

Regulation round-up

September 2014

Banks & building societies // Insurers & insurance intermediaries

Financial advisers // Investment managers & stockbrokers

Mortgage lenders & brokers // Wealth managers & private bankers



Welcome to the September issue
of *Regulation round-up*

David Geale, Director of Policy

'...it remains important that we all work together to deliver good outcomes for consumers...'

I am pleased to introduce the September edition of the Regulation round-up. This month's edition focuses on our ongoing Policy work.

As Director of Policy, I oversee the FCA's Policy work focusing on how financial services work for consumers. Having worked at the FCA for a number of years, and before that in the industry, I am acutely aware of the challenges facing firms. Yet it remains important that we all work together to deliver good outcomes for consumers.

It has been a busy summer, where we have been consulting on a number of important issues which will shape the future of UK financial services. This includes plans to strengthen accountability in banking, proposals for a Guidance Service that will help people make retirement decisions and a cap on the cost of short-term credit, including payday loans.

This month we launch the consultation on proposals to implement the Mortgage Credit Directive (MCD).

We also hosted a conference looking at the Markets in Financial Instruments Directive (MiFID II) and the impact it will have on investment firms. [Videos](#) from the conference are now available on our website.

In this edition of the round-up, we clarify the interpretation

of our rules for independent advisers. We recognise this is an important issue for independent investment advice firms and have therefore explained how these firms can use internal specialists.



Hot topic: Independent financial advice - using internal specialists

In our discussions with industry before and since the publication of the independence thematic review ([TR14/5](#)), some have suggested that the use of specialist advisers within a firm could improve client outcomes and is possible within our rules. The argument goes that advisers may, often routinely, refer their clients to a colleague with particular expertise or experience, such as income drawdown.

Having looked at these points we agree a wider interpretation than previously stated - including that given in the thematic review ([TR14/5](#)) - is possible under the existing rules and that firms can use internal specialists, provided they have appropriate systems and controls in place to ensure that personal recommendations provided by their advisers meet the required standard.

We have now amended our thematic review and other documents to make this clear.

The FCA and the industry may not always be in agreement, but we aim to be responsive, provide insight into our thinking and where necessary, consider issues again.

Our hope is that having revisited the independence issue and explained how the rule can be more flexibly interpreted, it will allow firms to get the best outcome for their clients.

Firms wishing to know more should refer to [guidance](#) the Financial Services Authority issued in 2012, which firms should continue to use as the main reference point if they have queries on how the rule on independence should operate in practice.

[Find out more](#)

Banks & building societies

Mortgage Credit Directive

We have published our consultation setting out the approach to implementing the Mortgage Credit Directive (MCD). The MCD applies equally to first and second charge mortgages, and the UK government has decided that second charge mortgage regulation should move from our consumer credit regime into our mortgage regime.

Update on PPI

Banks, credit card providers and personal loan companies have agreed to reassess more than 2.5 million complaints from 2012 and 2013, which they may have either unfairly rejected or paid too little redress to.

Mobile banking

We have published a final report into mobile banking following our interim findings in August 2013. The aim of the review was to determine how firms are achieving good outcomes for consumers when delivering mobile banking products. We are keen to support innovation in financial services where it is in the interest of consumers.

Failure in mortgage advice fine

We have fined The Royal Bank of Scotland and NatWest £14,474,600 for serious failings in their advised mortgage sales business. These firms failed to ensure that suitable advice was given to consumers. Two reviews of sales from 2012 found that in over half the cases the suitability of the advice was not clear from the file or call recording.

Barclays client assets fine

Barclays has been fined £37,745,000 for failing to properly protect clients' custody assets worth £16.5 billion. As a result, clients risked incurring extra costs, lengthy delays or losing their assets if Barclays had become insolvent.

Insurers & insurance intermediaries

Consumer leaflet: Protect your pension pot

We issued an **alert** to encourage consumers to 'protect their pension pot'. This alert included information on how they could avoid being drawn into inappropriate investments and where to go for guidance.

To help you provide this information at the right time, we've turned the alert into a **factsheet**. We encourage you to share this with consumers who you believe are at risk from the activities described in the alert.

Financial advisers

Investors in the EEA Life Settlements Fund should consider making a complaint now

Firms that recommended to their clients that they invest into the EEA Life Settlements Fund should check that they have followed our 2012 guidance. Firms that advised clients to invest into the EEA Life Settlements Fund to re-examine these sales.

MiFID II Conference round-up

Our MiFID II Conference outlined the changes in the EU directive that we expect will affect firms. The new measures will be implemented on 3 January 2017 and will affect trading venues and investment firms. We have published a summary of the conference, along with speeches and videos on our website.

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Ban and fine for financial adviser

Between 2004 and 2010, Peter Carron - formerly a senior partner at St James's Place Wealth Management Plc - advised 11 clients to invest a total of £2.4m in three companies of which he was director and majority shareholder, without adequately disclosing this fact to them. The clients later lost approximately £2.2m when the companies went into liquidation between May and August 2010. St James's Place subsequently paid these 11 investors £1.9m in compensation.

Investment managers & stockbrokers (retail & wholesale)

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Early implementation of the Transparency Directive

We are consulting on the early implementation of the Transparency Directive, which includes amending directive 2013/50/EU requirement for issuers who are active in the extractive or logging of primary forest industries to prepare a report annually on payments made to the governments in the countries in which they operate.

CRD IV - EBA high earners and benchmarking information report

The European Banking Authority (EBA) issued new final guidelines on 16 July 2014 in relation to data collection for high earners and remuneration benchmarking. The new guidelines amend the existing template and request more detailed information, including additional data on business areas and the breakdown of remuneration. The FCA and PRA have published a joint consultation paper on the proposed changes to the data template relating to remuneration data for the 2014 performance year onwards.

Fine for failing to properly report transactions

Deutsche Bank AG London Branch has been fined £4,718,800 for incorrectly reporting transactions between November 2007 and April 2013.

Dishonest involvement in the sale of UCIS

Craig Cameron has been fined £350,000 and banned from any involvement in FCA authorised firms after we found that he lacked honesty and integrity in relation to the promotion of three unregulated collective investment schemes to retail investors.

Mortgage lenders & brokers

Failure in mortgage advice fine

We have fined The Royal Bank of Scotland and NatWest £14,474,600 for serious failings in their advised mortgage sales business. These firms failed to ensure that advice given to customers was suitable. Two reviews of sales from 2012 found that in over half the cases the suitability of the advice was not clear from the file or call recording.

FCA bans individual for fake and misleading mortgage applications

The FCA has banned Andrew Barlas from performing any function in relation to any regulated activity. The FCA found that Barlas knowingly submitted two mortgage applications to mortgage lenders containing false and misleading information about his income.

Wealth managers & private bankers

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Insider dealers ordered to pay £3.2m in confiscation

In a case brought by us and heard at Southwark Crown Court, Confiscation Orders (the Orders) totalling £3,249,488.71 were made between 10 September 2014 and 15 September 2014 against Ali Mustafa, Pardip Saini, Paresh Shah, Neten Shah, Bijal Shah, Truptesh Patel and Richard Joseph.

Financial adviser banned and fined £300,000 after clients lost out investing in companies he controlled

Between 2004 and 2010, Peter Carron - formerly a senior partner at St James's Place Wealth Management Plc (St James's Place) - advised 11 clients to invest a total of £2.4m in three companies of which he was director and majority shareholder, without adequately disclosing this fact to them. The clients later lost approximately £2.2m when the companies went into liquidation between May and August 2010. St James's Place subsequently paid these 11 investors £1.9m in compensation.

Cloned firms

Over the past few years, we have seen an increase in the number regulated firms being cloned. We encourage firms to remain vigilant against being cloned. If you believe your firm has been cloned, please alert us via the [Contact Centre](#) and ensure that your consumers are notified as soon as possible as they will not be covered by the FSCS if they suffer losses from dealing with these scams. Corresponding warnings should be placed on your firm's website to prevent further consumers being deceived. For more information on cloned firms visit our [website](#).

Positive Compliance workshops

In response to demand and due to the popularity of our 2014 programme of workshops, we have added Monday 10th November as an extra date for events being held at Mottram Hall in Cheshire. There are also some limited spaces still available for our November sessions in Swansea and Newport. We have also added further dates and locations for workshops in 2015. Bookings can be made on our website.

FCA use of Attestations

We have published an exchange of letters between Clive Adamson, FCA Director of Supervision, and Graham Beale, Chairman of the FCA Practitioner Panel, clarifying the FCA's use of Attestations.

Connect

Connect will replace the Online Notifications and Applications (ONA). Most of the applications currently submitted on ONA will have to be submitted on Connect from 1 October 2014. We have uploaded a [video](#) on how to use Connect so firms can get to grips with the new system.

FATCA FAQs

HMRC have issued further FAQs on FATCA.