Financial Conduct Authority

FCA FINANCIAL CONDUCT AUTHORITY

Regulation round-up

April 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 April issue of *Regulation round-up*

Tracey McDermott, Director of Supervision – investment, wholesale & specialists

'...for smaller firms specifically, one of our key aims is to ensure that we increase our focus on engagement and education....'

In our 2015/16 business plan we set out a new structure for our Authorisations and Supervision divisions. This structure has been developed to support our new strategy, which aims to ensure we have a sustainable model of regulation for the 73,000 firms we now supervise with a greater focus on sector or market based approaches to regulation and more flexibility in how we use our resources.

Our split of the divisions has therefore sought to retain our sector focus and expertise, and to bring together sectors with common themes. Supervision Retail and Authorisations - which will be led by Linda Woodall on an interim basis - will cover the sectors with the largest mass market footprint; retail banking; retail lending; general insurance and protection. The Supervision Investment, Wholesale and Specialists Division - which I lead - will cover investment, wholesale banking and markets. Within these divisions, Philip Salter will cover the Retail Lending Sector on an interim basis, while Rob Taylor will lead the new Investment Management department, which brings together Asset Management and Wealth Management. There will also be a number of cross-divisional teams that will support both divisions.

The structure is, however, only part of the changes we are making. To increase our flexibility, and to ensure that we are able to focus our resources on the areas where we see the greatest potential risks to our objectives, we will also be evolving our supervisory model over the next few months. Some of the areas we are looking at are; how we classify firms; how we take a more sectoral approach to supervision of large firm groups; how, for large and small firms, we can make more use of cross-firm work, enabling us to communicate more examples of good and bad practice we find through our work. This may mean that, over time, firms will see some changes to how they are supervised by us.

For smaller firms specifically, one of our key aims is to ensure that we increase our focus on engagement and education, building on the success of work such as our Positive Compliance workshops. We will also be looking to improve our website to make it easier to find the information you need, and we will also look to make more creative use of technology, such as webinars, to assist us in reaching large numbers of firms. We welcome your ideas and feedback on how we can make our communications as effective as possible.

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Hot topic:
Mortgage Credit Directive (MCD) - second charge lending

The implementation of the MCD on 21 March 2016 is the date on which second charge mortgages are transferred from the consumer credit regime to the mortgage regime. This means that to carry out second charge mortgage business after this date, lenders, administrators and intermediaries have to be authorised and hold the correct mortgage permissions.

We are now open to accept applications from second charge firms applying for regulated mortgage permissions.

If your firm does second charge mortgages and no other consumer credit business you must apply via the *Getting Authorised* section of our website.

If your firm does second charge mortgages and consumer credit business, apply for authorisation using our Connect system.

More information is available on Consumer credit authorisation.

Find out more

Banks & building societies

PS: Mortgage Credit Directive

We have published a Policy Statement setting out our final rules for implementation of the Mortgage Credit Directive (MCD) and the new regime for second charge mortgages. The MCD introduces a European framework of conduct rules for firms selling both first and second charge mortgages. In many ways, the MCD is designed to achieve similar consumer protection outcomes as our existing mortgage rules. In view of the overlap between the MCD and our existing mortgage regime, our consultation proposals aimed to implement the Directive using provisions in our existing rules. Where this was not possible, we proposed that we should copy out the Directive. This approach is designed to cause the least possible disruption to the market, while ensuring that consumers are appropriately protected.

Clydesdale Bank fined for serious failings in PPI complaint handling

In mid-2011, Clydesdale Bank implemented inappropriate policies which meant that its Payment Protection Insurance (PPI) complaint handlers were not taking into account all relevant documents when deciding how to deal with complaints. In addition, Clydesdale Bank provided false information to the Financial Ombudsman Service in response to requests for evidence of the records Clydesdale held on PPI policies sold to individual customers. We have fined Clydesdale Bank £20,678,300 for serious failings in its PPI complaint handling processes between May 2011 and July 2013. This is the largest ever fine we have imposed for failings relating to PPI.

BNY Mellon fined £126m for CASS failures

Investment managers & stockbrokers (retail & wholesale)

Prudential Supervision Forum

We are holding our first FCA Prudential Supervision Forum on Wednesday 13 May. 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

BNY Mellon fined £126m for CASS failures

We have fined BNY Mellon £126 million for failing to comply with our Client Assets Sourcebook (CASS), which applies to safe custody assets and to client money. The custody rules are there to protect safe custody assets if a firm becomes insolvent and to ensure those assets can be returned to clients as quickly and easily as possible. Georgina Philippou, acting Director of Enforcement and Market Oversight, said: "The firm's failure to comply with our rules, including their failure to adequately record, reconcile and protect safe custody assets was particularly serious given the systemically important nature of the firms and the fact that safeguarding assets is core to their business".

Updates to FATCA reporting requirements

Ahead of the Foreign Account Tax Compliance Act (FATCA) return deadline of 31 May, two recent updates have changed the reporting criteria. Visit

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the **HMRC website** for more info.

Financial advisers

DP: MiFID II

In this paper, we focus on the areas where we have discretion 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 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.

Wealth managers & private bankers

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Insurers & insurance intermediaries

PS: Solvency II - COBS rules

The Solvency II Directive is being transposed into the UK by the FCA and the Prudential Regulation Authority (PRA). It comes into effect for firms from 1 January 2016. We are changing our rules, both to transpose some of the articles and to harmonise them with the Directive.

CP: Solvency II - Approved Persons Regime

In a joint consultation with the Prudential Regulation Authority (PRA), we are proposing changes to our regime for regulating key individuals in firms subject to the Solvency II Directive. We are also proposing changes to the governance arrangements for Solvency II firms. Please send us your responses by 15 May.

Consumer credit

PS: Mortgage Credit Directive

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Credit unions

Our Contact Centre is here for you

We know that it is important for all firms to have a contact as changes in regulation can have a huge impact on your business. Alongside communications such as this round-up, the Contact Centre is here to help answer your regulatory questions. The second charge mortgages into our mortgage regime. This change will apply to firms who currently hold interim permission for carrying out second charge lending.

Speech: Journey to a sustainable credit market

Christopher Woolard, Director of Strategy & Competition, reflected on a year of consumer credit regulation in his speech at the Credit Summit.

Contact Centre deals with on average 15,000 calls and correspondence each month. Our people have an in-depth knowledge of the Credit Unions sector and will help with your issues or concerns. You may have met some of us on our stands at financial services exhibitions. So if you need to talk us - whether it's about regulatory reporting, fees or anything else - please contact us.

April news round-up

GABRIEL reporting peak period

GABRIEL has four peak reporting periods each year, the current peak spans a six week period which started on 1st April 2015. The number of firms reporting data through GABRIEL has increased significantly during the past year and during peak times (between 9am to 11am and 3pm to 5pm each day) the response of GABRIEL can slow considerably. Here are some tips to help you complete your reporting:

- prepare your reports in advance, using our Handbook guidance to help you, if necessary
- complete your firm's reporting as early as possible in the period
- avoid using GABRIEL during the daily peak hours i.e. mid-morning and mid-afternoon
- when you have finished your session, click on the 'Log Out' button before closing the browser; this will ensure your session is closed correctly

Complaints data

Our latest publication of complaints data shows financial services firms received 2,183,540 new complaints (including those related to PPI) between July and December 2014. Overall complaints decreased by 7% compared to the previous six months and by 12% from the same period last year. View

Events & publications

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Primary Market Bulletin No.11

We are consulting on the following changes that we are proposing to make to the Knowledge Base. This guidance is likely to be of most relevance to issuers of transferable securities and their advisers, investors and other persons who interact with the UK Listing Authority.

our **infographic** for a high-level overview of our findings.

Our Business Plan 2015/16 - we want your views

Last month we published our **Business Plan.** We are always looking for ways to improve our publications, so we are seeking your feedback via this short **survey**. We would like to hear about what you found useful, if the content was clear, and ideas on how we can improve our Business Plan next year.

Competition concurrency powers

As of 1 April 2015, we now have concurrent competition powers. These powers give us the ability to enforce against infringements of competition law, conduct market studies and refer markets to the Competition Markets Authority (CMA) for in-depth investigation. These are in addition to our current FSMA powers, and sit alongside - concurrently to - the CMA's equivalent powers.

The Financial Conduct Authority
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