

# Regulation round-up



May 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 May issue  
of *Regulation round-up*

Linda Woodall, Acting Director, Supervision – Retail and Authorisations

*'...we want firms to take these findings on board and make changes to ensure customers are being treated fairly....'*

In last month's edition Tracey McDermott outlined our recent structural changes to deliver our Supervision strategy, including details of our two new divisions. I will focus on Supervision - Retail and Authorisations Division (SRAD), which I am currently responsible for.

Insurance is a key sector where we supervise a diverse range of firms from Lloyd's, to wholesale insurance intermediaries, commercial brokers, and retail general insurers. This market writes around £150bn premiums annually in the UK and overseas.

In my first three weeks as Acting Director of SRAD, insurance has been an area of focus with the recent publications of our [thematic review](#) on the provision of premium finance in the retail general insurance market and [our review](#) of insurance claims handling for small and medium-sized Enterprises (SMEs).

### **Premium Finance**

Household and motor insurance are the most significant annual general insurance purchases for many UK retail customers, with purchases of £7bn and £10.8bn respectively in the UK in 2013. With average quoted premiums of £540.26 (comprehensive car) and £163.06 (household buildings and contents) in Q4 2014, this is a significant

purchase for many UK consumers.

The premium finance review highlighted that insurers and insurance intermediaries didn't always provide clear information about the available payment options, and customers didn't always get an adequate explanation of the credit agreement (including key risks and consequences of non-payment) or clear information about the role the firm was performing, and the fees they charged. We want firms to take these findings on board and make changes to ensure customers are being treated fairly.

### **Claims Handling for SMEs**

This review found the claims service provided was not consistently working in the interests of many businesses, resulting in a poor claims experience. When any delay could have a serious impact on a business or someone's livelihood, it's vital that claims are processed promptly and fairly.

General Insurance and Protection is just one area covered by my Division. Over the coming months I will be happy to outline some examples of our work and priorities in other areas covered by the Division.



### **Hot topic:**

### **We're piloting a new firms section on our website - what do you think?**

We've heard from you that our website can be hard to navigate, especially when you're there to get something done or find information as quickly as you can.

Based on your feedback we are piloting a new firms section. This is a BETA site at the moment; find out what that means [here](#). To help us improve it we need you to take a look, see what you think, and give us your feedback. We have taken a new approach to the content and design – making it clear, concise and functional.

While this is going on, our current website will be available and operating as normal, so you can still access anything you need. We are also looking for people to take part in user testing over the coming months, if you would like to take part please email [publications\\_graphics@fca.org.uk](mailto:publications_graphics@fca.org.uk).

Please visit the [firms section](#) of our website to see what we mean and give us your views.



## Hot topic: Alternative Dispute Resolution

In December last year we consulted jointly with the Financial Ombudsman Service on changes to the Dispute Resolution: Complaints sourcebook (DISP) within our Handbook to implement the ADR Directive. Member States have until 9 July 2015 to implement the Directive.

In April we published a [Handbook Notice](#) which explains the feedback that we received to Chapter 5 of CP 14/30 and the [final rules](#) to allow firms to meet the implementation deadline for the Directive.

Our December [consultation](#) also contained separate policy proposals to improve complaints handling. We plan to issue a policy statement for Chapters 2 to 4 later this year.

The rules will come into force on 9 July 2015 and the changes to DISP will affect firms across all financial services sectors.

We consulted on the basis that firms would be required to introduce some of the changes in mid-May. We have now changed that approach so that firms are only required to comply with the new rules from 9 July 2015 and only in relation to complaints received from that date onwards.

Firms should familiarise themselves with the changes to DISP and take steps to ensure that they will comply with the rule changes from 9 July 2015 onwards. Some of the key changes to rules are summarised below:

- The ombudsman service will be able to consider complaints where the firm has not itself investigated the complaint, but only if both the firm and the consumer consent.
- We intend to preserve the current time limits in the rules but we will allow firms to consent to the ombudsman service considering a complaint if it is referred outside the relevant time limits. Firms will be required to use prescribed wording to tell consumers whether they consent to waive the time limits in this way.
- The definition of 'eligible complainant' will be extended

to ensure consistency with the Directive. From 9 July, the following will be eligible complainants:

- Professional clients and eligible counterparties, where the person is an individual acting for purposes outside his trade, business, craft or profession.

[Find out more](#)

## Banks & building societies

### **De-risking: Banks' management of money-laundering risk**

We are aware that some banks are no longer offering financial services to entire categories of customers that they associate with higher money-laundering risk. Banks have told us that this helps them comply with their legal and regulatory obligations in the UK and abroad. However, we are clear that effective money-laundering risk management need not result in wholesale de-risking. We require banks to put in place and maintain policies and procedures to identify, assess and manage money-laundering risk. These policies and procedures must be comprehensive and proportionate to the nature, scale and complexity of the bank's activities.

### **Financial crime systems and controls**

In November, we consulted on proposed examples of good practice from two thematic reviews that considered small banks' anti-money laundering and financial sanctions, and small commercial insurance brokers' anti-bribery and corruption, systems and controls. Based on feedback we are amending our 'Financial crime: a guide for firms'.

## Investment managers & stockbrokers (retail & wholesale)

### **Video: CASS for investment firms**

In June 2014 we finalised our rules on the client assets regime for investment business ([PS14/9](#)). Firms are required to implement these changes by the relevant [timescales](#). To help you understand the changes, we have published a recording of a CASS briefing held in January for CASS medium firms.

### **Investment and corporate banking market study terms of reference**

Following our call for input, we are launching a market study within the investment and corporate banking market. We will specifically look at how businesses choose their banks and advisers; whether there is too little transparency for clients; and whether the practice of bundling services together is restricting competition. We are keen to hear from banks and clients of different sizes about their experiences. The more banks and clients come forward with their experiences the richer the insights from the market study will be.

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### Video: Market abuse

In June 2014 new European legislation seeking to strengthen the fight against market abuse was agreed. The Market Abuse Regulation (MAR) will introduce a number of changes, and will apply in the UK and across the EU from 3 July 2016, replacing the current Market Abuse Directive (MAD). To prepare you for these changes, we have published a [one minute guide](#) and a recording of a MAR overview briefing held in March. The briefing provides an overview of the level 1 requirements under MAR.

### Prudential Supervision Forum

On 13 May, we held our first Prudential Supervision Forum. At the Forum, we gave an outline of our approach to prudential supervision. It was also an opportunity to share practices and set expectations in relation to a few of the rules and Directives affected. These include the Capital Requirements Directive IV and the Recovery and Resolution Directive, as well as liquidity and operational risk practices. We have published the content from the Forum to share with all investment firms that may be affected by some or all of the areas covered.

## Financial advisers

### Watch our RDR adviser charges and services webinar

This session was originally delivered to audiences of PFS regional conferences in 2014/15. It focuses on the background and findings of our thematic review and discusses good practice in disclosure and delivery of services.

## Wealth managers & private bankers

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### **Watch our CIPS/replacement business webinar**

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## **Mortgage lenders & brokers**

There are no updates to report in the Mortgage area for May.

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 June's Regulation round-up next month.

## **Insurers & insurance intermediaries**

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### **TR: Premium finance**

We have published our thematic report into the provision of premium finance to retail general insurance customers. The report presents the findings from our thematic review. This looked into whether general insurance intermediaries and insurers provide timely and appropriate information to their customers, when arranging or providing premium finance.

### **TR: SME claims handling**

This report presents the findings from our thematic review which looked into the handling of claims from SMEs. We wanted to understand the extent to which claims from SMEs, who are less likely to be sophisticated customers and who often exhibit similar knowledge and experience to that of retail consumers,

were handled promptly and fairly. We also wanted to understand the role that different firms played in the handling of claims, particularly given the prevalence of outsourcing of claims by insurers.

We expect customers to be at the heart of how firms run their businesses and for firms to handle claims promptly and clearly communicate the reasons for any delays in the process. We will engage with firms, senior figures in the industry, and relevant trade bodies to discuss the findings of the review, its expectations, and the changes that may be required to improve outcomes for SME customers. We will also provide feedback to the firms included in the review.

### **Moorhouse Group Limited fined**

Moorhouse Group Limited has been fined £159,300 for failures in relation to the oversight and control of its telephone sales and in particular the sale of commercial vehicle add-on insurance products during 2012. Our review in April 2013 of telephone and commercial vehicle core insurance products and related insurance add-ons found that Moorhouse appeared to provide customers with inadequate information in relation to the sale of add-on products before completion of sale.

### **Clarification on the connected contracts exclusion when a firm also provides credit facilities**

In response to industry queries, last week we issued a clarification for firms who offer, arrange or advise on related insurance contracts or assist in administering insurance contracts that are not their main line of business and also arrange credit. We consider that a regulatory exclusion is still available for firms when their main line of business does not otherwise consist of carrying on a regulated activity (other than one for which they have only interim permission). More details about who can apply for this exemption and when it is available are on the website.

## Consumer credit

### **Consumer credit webinar**

Following the publication of our consultation paper, we held several roadshows to inform consumer credit

## Credit unions

### **Arrears handling - Registration for Execution**

Registration for Execution is a procedure only available in Scotland

firms of our proposed changes and hear their views. You can register to watch the webinar.

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### **New Government legislation**

Last month the Government introduced new consumer hire and hire-purchase agreements legislation. The legislation extends the scope of the limited permission regime to cover all broking of consumer hire and hire-purchase agreements. The legislation came into force on 24 March 2015 and applies to the broking of consumer hire or hire-purchase agreements on or after that date, provided that the firm does not engage in any other regulated activity that requires full permission. Although firms are reminded that there is no change to lending under hire purchase agreements, which continues to require full permission.

which allows expedited enforcement of any financial or other obligation under a contract without the need for any preliminary court action. The procedure can only be used where both parties to the contract consent.

The use of Registration for Execution must be clearly documented in the lender's loan policies or agreements, an adequate pre-agreement explanation of the associated risk must be given to the borrower, and the relevant contract term must be fair under the Unfair Terms in Consumer Contract Regulations 1999. These conditions apply regardless of whether or not the loan is regulated by the FCA.

Where credit unions lend money direct to borrowers and the interest rate charged does not exceed the statutory cap (currently 3% in Great Britain), this is not a regulated consumer credit activity and the loans are not subject to our CONC rules.

For loans that are regulated under CONC, lenders must additionally ensure they comply with the relevant rules, for example:

- The requirement to act proportionately and in accordance with CONC 7.3.14R
- The requirement for the lender and/or those acting on its behalf to treat their customers with forbearance and due consideration (CONC 7.3.4 R) and treat their customers fairly (CONC 7.3.2 G)



May news round-up

Events & publications



### **Deutsche Bank fined**

Deutsche Bank has been fined £227m for LIBOR and EURIBOR failings and misleading the regulator.

### **Merrill Lynch International fined**

Merrill Lynch has been fined £13,285,900 for incorrectly reporting 35,034,810 transactions and failing to report another 121,387 transactions between November 2007 and November 2014. The size of the fine reflects the severity of MLI's misconduct, failure to adequately address the root causes over several years despite substantial FCA guidance to the industry, and a poor history of transaction reporting compliance, consisting of a Private Warning issued in 2002 and a fine of £150,000 in 2006.

### **Data Bulletin**

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