

# This week at the UK regulators

## Thirty second guide: The week in overview

The most high profile development this week has been the announcement of further details of the FCA's and PRA's proposals in relation to individual accountability in banks, with three further consultation papers added to the already substantial raft of new rules and guidance. The FCA, underlining the centrality of these proposals to its efforts to increase levels of consumer confidence, has outlined the timetable for the eventual introduction of the regimes by March 2016. Concluded enforcement cases show that the FCA is committed to tackling misconduct by individuals under the existing approved persons regime, imposing a substantial financial penalty on one former director of an investment firm (now in liquidation) for mis-selling related failings and separately on a former compliance officer in another firm for failures to properly oversee compliance systems and controls.

Away from its own enforcement processes, the FCA has secured the dismissal of an appeal relating to claims by a former independent financial adviser that the FSA subjected him to harassment.

In other developments, the FCA has followed up its statements of intent in relation to the regulation of high-cost short term lenders, publishing the findings of a thematic review showing widespread non-compliance in relation to the handling of arrears and forbearance. It has also published new guidance in relation to the use of social media by firms, has reviewed and revised working arrangements with the PRA and has released details of a study into the effectiveness of current account switching services.

### FCA bans and fines former CEO of Gracechurch Investments Limited

The FCA has (on 13 March) banned Sam Kenny, the former CEO of Gracechurch Investments Limited ("Gracechurch"), from holding a position in the financial services industry and fined him £450,000 after the firm mis-sold small-capitalised stocks. Gracechurch (now in liquidation) was publicly censured and had its Part IV permission cancelled in December 2012.

<http://www.fca.org.uk/your-fca/documents/final-notices/2015/sam-thomas-kenny>

<http://www.fca.org.uk/your-fca/documents/final-notices/2012/fsa-final-notice-2012-gracechurch-investments-limited-in-liquidation>

### FCA fines and prohibits former compliance director

The FCA has fined Stephen Bell, former compliance officer of Financial Limited and Network Limited, £33,800 and prohibited him from performing the compliance oversight function. The FCA found systemic weakness in the design and execution of compliance systems and controls.

<http://www.fca.org.uk/your-fca/documents/final-notices/2015/stephen-edward-bell>

### Court of Appeal rejects harassment claim

The Court of Appeal has (on 13 March) handed down a judgment dismissing an appeal pursued by Mr John Calland, a retired independent financial adviser, against decisions of two judges in the County Court to refuse to award him damages for claimed harassment by the FSA. The claim related to attempts by the FSA to contact him in connection with a review into pensions mis-selling during the 1990s. The Court of Appeal, granting summary judgment, found that a letter, telephone call and e-mail to Mr Calland seeking his co-operation in relation to a review did not amount to harassment but was rather a legitimate part of the process of assessing compensation.

Case reference: *John Calland v Financial Conduct Authority* [2015] EWCA Civ 192

### FCA clarifies approach to individual accountability

Further to its previous proposals released in July and December last year, the FCA has (on 16 March) published two consultation papers (CP15/9 and 15/10) on strengthening accountability in banking and a guidance

consultation paper (GC15/1) on risks to customers from performance management at firms.

CP15/9 looks at a new regulatory framework for individuals, and sets out how the FCA will implement the Senior Managers Regime as well as providing further information on the FCA's plans for the Certification Regime and new Conduct Rules. CP15/10 (which is also PRA9/15) consults on proposals to apply the new individual accountability regime to individuals working in UK branches of foreign banks (incoming branches).

Unveiling the papers in a speech on 16 March, the FCA's CEO Martin Wheatley referred to the proposed new arrangements as a crucial step towards banks achieving "reputational escape velocity" after the difficulties caused by the financial crisis and successive instances of high profile enforcement action. He also confirmed the timing for the introduction of the new regimes, stating that final rules will be published this summer, that firms will be required to submit "grandfathering" notifications in February 2016 and that the regimes are due to be launched on 7 March 2016.

For full details of the regimes, see our Clifford Chance briefing.

<http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-09>

<http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-10>

<http://www.fca.org.uk/your-fca/documents/guidance-consultations/gc15-01>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhlNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGgLnALtlyZe7YsaJfAqY7dHpxvSAvxk%2BHp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=416740>

### **FCA publishes thematic review on high-cost short-term lenders**

The FCA has (on 10 March) published the findings of its thematic review (TR15/3) on arrears and forbearance in high-cost short-term credit. The review looks at how payday lenders and other high-cost short-term credit providers collect debts and treat borrowers who experience financial difficulty. The review, which followed its statement in April 2014 that one of its key priorities was tackling poor practice in this market, found that many firms in the sector

continue to fail to meet required standards and confirms that some investigations in respect of particular firms are ongoing.

<http://www.fca.org.uk/your-fca/documents/thematic-reviews/tr15-03>

### **FCA publishes social media guidance**

The FCA has (on 13 March) published Finalised Guidance FG15/4 on its supervisory approach to financial promotions in social media. This follows a consultation in 2014 which sought views on issues including re-tweeting, forwarding and sharing, the use of images, the use of hashtags to distinguish tweets as promotions and approval and record-keeping.

<http://www.fca.org.uk/your-fca/documents/finalised-guidance/fg15-04>

### **FCA and Bank of England review MOU**

The FCA and the Bank of England have reviewed the Memorandum of Understanding setting out how they cooperate with one another in relation to the supervision of markets and market infrastructure. The review concluded that arrangements for cooperation have worked well, with appropriate coordination and no material duplication. The FCA and Bank of England emphasised their continued commitment to effective cooperation and to staff working together to take forward those suggested improvements identified by industry and the necessary revisions to the Memorandum of Understanding and supporting coordination processes in light of the new Payment Systems Regulator.

<http://www.fca.org.uk/news/fca-and-boe-review-mou-for-supervision-of-markets-and-market-infrastructure>

### **FCA finds account switching service is working well for consumers**

The FCA has reviewed the Current Account Switching Service and found that it is working well for consumers who choose to use it. Its report has found though that there is a lack of consumer awareness of the service and that some consumers surveyed did not have confidence in the service.

<http://www.fca.org.uk/your-fca/documents/research/cass-report>

## FCA warnings

Name of firm	Date of warning	Details
Kucher Partners, LLC	12 March 2015	Not authorised <a href="http://www.fca.org.uk/news/warnings/kucher-partners-llc">http://www.fca.org.uk/news/warnings/kucher-partners-llc</a>
Oakbrook Finance Limited	11 March 2015	Clone firm <a href="http://www.fca.org.uk/news/warnings/oakbrook-finance-limited-clone-cc">http://www.fca.org.uk/news/warnings/oakbrook-finance-limited-clone-cc</a>
A One Loans	11 March 2015	Not authorised <a href="http://www.fca.org.uk/news/warnings/a-one-loans-cc">http://www.fca.org.uk/news/warnings/a-one-loans-cc</a>
Chartis Mutual Group	11 March 2015	Not authorised <a href="http://www.fca.org.uk/news/warnings/chartis-mutual-group">http://www.fca.org.uk/news/warnings/chartis-mutual-group</a>
www.moneysolutions.uk.com	11 March 2015	Clone firm <a href="http://www.fca.org.uk/news/warnings/moneysolutions-uk-com-clone-cc">http://www.fca.org.uk/news/warnings/moneysolutions-uk-com-clone-cc</a>
British Debt Advice	11 March 2015	Not authorised <a href="http://www.fca.org.uk/news/warnings/british-debt-advice-cc/">http://www.fca.org.uk/news/warnings/british-debt-advice-cc/</a>

## Policy developments

		FCA	PRA
Proposed developments			
		Deadline for responses	
<b>Consultation papers</b>	<p>The FCA has (on 16 March) published two Consultation Papers on strengthening accountability in banking. CP15/9 looks at a new regulatory framework for individuals. CP15/10 (which is also PRA9/15) consults on proposals to apply the new individual accountability regime to individuals working in UK branches of foreign banks (incoming branches).</p> <p><a href="http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-09">http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-09</a></p> <p><a href="http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-10">http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-10</a></p>	<p>CP 15/9:16 June 2015</p> <p>CP 15/10:25 May 2015</p>	
<b>Guidance consultation</b>	<p>The FCA has (on 16 March) published Guidance Consultation GC15/1 on risks to customers from performance management at firms.</p>	15 May 2015	

	<a href="http://www.fca.org.uk/your-fca/documents/guidance-consultations/gc15-01">http://www.fca.org.uk/your-fca/documents/guidance-consultations/gc15-01</a>			
<b>Thematic Reviews</b>	The FCA has (on 10 March) published Thematic Review TR15/3 on arrears and forbearance in high-cost short-term credit.  <a href="http://www.fca.org.uk/your-fca/documents/policy-statements/ps15-06">http://www.fca.org.uk/your-fca/documents/policy-statements/ps15-06</a>			
<b>Finalised Policy and Guidance</b>				
		<b>Implementation /effective date</b>		
<b>Policy statements</b>	The FCA has (on 10 March) issued Policy Statement PS15/6 on bringing additional benchmarks into the regulatory and supervisory regime.  <a href="http://www.fca.org.uk/your-fca/documents/policy-statements/ps15-06">http://www.fca.org.uk/your-fca/documents/policy-statements/ps15-06</a>	1 April 2015		
<b>Finalised guidance</b>	The FCA has (on 13 March) published Finalised Guidance FG15/4 on its supervisory approach to financial promotions in social media. This follows a consultation in 2014 which sought views on issues including re-tweeting, forwarding and sharing,	13 March 2015		

	<p>the use of images, the use of hashtags to distinguish tweets as promotions and approval and record-keeping.</p> <p><a href="http://www.fca.org.uk/your-fca/documents/finalised-guidance/fg15-04">http://www.fca.org.uk/your-fca/documents/finalised-guidance/fg15-04</a></p>			
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