

Regulation round-up



September 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 September issue
of *Regulation round-up*

Tracey McDermott, Acting Chief Executive

'...we will increasingly look at how markets work as a whole, with greater emphasis on sector and market-wide analysis...'

Over the last two years the FCA has taken on a whole range of new functions and powers. Our new strategy last year set out how, in the light of this, we intended to develop a more sustainable model of regulation, with new ways to prioritise our work.

We know we have to do more to ensure our resources are deployed efficiently, that we can act quickly but effectively and proportionately, using all of the wide range of tools at our disposal, and that we are able to continually evolve as our firms do.

In the April edition of *Regulation round-up* I outlined the structural changes we had made to our Authorisations and Supervision divisions to support the new strategy. The split into the *Retail & Authorisations*, and *Investment, Wholesale & Specialists Supervision* Divisions recognises the fact that we supervise diverse sectors, where risks may be very different across sectors but common across firms within a sector.

We are now making further changes to our supervisory model, including how we classify firms, to support this sector-based approach. We will continue to look at the way individual firms and people behave, but will also increasingly look at how markets work as a whole, with greater emphasis

on sector and market-wide analysis.

Part of the change to our model is a move away from the C1-C4 conduct categories that we have previously used. Firms will now be categorised as either 'fixed portfolio' or 'flexible portfolio'. Fixed portfolio firms will continue to be subject to a programme of firm or group-specific supervision (Pillar I), while flexible portfolio firms will be subject to event-driven reactive supervision (Pillar II) and thematic issue or product supervision (Pillar III) only.

Our approach will vary depending on the risks we've identified in each sector, but may mean that, over time, some firms will see changes to how they are supervised. The reclassification means that around 70 firms will move from 'fixed' to 'flexible' portfolio or from 'flexible' to 'fixed'. All firms who will be changing classification are being contacted directly this week.

Flexible portfolio firms will be proactively supervised through a combination of market-based thematic work, as well as communication, engagement and education activity aligned to the key risks we have identified for the sector. The firms moving into the flexible portfolio will no longer have a named supervisor, and their first point of contact will now be through the Contact Centre. Contact Centre staff have the expertise to deal with the majority of issues and queries, and these will be passed onto the appropriate supervision area where necessary.

We recognise that a key channel of communication for all firms, particularly those in the flexible portfolio, is through our website. We have recently improved our website based on the feedback we've received from firms, making the site more task-based, so it will be easier to find the content relevant to you. We have also taken a new approach to the content and design – making it clear, concise and functional. If you have feedback on the [new website](#), please let us know. We are always looking to make improvements.

These changes do not impact our fundamental expectations of firms: that they have the interests of their customers and the integrity of the market at the heart of how they run their business. I am excited by the changes we have implemented and look forward to working with you all over the coming months.



Hot topic:

Move from ONA to Connect

Towards the end of last year we launched Connect, our online system used by firms to submit applications and notifications to us.

Connect has replaced all applications that were previously submitted via the Online Notifications and Applications (ONA) system. 'Read-only' access is currently available to ONA users, which means that existing users of ONA are able to continue to view previously submitted applications.

From 8pm on 23 October, 'read-only' access to ONA will no longer be available.

Please ensure that you have saved any forms or documents you may require in advance of this date as we will not be able to supply copies after this point.

If your firm *does not* have access to Connect, you will need to register before you can create or submit any notifications. More information on how to register for Connect can be found on [our website](#).

If your firm *does* have access to Connect, and you are currently a user of ONA and not Connect; your firm administrator will need to set you up as a user on Connect.

[Find out more](#)

Banks & building societies

FS: Terms and definitions for services linked to payment accounts

As part of our work on the implementation of the Payment Accounts Directive (PAD), we have published a Feedback Statement on terms and definitions for services which are linked to payment accounts and subject to fees. The Feedback Statement summarises the responses we received to our Call for Input. It includes the list of terms and definitions that we are required by PAD to submit to the European Commission and European Banking Authority (EBA) by 18 September. The EBA will then standardise the terms and definitions of the services that appear on the national

Investment managers & stockbrokers (retail & wholesale)

Recovery and Resolution Directive: suggested template

We have produced a suggested template for the submission of firm and group recovery plans subject to simplified obligations. Firms and qualifying parent undertakings are not required to adopt this format, but adopting this template may be convenient and may lead to fewer follow-up requests from us.

FEMR: Competition Law

The Fair and Effective Market Review (FEMR) published 21 recommendations designed to ensure that FICC markets are fair and effective. The Review concluded that there needs to be greater awareness and understanding

lists of a majority of EU Member States.

FEMR: Competition Law

The Fair and Effective Markets Review (FEMR) published 21 recommendations designed to ensure that FICC markets are fair and effective. The Review concluded that there needs to be greater awareness and understanding among market participants of the existing UK and EU competition law framework. An Annex within the report was dedicated to competition law and provided a high-level summary of the framework and how it is enforced. We encourage all firms to review the document.

Consumer buy-to-let (CBTL)

The Government legislation (the MCD Order 2015) requires that all firms acting as lenders, administrators, intermediaries (including arrangers) or advisers in relation to CBTL mortgage activity be registered by us from 21 March 2016. Authorised firms are now able to register as a CBTL firm via a new form on the Connect system. To find out more about CBTL, see [our webpage](#).

among market participants of the existing UK and EU competition law framework. An Annex within the report was dedicated to competition law and provided a high-level summary of the framework and how it is enforced. We encourage all firms to review the document.

MiFID II Wholesale Conference

On Monday 19 October we are holding a second MiFID II conference focusing mainly on wholesale market issues. The aim of the conference is to help wholesale investment firms understand their prospective obligations following the publication of the European Securities Markets Authority's (ESMA) Technical Standards, and enable us to set out our expectations of firms in implementing MiFID II.

CP: UCITS V implementation

In Part I of this paper we consult on rules and guidance to transpose the most recent changes to the UCITS Directive (UCITS V). We are required to transpose these changes by 18 March 2016.

In Part II we consult on a set of changes to the Handbook to ensure the EU Regulation introducing European long-term investment funds (ELTIFs) will operate effectively. The ELTIF Regulation will apply from 9 December 2015.

In Part III we take the opportunity to consult on a number of changes to the Handbook to keep our rules and guidance for authorised investment funds up to date.

Market Watch: Commodities Trading thematic review

Following recent changes in the structure of the commodities trading markets, we reviewed 12 firms, including brokers, interdealer brokers (IDBs), and commodities trading firms. The review focused on firms trading and broking across the oil, energy, metals and soft commodities sectors and considered the adequacy of their front office and market abuse controls. We also reviewed the governance arrangements, culture and processes in place in relation to the commodities markets to assess each firm's ability to manage the impact of these structural changes on their businesses. The newsletter sets out our high-level observations.

Financial advisers

Data collection findings

We have published the findings and analysis of our recent data collection exercise which sought information across a number of areas of the pensions and retirement income market. We collected this data to provide an essential further input into our ongoing supervisory and policy work.

It will also assist us in providing input into HM Treasury's consultation on pension transfers and any barriers faced by customers seeking to access the new pension flexibilities. We have worked closely with the Pensions Regulator, which has undertaken similar activity in relation to occupational pension schemes.

Consumer buy-to-let (CBTL)

The Government legislation (the MCD Order 2015) requires that all firms acting as lenders, administrators, intermediaries (including arrangers) or advisers in relation to CBTL mortgage activity be registered by us from 21 March 2016. Authorised firms are now able to register as a CBTL firm via a new form on the Connect system. To find out more about CBTL, see [our webpage](#).

Wealth managers & private bankers

Recovery and Resolution Directive: suggested template

We have produced a suggested template for the submission of firm and group recovery plans subject to simplified obligations. Firms and qualifying parent undertakings are not required to adopt this format, but adopting this template may be convenient and may lead to fewer follow-up requests from us.

FEMR: Competition Law

The Fair and Effective Market Review (FEMR) published 21 recommendations designed to ensure that FICC markets are fair and effective. The Review concluded that there needs to be greater awareness and understanding among market participants of the existing UK and EU competition law framework. An Annex within the report was dedicated to competition law and provided a high-level summary of the framework and how it is enforced. We encourage all firms to review the document.

MiFID II Wholesale Conference

On Monday 19 October we are holding a second MiFID II conference focusing mainly on wholesale market issues. The aim of the conference is to help wholesale investment firms understand their prospective obligations following the publication of the European Securities and Markets Authority's (ESMA) Technical Standards, and enable us to set out our expectations of firms in implementing MiFID II.

CP: UCITS V implementation

In Part I of this paper we consult on rules and guidance to transpose the most recent changes to the UCITS Directive (UCITS V). We are required to transpose these changes by 18 March 2016.

In Part II we consult on a set of changes to the Handbook to ensure the EU Regulation introducing European long-term investment funds (ELTIFs) will operate effectively. The ELTIF Regulation will apply from 9 December 2015.

In Part III we take the opportunity to consult on a number of changes to the Handbook to keep our rules and guidance for authorised investment funds up to date.

Market Watch: Commodities Trading thematic review

Following recent changes in the structure of the commodities trading markets, we reviewed 12 firms, including brokers, interdealer brokers (IDBs), and commodities trading firms. The review focused on firms trading and broking across the oil, energy, metals and soft commodities sectors and considered the adequacy of their front office and market abuse controls. We also reviewed the governance arrangements, culture and processes in place in relation to the commodities markets to assess each firm's ability to manage the impact of these structural changes on their businesses. The newsletter sets out our high-level observations.

Mortgage lenders & brokers

Mortgage Credit Directive

The regulatory framework is changing as we implement the Mortgage Credit Directive (MCD), which sees new rules apply from 21 March 2016 to firms dealing with first and second charge mortgages (lenders, administrators and intermediaries). Firms can choose to voluntarily apply the new rules from 21 September 2015. To find out more about the MCD, see [our webpage](#), which includes factsheets that explain what the MCD means for you.

Consumer buy-to-let (CBTL)

The Government legislation (the MCD Order 2015) requires that all firms acting as lenders, administrators, intermediaries (including arrangers) or advisers in relation to CBTL mortgage activity be registered by us from 21 March 2016. Authorised firms are now able to register as a CBTL firm via a new form on the Connect system. To find out more about CBTL, see [our webpage](#).

Insurers & insurance intermediaries

Data collection findings

We have published the findings and analysis of our recent data collection exercise which sought information across a number of areas of the pensions and retirement income market. We collected this data to provide an essential further input into our ongoing supervisory and policy work.

It will also assist us in providing input into HM Treasury's consultation on pension transfers and any barriers faced by customers seeking to access the new pension flexibilities. We have worked closely with the Pensions Regulator, which has undertaken similar activity in relation to occupational pension schemes.

Consumer credit

Mortgage Credit Directive

From 21 March 2016, second charge mortgage regulation will change significantly as it is brought within scope of our mortgage rules, as part of our implementation of the Mortgage Credit Directive (MCD). The changes affect firms acting as lenders, administrators and intermediaries in relation to second charge mortgage activity. To find out more about the MCD, see [our webpage](#), which includes factsheets that explain what the MCD means for you.

Consumer buy-to-let (CBTL)

The Government legislation (the MCD Order 2015) requires that all firms acting as lenders, administrators, intermediaries (including arrangers) or advisers in relation to CBTL mortgage activity be registered by us from 21 March 2016. Authorised firms are now able to register as a CBTL firm via a new form on the Connect system. To find out more about CBTL, see [our webpage](#).

Credit unions

Improving individual accountability: Workshops for credit unions

From late September to November, we are holding a series of interactive sessions throughout the UK to tell credit unions about the Senior Manager and Certification Regimes to improve accountability within the banking sector. The sessions will help to ensure that credit unions are prepared for the start of the new Senior Managers Regime on 7 March 2016.

We strongly advise credit unions to attend as part of their preparations for the new regime. The first set of workshops are taking place in Belfast and Enniskillen, from 28 September to 1 October. Please visit our [event website](#) for further dates and locations, and to register your place.

CP: Reform of the legacy Credit Unions sourcebook

In June we jointly published a Consultation Paper with the Prudential Regulation Authority (PRA) on the reform of the legacy Credit Unions Sourcebook (CREDS), one of the modules of the Handbook inherited by the two new regulators from the Financial Services Authority. The PRA and FCA invite feedback on the proposals set out in this consultation before it closes on 30 September. Please address any comments or enquires to CP22_15@bankofengland.co.uk.



New Financial Services Register

Following user testing, the Register has been redesigned to make it easier for people to use. The new Register website will make it easier for people to search for firms, find relevant information, understand the language and terminology we use, and to signpost them to further information and support. The key changes are:

- An improved search function
- Clearer language and layout
- A list of unauthorised firms

FCA Handbook

The Handbook is at the heart of how we regulate. We know how important it is for firms so we have designed a new Handbook website based on your feedback. The new website features:

- A cleaner layout and easier navigation
- A timeline so that you can see when rules change
- An option to add favourites and build your own tailored Handbook
- Improved search functionality
- Glossary definitions displayed in a pop-up window

Updating firm contact details

We would like to remind you of your obligations to keep your contact details up to date to facilitate better communication in accordance with Sup 16.10.2 and 16.10.3. This can be done by [updating your 'standing data'](#) via the connect system.

Improving individual accountability: Workshops for credit unions

From late September to November, we are holding a series of interactive sessions throughout the UK to tell credit unions about the Senior Manager and Certification Regimes to improve accountability within the banking sector. The sessions will help to ensure that credit unions are prepared for the start of the new Senior Managers Regime on 7 March 2016.

We strongly advise credit unions to attend as part of their preparations for the new regime. The first set of workshops are taking place in Belfast and Enniskillen, from 28 September to 1 October. Please visit our [event website](#) for further dates and locations, and to register your place.

MiFID II Wholesale Conference

On Monday 19 October we are holding a second MiFID II conference focusing mainly on wholesale market issues. The aim of the conference is to help wholesale investment firms understand their prospective obligations following the publication of the European Markets and Securities Authority's (ESMA) Technical Standards, and enable us to set out our expectations of firms in implementing MiFID II.