Financial Conduct Authority

Regulation round-up

March 2017

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*

Christopher Woolard, Executive Director of Strategy and Competition

'...We encourage firms to start looking now at what changes this could mean for their business models...'

Welcome to the March edition of regulation round-up. I would like to take this opportunity to highlight our recent consultation paper (CP) on the Insurance Distribution Directive (IDD).

The IDD is wide-reaching EU legislation that aims to enhance consumer protection and promote competition in the general insurance and life sectors - reinforcing some of the rules we already have in place and amending others.

We encourage firms to start looking now at what changes this could mean for their business models, as the implementation date is February 2018. With that in mind, I want to briefly highlight some of the key aspects of the consultation paper. Our second CP will be published later this year, which will cover the remaining IDD requirements once they are adopted by the European Commission.

Professional and organisational requirements

- All staff involved in insurance and reinsurance distribution must have the appropriate knowledge and ability to perform their duties. This includes undertaking at least 15 hours of continuing professional development each year.
- Firms must hold adequate levels of professional indemnity insurance and put measures in place to protect customers where their premiums are paid to intermediaries.

Complaints

- Insurance distributors must have procedures in place for handling complaints, including procedures to provide out-of-court redress for consumers.

Conduct requirements for non-investment insurance contracts

- Building on the existing requirements of the Insurance Mediation Directive (IMD), the IDD sets out requirements for information disclosures and general principles of conduct.

Regulatory regime for ancillary insurance intermediaries (AIIs

- The IDD introduces a new category of firm called AIIs whose primary business is not insurance distribution, but who distribute disributing insurance products which complement other goods or services they provide. These can include motor vehicle dealers, travel agents and electrical goods retailers.
- Different requirements apply to AIIs depending on the nature of the insurance they distribute.

We encourage firms to consider our proposals and respond to our consultation by 7 June 2017. Our short video gives you further insight into the content of the CP.

Corporate publications.

On 18 April we will be publishing our Mission, the Business Plan for 2017/18, Sector Views and the Fees Consultation Paper. The deadline for responding to Fees Consultation Paper will be 9 June 2017.

Hot topic:
It's time to apply for MiFID II authorisation

MiFID II delivers important changes to the scope of regulation in the UK. It will have a significant impact for a range of authorised and currently unauthorised persons that will have to apply for authorisation, variations of permission or make notifications to us.

Firms impacted by MiFID II need to be authorised with the relevant permissions by **3 January 2018** if you wish to continue to carry out your business in the UK. The FCA is accepting applications now and you can find a guide on how to apply and the requirements on our website. It is your responsibility to ensure you apply in good time and have the necessary authorisations and permissions in place to operate under the new regime.

The very latest date for submitting complete applications for authorisation or variations of permissions to us is **3 July 2017**. However, we strongly encourage you not to wait for this date before submitting an application. If we find that your application is not complete at that point, you may not have the authorisation or permissions you need in time.

We can determine good quality applications more quickly than those which have incomplete information. Firms that collect and present the necessary information on time and to a high standard will avoid unnecessary delays in the application process. You should also consider whether you need to make new passport notifications and, if so, the timing implications for this.

Find out more

Hot topic:
Illiquid assets and open-ended investments

We have published a Discussion Paper (DP) on the practice of investing in illiquid assets through open-ended funds and the challenges it can pose. This follows on from the measures several fund managers took to manage their property funds' liquidity after the EU referendum, which included suspending dealing and adjusting their asset valuations.

Investing in illiquid assets can provide benefits to investors, including providing the opportunity for strong investment returns and diversifying the risk in a portfolio.

However, as discussed in our DP, there are challenges to investor protection and market stability when open-ended funds invest in illiquid assets. These include:

- The risk that funds may experience difficulties if investors expect to be able to withdraw their money at short notice. For example, the fund manager may not have enough cash or liquid assets to meet an increased number of redemption requests.
- The difficulty a manager may sometimes have in calculating the price of a fund every day, if that fund invests

in assets whose prices are calculated less frequently than every day.

We want you to send us your views and any evidence you might have to help us determine whether the industry needs more or different rules and guidance to ensure market stability and protect consumers without preventing them from having access to a diverse range of investments. As well as responses, we will be drawing upon the supervisory work that we are currently undertaking in considering our next steps.

The discussion closes on **8 May 2017.**

Find out more

Banks & building societies

The FCA finalises plans to place a deadline on PPI complaints
We have confirmed that we will introduce a deadline for making new payment protection insurance (PPI) complaints. Any consumers mis-sold PPI will need to make a complaint by **29 August 2019**. To encourage consumers to decide whether to act about PPI before the deadline, we will run a two-year consumer communications campaign, which we will launch in August 2017.

Web page: Senior Managers and Certification Regime: one year on
Tuesday 7 March marked one year since we implemented the Senior Managers and Certification Regime (SMCR). Since the regime was introduced, we have undertaken work to ensure that senior manager responsibilities are properly allocated and understood in firms. In some cases, we have seen evidence of overlapping or unclear allocation of responsibilities.

Investment managers & stockbrokers

Remuneration data reporting - High Earners Report
We want to update you on common mis-reporting errors we have seen in the REP005, High Earners Report, through monitoring Remuneration data reporting.

If your firm is in scope of **SUP 16.17.4R** you must submit a High Earners Report annually, within 4 months of your accounting reference date. You need to submit information on the remuneration of all your employees with total remuneration of €1 million or more on an aggregated, anonymised basis. This information can be submitted via the REP005 in **Gabriel**.

The common themes which can prevent firms successfully submitting this form are:

- You need to submit the form in an XML format. The **submission guidance document** provides step-by-step instructions.
- You must complete the 'Version Copy No' - this should be '1' for

FG: The FPC's recommendation on loan to income ratios in mortgage lending

We have published our finalised guidance on amendments to loan to income (LTI) ratios in mortgage lending. This guidance sets the amendments and clarifies the general guidance we issued in October 2014 about the Financial Policy Committee's Recommendation.

GC: Treatment of politically exposed persons (PEPs)

We have published a paper to consult on guidance for how to treat politically exposed persons under the Money Laundering Regulations. Our proposed guidance for firms outlines who should and should not be considered a politically exposed person and how firms can take a proportionate, risk based and differentiated approach to meet their obligations.

New Banks Seminar

On Friday 9 June, the PRA and FCA New Bank Start-up Unit will hold a seminar for those working in or with:

- organisations thinking about becoming a bank in the United Kingdom
- firms currently going through the bank authorisation process, and
- recently authorised banks who are now navigating the regulatory requirements

The seminar will be held at the PRA's offices in London and is free to attend. You can register your interest in attending **here**.

Web update: Mortgage Lending and Administration Return (MLAR) data

The FCA, alongside the **Bank of England**, have published the latest Mortgage Lenders and Administrators Statistics covering the period up to the end of Q4 2016. In order to maintain a complete picture of the regulated mortgage sector, the Bank and FCA produce the Statistics on Mortgage Lending as a joint publication.

initial submission, or '2' or above for subsequent resubmissions. If you do not include a version control, you will not be able to submit the return on Gabriel.

- Nil returns are required. You cannot submit the return unless you answer 'Yes' or 'No' to the Nil Return Declaration.

Useful information on REP005 return can be found **here**.

Web page: Investment managers still failing to ensure effective oversight of best execution

We expect firms to deliver consistent best execution for their clients. We were concerned to find that most firms had failed to take on board the findings of our 2014 **thematic review**. The pace of change in improving client outcomes in best execution was slow, with few firms having a cohesive strategy for improving client outcomes. Many firms had not conducted a robust gap analysis since 2014 and therefore much of the poor practice we outlined in our thematic review had not been addressed.

We did see some good practice in firms where best execution was considered throughout the investment decision making process, and not just by the dealing desk. Some dealing teams provided feedback to portfolio managers on their preferred trading strategies.

Web page: Firms continue to fail to meet our expectations on their use of dealing commission

We visited 17 firms to assess their dealing commission arrangements, including how they had responded to our 2014 **discussion paper on the use of dealing commission regime**. The majority of firms we visited are still falling short of our expectations. This includes how firms:

- assess whether a research, good or service received is substantive
- attribute a price or cost to

PS: Handbook changes to reflect the introduction of the Lifetime ISA

We have published our **final rules** for promoting and distributing the Lifetime ISA (LISA). The LISA was announced in the March 2016 Budget and will be available to investors from 6 April 2017. It is intended to help adults under the age of 40 to save or invest flexibly for two purposes: to provide a deposit for a first home or to save for retirement.

substantive research if they receive it in return for dealing commission, and

- record their assessments to demonstrate they're meeting COBS 11.6.3R and are not spending more of their customers' money than necessary.

More work needs to be done by investment management firms to ensure they spend their customers' money with as much care and attention as if it were their own. Despite some progress being made, much of the poor practice we've highlighted previously is still commonplace. This is concerning considering the majority of the rules on the use of dealing commission have been in place for over a decade. Given these findings and the forthcoming implementation of MiFID II, we will continue to focus on the use of dealing commission.

Availability of information in the UK equity IPO process

We are consulting on a package of policy proposals intended to improve the range and quality of information that is available to investors during the UK equity IPO process.

Financial advisers

Web update: FCA Announcement on RAO change by the Treasury

We have published a summary of the Treasury's new investment advice requirements, which give regulated firms more scope to provide information to customers on financial products and services. From 3 January 2018, the requirements for advising on investments will change following an amendment to Article 53 of the **Regulated Activities Order**. The amendment means that most

Wealth managers & private banks

Web page: Investment managers still failing to ensure effective oversight of best execution

We expect firms to deliver consistent best execution for their clients. We were concerned to find that most firms had failed to take on board the findings of our 2014 **thematic review**. The pace of change in improving client outcomes in best execution was slow, with few firms having a cohesive strategy for improving client outcomes. Many firms had regulated firms will be exempt from the need to hold a permission to **advise on investments under Article 53(1)** unless the firm is providing a **personal recommendation**.

PS: Handbook changes to reflect the introduction of the Lifetime ISA
We have published our final rules for promoting and distributing the Lifetime ISA (LISA). The LISA was announced in the March 2016 Budget and will be available to investors from 6 April 2017. It is intended to help adults under the age of 40 to save or invest flexibly for two purposes: to provide a deposit for a first home or to save for retirement.

Retirement Income Market Data
Our latest data bulletin includes market data on retirement income from April to September 2016.

Update to pension redress methodology
We have published a consultation on our proposals to update the methodology used to calculate the redress owed to consumers who were given unsuitable advice to transfer out of a defined benefit (DB) pension scheme. We announced in August 2016 our intention to review the methodology following concerns that there may be more appropriate ways to calculate redress, so that consumers are more likely to replicate the benefits that they held in their DB scheme. The consultation closes on 10 June 2017 and we intend to issue a response in autumn 2017.

not conducted a robust gap analysis since 2014 and therefore much of the poor practice we outlined in our thematic review had not been addressed.

We did see some good practice in firms where best execution was considered throughout the investment decision making process, and not just by the dealing desk. Some dealing teams provided feedback to portfolio managers on their preferred trading strategies.

Web page: Firms continue to fail to meet our expectations on their use of dealing commission
We visited 17 firms to assess their dealing commission arrangements, including how they had responded to our 2014 **discussion paper on the use of dealing commission regime**. The majority of firms we visited are still falling short of our expectations.

This includes how firms:

- assess whether a research, good or service received is substantive
- attribute a price or cost to substantive research if they receive it in return for dealing commission, and
- record their assessments to demonstrate they’re meeting COBS 11.6.3R and are not spending more of their customers’ money than necessary

More work needs to be done by investment management firms to ensure they spend their customers’ money with as much care and attention as if it were their own. Despite some progress being made, much of the poor practice we’ve highlighted previously is still commonplace. This is concerning considering the majority of the rules on the use of dealing commission have been in place for over a decade. Given these findings and the forthcoming implementation of MiFID II, we will continue to focus on the use of dealing commission.

Availability of information in the UK equity IPO process
We are consulting on a package of policy proposals intended to improve the range and quality of information that is available to investors during the UK equity IPO process.

Mortgage advisers

FG: The FPC's recommendation on loan to income ratios in mortgage lending
We have published our finalised guidance on amendments to loan to income (LTI) ratios in mortgage lending. This guidance sets the amendments and clarifies the general guidance we issued in October 2014 about the Financial Policy Committee's Recommendation.

Web update: Mortgage Lending and Administration Return (MLAR) data
The FCA, alongside the **Bank of England**, have published the latest Mortgage Lenders and Administrators Statistics covering the period up to the end of Q4 2016. In order to maintain a complete picture of the regulated mortgage sector, the Bank and FCA produce the Statistics on Mortgage Lending as a joint publication.

Insurers & insurance intermediaries

Changes in renewal rules coming into force soon
On 1 April 2017 new rules about insurance renewals for retail consumers will come into force. The rules will apply when a firm (either the insurer or intermediary) sends a general insurance renewal notice to a consumer.

Firms will be required to:
- Disclose last year's premium at each renewal, so that consumers can easily compare it to the new premium they are offered.
- Encourage consumers to check their cover and shop around for the best deal at each renewal.
- Identify consumers who have renewed four or more consecutive times and give them an additional prescribed message encouraging them to shop around. This includes consumers who renew after 1 April 2017 who may have already renewed four or more times before the rules come into force.

CP: Insurance Distribution Directive (IDD)
We have published the first of two consultation papers on implementing the Insurance Distribution Directive (IDD). The IDD concerns the distribution of insurance and reinsurance, and also covers assisting in the administration and performance of an insurance contract post-sale.

The consultation set out our

proposals for applying the directive and covers the following areas:

- professional and organisational requirements
- complaints handling and out-of-court redress
- professional indemnity insurance
- changes to conduct of business rules (for non-investment insurance contracts)
- the regulatory regime for ancillary insurance intermediaries

Express Gifts Ltd redress

We have confirmed that Express Gifts Ltd, a direct mail order and online business with permission to sell general insurance products, has entered into an agreement with the FCA to provide £12.5m redress to approximately 330,000 customers. These customers were identified by the firm as having been sold insurance between 2005 and 2015 that offered little or no value. While our press release provided wider publicity to consumers who may have been sold such products, it should also remind regulated firms and their trade and market bodies that we expect they ensure that all products they sell provide value for consumers.

Multi-firm work – insurance intermediaries' fees and charges

We have conducted research on fees charged by general insurance intermediaries and insurers. In particular we looked at how a sample of motor insurers and intermediaries disclosed their fees and charges to customers. We also completed a separate desk-based review of cancellation fees.

Our research found a number of poor practices.

- Some firms were not clearly disclosing the fees and charges customers would be charged, which is required by our rules. This was particularly an issue online.
- We saw examples where customers were not told the actual fee, or the basis for how it would be calculated, which is also required by our rules. Instead fees

were expressed as 'up-to' a certain amount.

- There was a great deal of variation in the size of fees charged for what appeared to be the same activity.
- We saw examples where consumers might have to pay fees to both the insurer and the intermediary on cancelling their contract which, taken together, had the potential to be unreasonably high.

We would like to remind firms that they must communicate their fees and charges to their customers in a way which is clear, fair and not misleading. In addition, firms must ensure that the terms in their consumer contracts are fair and transparent under **Part 2 of the Consumer Rights Act 2015.**

Financial Crime Report (REP-CRIM)

We have published **FAQs** to assist firms who report REP-CRIM. Our FAQs include guidance on the reporting obligations for general insurers and general insurance intermediaries.

PS: Handbook changes to reflect the introduction of the Lifetime ISA

We have published our final rules for promoting and distributing the Lifetime ISA (LISA). The LISA was announced in the March 2016 Budget and will be available to investors from 6 April 2017. It is intended to help adults under the age of 40 to save or invest flexibly for two purposes: to provide a deposit for a first home or to save for retirement.

Update to pension redress methodology

We have published a consultation on our proposals to update the methodology used to calculate the redress owed to consumers who were given unsuitable advice to transfer out of a defined benefit (DB) pension scheme. We announced in August 2016 our intention to review the methodology following concerns that there may be more appropriate ways to calculate redress, so that consumers are more likely to replicate the benefits that they held in their DB scheme. The consultation closes on 10 June 2017 and we intend to issue a response in autumn 2017.

Retirement Income Market Data
Our latest data bulletin includes market data on retirement income from April to September 2016.

Consumer credit

Dear CEO letter: Peer-to-peer
We have written to all loan-based crowdfunding platforms to highlight our expectations on facilitating loans to lending businesses. Our Dear CEO letter explains that lending businesses that borrow through a loan based crowdfunding platform and then lend that money to others may be in breach of the Financial Services and Markets Act. In addition, platforms that facilitate this activity are not meeting the requirements around facilitating loans to lending businesses and are not acting in a manner which is consistent with our expectations. We expect loan-based crowdfunding platforms to take action to address these concerns.

Credit unions

There are no new updates for Credit Unions this month.

March news round-up

Events & Publications

2017/2018 fees and levies
Firms that intend to cancel their permission and do not wish to be liable for next year's annual fee (1 April 2017 – 31 March 2018) need to apply to cancel online through **Connect** by 31 March 2017 otherwise they will be liable for the full annual fee.

Receiving FCA updates
The FCA sends email communications on publications, changes and our events for firms. To ensure that you receive these updates, please update your contact details in **Connect**.

Statement on EMIR 1 March 2017 variation margin deadline

FCA and OSC sign Co-operation Agreement to support innovative businesses

Forthcoming Co-operation Agreement: The Financial Services Agency of Japan (JSFA) and the FCA Co-operation framework

Joint FCA and Practitioner Panel Survey
In February's regulation round up, we communicated that we will be conducting a joint Practitioner Panel and FCA survey to understand the views of regulated firms.

The survey is now underway. If you have received an invitation please take the time to fill it in as we would welcome your feedback. The survey will close at the end of March and we will publish the results in the third quarter of 2017.

You can see the results of last year's Panel Survey **here** and some highlights from the Firm Feedback Questionnaire in the latest Data Bulletin **here**.

Data Bulletin: Issue 8
This issue focuses on insights from our **consumer contact centre**. Handling more than 100,000 contacts a year, the contact centre is the main point of contact for consumers of financial services firms who want to interact with us.

The data shows that consumers contact us about all types of financial products, with the top three queries being on:
- firm registrations
- customer service issues
- scams or potential scams

The bulletin also includes the latest trends in the retirement income market during the period April 2016 to September 2016, showing how consumers accessed their pension pots and in what circumstances a financial adviser was used.

Quarterly Consultation Paper

Financial Crime Report (REP-CRIM)
We have published **FAQs** to assist firms who report REP-CRIM. Our FAQs include guidance on the reporting obligations for general insurers and general insurance intermediaries.

GC: Treatment of politically exposed persons (PEPs)

PS: Changes to DTR 2.5: delay in the disclosure of inside information

Suspicious transaction and order reports: updated with STOR numbers

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