

This week at the UK regulators

Thirty second guide: The week in overview

Headlines were dominated last week by the imposition by the FCA of its largest fine in connection with retail conduct breaches for shortcomings in PPI complaints handling processes. In other developments, the FCA has announced the appointment of its new Director of Enforcement and Market Oversight, and Director of Risk, with the vacancies filled by senior regulators and industry figures from Hong Kong and the US, respectively. It has also announced the promotion of a number of individuals already at the FCA to senior positions, whilst the PRA has appointed a new Executive Director for Banking, Payments and Financial Resilience. The FCA has also announced the findings of its thematic review into insurance outsourcing arrangements, reporting shortcomings in firms' understanding of the risks posed by such arrangements and the steps they are taking to mitigate it.

Further afield, the final text of the Fourth Money Laundering Directive has been published in the Official Journal, meaning that the two year period for EU member states to transpose its provisions into their national laws has now begun. The final text of the new EU Regulation on Information Accompanying Funds has also been published.

FCA imposes fine for PPI complaints breaches

The FCA has (on 4 June) imposed a financial penalty of £117,430,600 on Lloyds Bank PLC, Bank of Scotland PLC and Black Horse Limited (together Lloyds Banking Group ("LBG")) for breaching Principle 6 (customers' interests) of the Principles for Businesses in relation to the handling of customers' complaints in connection with payment protection insurance ("PPI") between March 2012 and May 2013. The FCA identified shortcomings in guidance provided to complaints handlers setting out principles according to which they were to determine complaints and found that complaints handlers were not notified of known issues in LBG's PPI sales process.

The penalty imposed, which was calculated by reference to the potential redress payable to customers whose PPI complaints were rejected during the period covered by the action, was reduced by 30 per cent as LBG settled at stage one of the FCA's executive settlement procedures. The Final Notice issued by the FCA acknowledges that LBG has made significant improvements to its complaints handling processes and has undertaken an extensive remediation programme, including re-reviewing or automatically upholding all complaints fully rejected during the period covered by the action and providing redress to customers.

<http://www.fca.org.uk/static/fca/documents/lloyds-banking-group-2015.pdf>

FCA and PRA name new senior figures

The FCA has (on 5 June) announced the appointments of Mark Steward as Director of Enforcement and Market Oversight and Barbara Frohn as Director of Risk.

Mr Steward is currently Director of Enforcement at the Hong Kong Securities and Futures Commission ("SFC"). During his time in that role, he has been noted for his robust approach and staunch defence of the SFC's strategy of using criminal and regulatory enforcement powers in combination with one another, including in high profile cases against former senior executives found to have been involved in insider dealing.

Ms Frohn is currently Managing Director for Public Policy for Santander US. She is currently seconded to the Institute of International Finance in Washington, D.C., and has previously acted as an official adviser to the European Parliament.

Both are expected to take up their new roles in early autumn.

In addition, the FCA has announced several internal moves, with Marc Teasdale becoming Director of Market Oversight, Jo Hill moving to Director of Markets Intelligence, Data and Analysis and Andrew Whyte appointed to the post of Director of Communications within the Strategy and Competition Division.

The PRA has (on 5 June) announced the appointment of Andrew Hauser as Executive Director for Banking, Payments and Financial Resilience, effective from 1

September. He has been at the Bank of England since 1992, and has most recently occupied the post of Director for Markets Strategy, where he led the Fair and Effective Markets Review Secretariat.

<http://www.fca.org.uk/news/fca-appoints-new-director-of-enforcement-and-market-oversight-and-director-of-risk>

<http://www.bankofengland.co.uk/about/Pages/people/biographies/hauser.aspx>

FCA finds heightened risks in insurance outsourcing arrangements

The FCA has (on 2 June) published the findings of its thematic review into delegated authority arrangements in the general insurance market. The study found that the outsourcing of functions from one party to another can create additional complexity and attendant risks of poor customer outcomes. It found that many firms of various sizes had not adequately considered their regulatory obligations, both under high level principles and more specific rules concerning outsourcing. Particular issues identified in relation to insurers included failures to regard arrangements amounting to outsourcing as such. The FCA also found failures to exercise appropriate levels of

oversight or to conduct sufficiently thorough audits. Specific points for improvement for both insurers and intermediaries included failures to properly allocate responsibility or to recognise the risks associated with adding complexity to the distribution chain and failures to maintain appropriate complaints handling processes. The FCA has stated that it will continue to engage with the industry, both bilaterally with individual firms in relation to particular shortcomings identified and more broadly with the whole insurance industry through supervisory work and discussions with trade bodies, and will conduct further work to assess whether any consumer detriment has occurred.

<http://www.fca.org.uk/static/fca/documents/thematic-reviews/tr15-07.pdf>

FCA imposes temporary prohibition on short selling

The FCA has (on 5 June) imposed a temporary prohibition on short selling in shares in SAIPEM following a decision made by another EU competent authority. The prohibition lapsed at 23:59 on 5 June.

<http://www.fca.org.uk/news/temporary-prohibition-of-short-selling-saipem-050615>

FCA warnings

Name of firm	Date of warning	Details
Vanguard Asset Management	2 June 2015	Clone firm http://www.fca.org.uk/news/warnings/vanguard-asset-management-clone
Professional Investment Consultants	2 June 2015	Clone firm http://www.fca.org.uk/news/warnings/professional-investment-consultants-clone

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers	<p>The FCA has (on 5 June) published its quarterly consultation paper (CP 15/19) setting out proposed minor amendments to:</p> <ul style="list-style-type: none"> ■ Listing Rules, Disclosure and Transparency Rules, Senior Management Arrangements Systems and Controls and Code of Practice and Statements of Principle for Approved Persons sections of the FCA Handbook as the result of the transposition of the UK Corporate Governance Code (5 August 2015) ■ various rules relating to self-invested personal pension scheme operators (5 August 2015) ■ Mortgage Conduct of Business sourcebook and Training and Competence sections of the FCA's Handbook (5 July 2015) ■ various rules as the result of the coming into force of the Consumer Rights Act (5 July 2015) ■ various sections of the FCA Handbook as the result of HM Treasury's SME financing proposals (5 July 2015) <p>http://www.fca.org.uk/static/fca/documents/cp1519.pdf</p>	<p>See dates in column opposite for deadlines for responses in respect of individual sections</p>	19 June 2015	<p>The PRA has (on 2 June) published a consultation paper (CP 21/15) setting out technical amendments to rules relating to depositor and policyholder protection.</p> <p>http://www.bankofengland.co.uk/pradocuments/publications/cp/2015/cp2115.pdf</p>

	<p>The FCA has (on 3 June) published a consultation paper (CP 15/18) on proposed amendments to rules contained in chapter 8 of the Code of Market Conduct ("MAR") relating to the issue of benchmark administrators' market power. The new rules are aimed at limiting the potential for benchmark administrators to misuse the substantial market power they hold and at ensuring fair, reasonable and non-discriminatory access to regulated benchmarks.</p> <p>http://www.fca.org.uk/static/fca/documents/consultation-papers/cp15-18.pdf</p>	3 August 2015	10 July 2015	<p>The PRA has (on 1 June) published a consultation paper (CP 20/15) seeking views on two draft supervisory statements on internal model reporting codes and components and life product codes.</p> <p>http://www.bankofengland.co.uk/pradocuments/publications/cp/2015/cp2015.pdf</p>
Finalised policy and guidance				
		Implementation date		
Policy statements	<p>Further to consultation earlier this year (in consultation paper CP 15/3), the FCA has (on 5 June) published a policy statement (PS 15/11) setting out final rules implementing the Mortgage Credit Directive Order 2015.</p> <p>http://www.fca.org.uk/static/fca/documents/ps15-11.pdf</p>	21 March 2016		
Supervisory statements			1 June 2015	<p>The PRA has (on 1 June) published a supervisory statement (SS 23/15) on supervisory approval for volatility adjustment for Solvency II firms and Lloyd's.</p> <p>http://www.bankofengland.co.uk/pradocuments/publications/ss/2015/ss2315.pdf</p>

Further afield

EU Fourth Money Laundering Directive published in Official Journal

The European Commission has (on 5 June) announced the publication of the text of the finalised Fourth Money Laundering Directive ("4MLD") and the Regulation on Information Accompanying Funds in the Official Journal.

EU member states will now have two years to transpose the provisions of 4MLD into their national laws.

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=EN

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0001&from=EN

Contacts

Roger Best
Partner

E: roger.best
@cliffordchance.com

Helen Carty
Partner

E: helen.carty
@cliffordchance.com

Carlos Conceicao
Partner

E: carlos.conceicao
@cliffordchance.com

Dorian Drew
Partner

E: dorian.drew
@cliffordchance.com

Jeremy Kosky
Partner

E: jeremy.kosky
@cliffordchance.com

Rae Lindsay
Partner

E: rae.lindsay
@cliffordchance.com

Kelwin Nicholls
Partner

E: kelwin.nicholls
@cliffordchance.com

Martin Saunders
Partner

E: martin.saunders
@cliffordchance.com

Judith Seddon
Partner

E: judith.seddon
@cliffordchance.com

Luke Tolaini
Partner

E: luke.tolaini
@cliffordchance.com

Editor

Chris Stott
Lawyer

E: chris.stott
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ
© Clifford Chance 2013

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh* ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

*Clifford Chance has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.