

DP: MiFID II
We focus on the areas where we have policy changes to make on how MiFID II is implemented in the UK. These include for example: apply MiFID provisions to insurance-based investment products, incorporate MiFID II's investor protection measures for structured deposits into our Handbook, MiFID II's approach to adviser independence and, how costs

product design with customer needs, demonstrate product value through robust stress-testing, and provide potential customers with clear, balanced information on the product and any risks. Firms must do more to put customers at the heart of their approach.

Governance of mortgage lending

We have published a paper that highlights the key findings of the thematic work that assessed the quality of firms' governance from a conduct perspective when setting or amending mortgage-lending strategies. Effective governance ensures that strategic decision-making is challenged from a customer perspective, and helps firms to balance commercial objectives with good customer outcomes. We provide a list of questions that may help firms to consider good customer outcomes at each stage of the mortgage lending strategy process.

Occasional paper: Consumer vulnerability

Our research revealed that some vulnerable consumers seeking help from financial providers are meeting 'a computer says no' approach, putting them at risk of further harm. Our OP is the first step in a conversation with firms to determine how the regulator and industry can work together to address issues around vulnerability.

The impact of annual summaries, text alerts and mobile apps on consumer banking behaviour

We launched a paper on overdrafts and the impact of annual summaries, text alerts and mobile banking apps in the personal current account industry. Analysis of some 300m observations shows annual summaries have no influence at all on consumer behaviour in terms of avoiding overdraft charges, improving balance levels, or prompting switching between providers. However, text alerts and mobile banking apps seem to reduce the amount of unarranged overdraft charges incurred by customers by 5% to 8%. While for those who take advantage of both, the effect is a much larger 24% reduction.

Speech: The Evolution of the Mortgage Market

At the Mortgage Finance Gazette Conference, Linda Woodall made some

and charges disclosure could be implemented. We encourage firms to respond as it will inform our consultation later this year. MiFID II will come into effect on 3 January 2017.

Speech: From intellectual certainty to debate

At AFME's Annual European Liquidity Conference, Martin Wheatley's speech focused on the wholesale arena, specifically the Fair and Effective Markets Review (FEMR), FX, MiFID II and our wholesale competition review.

FCA Prudential Supervision Forum

We are holding the first FCA Prudential Supervision Forum on Wednesday 13 May 2015. Our prudential approach, for those firms we prudentially regulate, is to minimise harm to consumers and markets arising from financial strain and failure. The aim of the forum is to:

- share our vision on prudential supervision
- share risk management practices in identifying prudential risks within firms
- gather views from industry participants to feed into our prudential strategy and approach
- inform the industry of recently issued regulation

PS: Additional benchmarks

The benchmarks being brought into scope are: Sterling Overnight Index Average (SONIA), Repurchase Overnight Index Average (RONIA), ISDAFIX (soon to be renamed the ICE Swap Rate), WM/Reuters (WMR) London 4pm Closing Spot Rate, London Gold Fixing (soon to be replaced by the LBMA Gold Price), LBMA Silver Price and ICE Brent Index.

observations on what life looks like almost one year on from the Mortgage Market Review and some of the challenges still facing the industry. She also talked about Project Innovate and highlighted the major changes resulting from the Mortgage Credit Directive - particularly regarding second charges and consumer Buy to Let.

CP: GI add-ons Remedies

This consultation paper follows our General Insurance Add-ons market study, which found that competition in add-on markets does not always work in the interests of consumers. The consultation focuses on the two remedies designed to address some of the issues we found with the add-on mechanism, by proposing rules and guidance, namely:

- banning opt-out selling
- improving product information provision in relation to general insurance add-ons.

We will consult separately on our proposals for introducing a measure of monetary value for general insurance products, including the option of requiring the publication of claims ratios for these products.

Financial advisers

Governance of structured products

Our discovery work of retail and wholesale firms found weaknesses in some of their approaches to product governance. As distributors of structured products, you should understand the product and know the target market they were designed for. Manufacturers are required to carry out their own due diligence on distributors, which can include monitoring whether the structured product is reaching its target audience.

Retirement risk warnings

We have published new rules that will help to protect consumers wanting to access their pension savings from 6 April 2015, by requiring firms involved in the sale of retirement income products

Wealth managers & private bankers

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Governance of structured products

Our discovery work of retail and wholesale firms, found weaknesses in some of their approaches to product to give additional warnings tailored to those consumers. The new personalised 'risk warnings' must now be given to customers when they contact a firm to access their pension savings. The information will support the guidance by the Government’s Pension Wise service. One of the key purposes is to encourage people, who have chosen not to seek regulated advice, to consider their options carefully before making an irreversible decision.

PS: Charges in workplace personal pension schemes

We have confirmed our final rules, which will require firms operating workplace pension schemes to implement a charge cap for default funds used for automatic enrolment. Under the new rules firms will also be prevented from paying or receiving consultancy charges and paying commission for advice not expressly agreed by scheme members. Firms will also be prevented from charging active and deferred members of schemes differently, based on whether they are contributing to the scheme or not.

DP: Transparency of transaction costs of workplace pensions

We have issued a joint Call for Evidence with the Department for Work and Pensions. It explores:

- how improved transparency in the reporting of information about the transaction costs and charges incurred by members of workplace pension schemes can be achieved
- what costs should be included in transaction costs reporting
- the basis on which costs should be captured and reported
- whether other factors that influence investment returns should also be provided
- how Independence Governance Committees (IGCs) and trustees will receive transaction cost information and whether additional disclosure requirements on other parties are necessary to enable this
- when, how and in what format information should be provided and to whom.

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CP: Pension Wise - recommendation policy

In the 2014 Budget the Government announced reforms to retirement options. These proposed that all consumers with Defined Contribution (DC) pensions should be entitled to access free impartial guidance at retirement about their options when accessing their pension savings – the 'Guidance Guarantee'. This has recently been launched under the brand Pension Wise and becomes operational from 6 April 2015. In November, we published standards for the Treasury's designated guidance providers to meet in delivering Pension Wise.

We are required to monitor the designated guidance providers' compliance with our standards and, where providers have breached them, to make recommendations to the designated guidance providers and the Treasury where appropriate. In the Policy Statement in November we outlined our proposed approach to monitoring and said we would consult on a policy on recommendations. We are now consulting on our policy for making recommendations to the designated guidance providers and to the Treasury. We also include further information on our approach to monitoring guidance service providers.

MS: Retirement income market study

We have published the final report of our Retirement income market study. We consulted on our provisional findings and proposed remedies, with the feedback received being largely supportive. We have also stayed close to market developments since the publication of the interim report. The final report summarises both the consultation feedback and market developments. We have refined, but not fundamentally altered, our thinking and are confirming that our findings are final and we will be taking our remedy proposals forward, with further consultation on design and implementation where appropriate. This next phase of our work will form part of our wider review of our rules in the pension and retirement area in summer 2015.

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PS: Independent Governance Committees

In February 2015 we published our final rules for Independent Governance Committees (IGCs), including feedback on our consultation paper 14/16. Some firms have asked whether these rules apply to the providers of Group SIPPs which are not insured schemes. The question has arisen because the requirement to establish and maintain an IGC applies to a firm which operates a relevant scheme in which there are at least two 'relevant policyholders'. We can clarify that our definition of 'relevant policyholder' does include members of schemes which are not insured schemes and therefore our rules may apply to the providers of Group SIPPs which are not insured schemes. Providers of smaller and less complex schemes may wish to consider Governance Advisory Arrangements (GAAs) as a proportionate alternative to IGCs.

Mortgage lenders & brokers

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Credit unions

Credit Union Annual Complaints Returns due by 30 April

Credit union annual complaints returns are due to be submitted to us by 30 April and should cover the period from 1 April 2014 to 31 March 2015. When completing your return, please check that your firm is reporting for the correct reporting period and using the current form, as some credit unions have been using an old form and reporting for the wrong period. Details of credit union complaints reporting responsibilities can be found in CREDS Chapter 9, and the current reporting form is attached to annex 1 of the chapter.

Completed returns should be sent as a pdf to Regulatory.Reports@fca.org.uk or alternatively sent by post to Data Services Team, Data and Analysis

CP: Changes to our rules and guidance

It is nearly a year since we took over responsibility for consumer credit. In response to feedback, we are proposing a number of changes covering credit broking, debt issues and second charge mortgages.

Consumer credit roadshows

We have recently held roadshows in Scotland and Belfast and will be holding roadshows in London, Manchester and Birmingham throughout the rest of March and April. While the events are now at full capacity, we will also be holding a live webinar for firms wishing to ask questions of a panel of experts on 17 April. Further information will be on our website.

Department, the Financial Conduct Authority, PO Box 35747, London, E14 5HS. If you have any queries about completing your return, please get in touch with our Customer Contact Centre.

St Machar Credit Union's use of personal accounts

St Machar Credit Union (SMCU) set up personal accounts with six banks in the name of an employee − rather than an account in the name of SMCU − and used them to facilitate faster payments to members between 2009 and December 2014. SMCU failed to consider the risks associated with such an arrangement, which included the loss of control and/or legal rights to monies once the funds had been transferred to the personal accounts. Working with us to resolve the issue, SMCU has given a voluntary undertaking not to use personal bank accounts to facilitate credit union business, and will ensure that all credit union monies are paid through accounts held in the name of St Machar Credit Union.

March news round-up

ScamSmart campaign

This week we launched the second phase of our ScamSmart campaign. Timed to coincide with the launch of the pension reforms, our campaign aims to help people spot the warning signs of investment scams.

The Pensions Regulator is also raising awareness with trustees, firms and consumers through their 'Scorpion' campaign. You can find out more about their campaign, and download useful guides here.

Events & publications

FCA Prudential Supervision Forum

We are holding the first FCA Prudential Supervision Forum on Wednesday 13 May 2015. Our prudential approach, for those firms we prudentially regulate, is to minimise harm to consumers and markets arising from financial strain and failure. The aim of the forum is to:

- share our vision on prudential supervision
- share risk management practices in identifying prudential risks within firms
- gather views from industry participants to feed into our prudential strategy and approach
- inform the industry of recently issued

regulation

Financial promotions on social media: finalised guidance

The finalised guidance on social media intends to help firms understand how they can use these media and comply with our rules. We also remind firms that our rules are intended to be media-neutral, to ensure that consumers are presented with fair and balanced information at each stage of the customer journey.

How we handle disclosures from whistleblowers

Our publication aims to give individuals who wish to understand how we engage with whistleblowers, what we do with their information and their impact on our work.

CP: Fees

Our annual funding requirement for 2015/16 will be £481.6m, up 8.4%. We will use this to deliver the programme of work set out in our 2015/16 business plan, the development of our information systems and the continuing need to invest in our people. The minimum fee which will increase to £1084 from £1000. In addition we have proposed fees for firms offering consumer credit and the pension guidance levy.

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