

# This week at the UK regulators

## Thirty second guide: The week in overview

Headlines last week were dominated by the conviction and sentencing of four individuals in respect of bench mark rate manipulation. In other developments, the FCA embarked upon a review of crowdfunding rules implemented several years ago and published new guidance about outsourcing of IT services. The PRA published a number of consultation papers on ring-fencing, reporting and Solvency II related matters, and published finalised guidance on other ring-fencing and reporting matters.

Further afield, the UK Serious Fraud Office concluded the second deferred prosecution agreement in the UK and a judgment was publicised illustrating the use by the US Department of Justice of anti-money laundering legislation to take action against parties located outside the US.

### Ex-traders and submitters jailed for bench mark rate manipulation

As has been widely reported in the press, on 8 July, four individuals were sentenced for offences relating to the manipulation of bench mark rates between June 2005 and September 2007. Ex-traders Jay Merchant and Alex Pabon were sentenced to six and a half years and two years and nine months imprisonment respectively. Ex-submitters Jonathan Mathew and Peter Johnson were each sentenced to four years imprisonment. Mr Johnson had previously pleaded guilty to conspiracy to defraud. The other individuals were convicted earlier last week following a trial.

<https://www.judiciary.gov.uk/wp-content/uploads/2016/07/r-johnson-and-others-sentencing.pdf>

### FCA calls for input on crowdfunding rules

The FCA has (on 8 July) published a paper calling for inputs in relation to crowdfunding rules introduced by it in

2014, when it also committed to a post-implementation review in 2016 to ascertain if further changes are required. The paper charts the recent and anticipated growth of the sector and acknowledges the possibility that further changes may be required in the light of developments arising from the vote to leave the EU. The FCA has invited responses by 8 September. It states that these responses, together with other discussions it is holding with interested parties, will inform its approach to the next stages of its review.

<http://www.fca.org.uk/static/documents/call-input-crowdfunding-rules.pdf>

<http://www.fca.org.uk/static/documents/policy-statements/ps14-04.pdf>

## Policy developments

FCA		PRA	
<b>Proposed Developments</b>			
		<b>Implementation/effective date</b>	

<b>Consultation Papers</b>	<p>The FCA has (on 4 July) published its quarterly consultation paper (CP 16/17) , proposing the following changes arising from/in relation to:</p> <ul style="list-style-type: none"> <li>• the Insurance Act 2015;</li> <li>• mortgages and home finance activity;</li> <li>• changes to the Disclosure and Transparency Rules;</li> <li>• Training and Competence sourcebook (12 August 2016);</li> <li>• disapplication of CASS audit requirements to certain debt management firms</li> <li>• distribution and promotion of credit union deferred shares and subordinated debt (1 August 2016);</li> <li>• a new 'pooled investment' definition for certain marketing restriction rules;</li> <li>• changes to certain reporting requirements in the Supervision manual; and</li> <li>• transparency requirements for AIFMs.</li> </ul> <p><a href="http://www.fca.org.uk/static/documents/consultation-papers/cp16-17.pdf">http://www.fca.org.uk/static/documents/consultation-papers/cp16-17.pdf</a></p>	<p>1 September 2016 (except where other dates shown)</p>	<p>7 October 2016</p>	<p>The PRA has (on 7 July) published a consultation paper (CP 25/16) on residual and reporting matters relating to the implementation of ring-fencing.</p> <p><a href="http://www.bankofengland.co.uk/pr/Pages/publications/cp/2016/cp2516.aspx">http://www.bankofengland.co.uk/pr/Pages/publications/cp/2016/cp2516.aspx</a></p>
			<p>5 September 2016</p>	<p>The PRA has (on 4 July) published a consultation paper (CP 24/16) on credit union regulatory reporting.</p> <p><a href="http://www.bankofengland.co.uk/pr/Documents/publications/cp/2016/cp2416.pdf">http://www.bankofengland.co.uk/pr/Documents/publications/cp/2016/cp2416.pdf</a></p>
			<p>4 August 2016</p>	<p>The PRA has (on 4 July) published a consultation paper (CP 23/16) in relation to</p>

				<p>external audit of the public disclosure requirement under Solvency II.</p> <p><a href="http://www.bankofengland.co.uk/pr/Documents/publications/cp/2016/cp2316.pdf">http://www.bankofengland.co.uk/pr/Documents/publications/cp/2016/cp2316.pdf</a></p>
<b>Finalised policy and guidance</b>				
		<b>Implementation/effective date</b>		
<b>Policy statements</b>			7 July 2016	<p>The PRA has (on 7 July) published a policy statement (PS 21/16) on ensuring operational continuity in resolution.</p> <p>The paper incorporates a supervisory statement (SS 9/16) on ensuring operational continuity in resolution.</p> <p><a href="http://www.bankofengland.co.uk/pr/Documents/publications/ss/2016/ss916.pdf">http://www.bankofengland.co.uk/pr/Documents/publications/ss/2016/ss916.pdf</a></p>
			7 July 2016	<p>The PRA has (on 7 July) published a policy statement (PS 20/16) on the implementation of ring-fencing, specifically on prudential requirements, intragroup arrangements and financial market infrastructure.</p> <p>The paper incorporates updates to two supervisory statements, SS15/13 on groups and SS 16/13 on large exposures.</p> <p><a href="http://www.bankofengland.co.uk/pr/Documents/publications/ps/2016/ps2016.pdf">http://www.bankofengland.co.uk/pr/Documents/publications/ps/2016/ps2016.pdf</a></p>
<b>Finalised Guidance</b>	The FCA has (on 7 July) published finalised guidance (FG 16/5) for firms outsourcing to the 'cloud' and third party IT services. The guidance, published as part	7 July 2016		

	<p>of 'Project Innovate' responds to feedback to the FCA that firms are uncertain as to whether cloud based solutions are permissible. The guidance is not binding but the FCA indicates that it sees no reason why cloud based solutions should not be used provided firms implement appropriate safeguards and states that adherence to the guidance will generally be regarded as indicative of compliance with applicable rules.</p> <p><a href="http://www.fca.org.uk/static/fca/article-type/news/fq16-5.pdf">http://www.fca.org.uk/static/fca/article-type/news/fq16-5.pdf</a></p>			
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## Further afield

### UK Serious Fraud Office concludes second deferred prosecution agreement

Further to the first deferred prosecution agreement ('DPA') to be concluded in the UK in November 2015, the UK Serious Fraud Office ('SFO') has (on 8 July) released details of a further (separate) settlement entered into with a different entity, whose identity has not yet been revealed due to ongoing proceedings against associated individuals. The case concerned conduct amounting to offences under section 7 of the Bribery Act 2010 (failure to prevent bribery) and predecessor anti-bribery legislation between June 2004 and June 2012. The DPA requires the company concerned to pay disgorgement of £6,553,085 (of which £1,953,085 will be paid by the company's US registered parent company, reflecting a significant proportion of dividends received) and a financial penalty of £352,000. It is also required to cooperate fully with the SFO, to provide a report on all third party intermediary transactions and to report regularly on the completion of its existing anti-bribery and corruption controls, policies and procedures.

<https://www.sfo.gov.uk/download/xyz-preliminary-redacted/?wpdmdl=13249>

### US court confirms extraterritorial effect of anti-money laundering laws

A judgment from the US Court of Appeals for the Second Circuit handed down on 20 June but published more widely last week has confirmed that US prosecutors are ready and

willing to use anti-money laundering legislation to take action against parties located outside the US. The case of *RJR Nabisco, Inc v European Community* concerned the question of whether money laundering occurring outside the US was a predicate offence for the purposes of the Racketeer Influenced and Corrupt Organisations Act ('RICO'). The Court held that it was, thus enabling the US Department of Justice to take action. Further cases where entities based outside the US are pursued by US authorities using RICO based on breaches of anti-money laundering legislation are expected to follow.

[http://www.supremecourt.gov/opinions/15pdf/15-138\\_5866.pdf](http://www.supremecourt.gov/opinions/15pdf/15-138_5866.pdf)

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