

This week at the UK regulators

Thirty second guide: The week in overview

In a statement following the result of the referendum on Britain's membership of the EU, the FCA reminded firms that they must continue to abide by any financial regulation derived from EU law and continue with implementation plans for legislation still to come into effect. The FCA Chairman gave a speech in which he said that the FCA and the financial services industry should seek to work together wherever possible "*at this important moment in the UK's history*".

Andrew Bailey joined the FCA as its Chief Executive Officer from his previous role at the Bank of England and the PRA.

The FCA continued with the normal business of enforcement and policy activity, including updates to the Handbook resulting from legislative changes in June and to the Decision Procedure and Penalties manual and Enforcement Guide to implement the EU Market Abuse Regulation. The FCA also published (with HM Treasury) terms of reference for the Financial Advice Working Group, which will implement certain of the recommendations of the Financial Advice Market Review from March 2016.

FCA publishes statement on EU referendum result

The FCA has (on 24 June) issued the following statement on the European Union referendum result:

The FCA is in very close contact with the firms we supervise as well as the Treasury, the Bank of England and other UK authorities, and we are monitoring developments in the financial markets.

Much financial regulation currently applicable in the UK derives from EU legislation. This regulation will remain applicable until any changes are made, which will be a matter for Government and Parliament.

Firms must continue to abide by their obligations under UK law, including those derived from EU law and continue with implementation plans for legislation that is still to come into effect.

Consumers' rights and protections, including any derived from EU legislation, are unaffected by the result of the referendum and will remain unchanged unless and until the Government changes the applicable legislation.

The longer term impacts of the decision to leave the EU on the overall regulatory framework for the UK will depend, in part, on the relationship that the UK seeks with the EU in the future. We will work closely with the Government as it confirms the arrangements for the UK's future relationship with the EU.

<http://www.fca.org.uk/news/european-union-referendum-result-statement>

FCA Chairman speaks about "Brexit" and the continuing importance of culture

In a speech (on 30 June) to the TheCityUK annual conference, Mr Griffith-Jones has said that the FCA and the financial services industry should seek to work together wherever possible "*at this important moment in the UK's history*". He encouraged the formation of an industry-led "*collective strategy*" that would ensure that the industry can inform the government's negotiations for a new relationship with the EU.

Mr Griffith-Jones said that, despite the amount of financial regulation that resulted from EU legislation, Britain had looked to other jurisdictions, including the US, for "*good ideas*" and that the "*UK had shown itself capable of acting alone where appropriate*", citing the examples of the Senior Managers Regime and the Effective Markets Review.

Mr Griffith-Jones also discussed the importance of culture, stating that the "*reputation of the London marketplace for fairness, and of its participants for straight dealing, are sine qua nons for its continued success, especially operating outside the EU*".

<http://www.fca.org.uk/news/global-regulation-in-the-post-crisis-era>

Andrew Bailey joins the FCA as Chief Executive Officer

Andrew Bailey has (on 1 July) taken up the post of Chief Executive of the FCA. Mr Bailey was previously the Deputy Governor of the Bank of England for Prudential Regulation and Chief Executive Officer of the PRA.

Enforcement activity

The FCA has (on 21 June) published a Final Notice dated 9 June 2016 refusing an application by Kevin Clarke (trading as SC Motorsales) for permission to conduct credit broking, debt adjusting and debt counselling. The application was denied because of concerns the FCA had about the applicant's honesty and integrity and his pattern of non-disclosure to regulators.

<http://www.fca.org.uk/static/documents/kevin-clarke.pdf>

The FCA has (on 24 June) published a Final Notice dated 8 June 2016 refusing an application by Secure Property Consultants Limited for permission to enter into a regulated credit agreement as a lender and to exercise the lender's rights and duties under the same. The application was denied because the FCA could not be satisfied that the applicant would satisfy the threshold conditions, including in relation to effective supervision, appropriate resources, suitability and business model, and had dealt with the regulator in an open and co-operative manner.

<http://www.fca.org.uk/static/documents/final-notices/secure-property-consultants-limited.pdf>

The FCA has (on 27 June, 29 June and 30 June) published six separate Final Notices cancelling the permissions of the following firms and individuals to carry on regulated activities: GB Financial Consultancy Limited; Francis Birchall (trading as Dual Mortgage Brokers); Park Grove's Financial Management Limited; Cult Racing Limited; Trevor Fry; and Russell Blakey.

The FCA is not satisfied that the recipients of the Final Notices are fit and proper persons because of a failure to submit statutory returns or to pay fees due to the FCA.

<http://www.fca.org.uk/static/article-type/final%20notice/gb-financial-consultancy-limited.pdf>

<http://www.fca.org.uk/static/article-type/final%20notice/dual-mortgage-brokers.pdf>

<http://www.fca.org.uk/static/article-type/final%20notice/park-grove-financial-management-limited.pdf>

<http://www.fca.org.uk/static/article-type/final%20notice/cult-racing-limited.pdf>

<http://www.fca.org.uk/static/article-type/final%20notice/trevor-john-fry.pdf>

<http://www.fca.org.uk/static/article-type/final%20notice/russell-blakey.pdf>

FCA and HMT publish Financial Advice Working Group terms of reference

The FCA and HM Treasury have (on 20 June) published terms of reference for the Financial Advice Working Group to set out the scope, objectives and outcomes of the group tasked with implementing three recommendations from the March 2016 report of the Financial Advice Market Review. The group will be formed of consumer and industry experts and have up to 12 months to: develop with employer groups a guide to the top 10 ways to support employees' financial health; publish a shortlist of potential new terms to describe "guidance" and "advice"; and lead a task force to design rules of thumb and "nudges" to increase consumer engagement.

<http://www.fca.org.uk/static/documents/famr-working-group-terms-of-reference.pdf>

FCA issues Handbook Notice

The FCA has (on 24 June) published Handbook Notice 34, which summarises changes made by the FCA to the Handbook on 16 and 23 June 2016. These changes include those to: the Disclosure Rules and Transparency Rules Sourcebook to implement audit committee requirements under the Statutory Audit Amending Directive; the market abuse regime to ensure that the Handbook conforms to the EU regime; and the Enforcement Guide to reduce speculation in connection with certain Warning Notices.

<http://www.fca.org.uk/static/documents/handbook-notices/fca-handbook-notice-34.pdf>

FCA issues policy statement about changes to implement the EU Market Abuse Regulation

The FCA has (on 29 June) published a policy statement outlining changes that are being made to the Decision Procedure and Penalties manual and Enforcement Guide as a result of the Market Abuse Regulation. The FCA has confirmed that it intends to apply its current penalty policy

to all breaches by a firm of the Regulation and that it will apply the current settlement discount scheme for suspensions and restrictions to disciplinary prohibitions, with the exception that no settlement discount will be available for a permanent disciplinary prohibition.

<http://www.fca.org.uk/static/fca/documents/policy-statements/ps16-18.pdf>

FCA warnings

Name of firm	Date of warning	Details
Anpa Forward Ltd t/a Transpact.com	1 July 2016	Clone http://www.fca.org.uk/news/warnings/anpa-forward-ltd-ta-transpact-com-clone
iClick Loans	30 June 2016	Clone http://www.fca.org.uk/news/warnings/iclick-loans-clone-cc
A1 Loans	24 June 2016	Not authorised http://www.fca.org.uk/news/warnings/a1-loans-cc
Cannon Corporate Consultants	22 June 2016	Not authorised http://www.fca.org.uk/news/warnings/cannon-corporate-consultants
Novus Capital Management	21 June 2016	Clone firm http://www.fca.org.uk/news/warnings/novus-capital-management-clone
Simple Finance	21 June 2016	Clone firm http://www.fca.org.uk/news/warnings/simple-finance-clone
Banco FX	20 June 2016	Not authorised http://www.fca.org.uk/news/warnings/banco-fx
Sterling Consultancy Options	20 June 2016	Clone firm http://www.fca.org.uk/news/warnings/sterling-consultancy-options-clone

City One Marketing Solutions t/a Belmont Venture Capital	20 June 2016	Not authorised http://www.fca.org.uk/news/warnings/city-one-marketing-solutions
CFD-1000 Limited	20 June 2016	Not authorised http://www.fca.org.uk/news/warnings/cfd-1000-limited
Epic Loans	20 June 2016	Clone firm http://www.fca.org.uk/news/warnings/epic-loans-clone

Policy developments

FCA		PRA		
Finalised policy and guidance				
		Implementation/effective date		
Policy statements	<p>The FCA has (on 29 June) issued a policy statement (PS16/18) setting out changes to the Decision Procedure and Penalties manual and the Enforcement Guide for the implementation of the Market Abuse Regulation.</p> <p>http://www.fca.org.uk/static/fca/documents/policy-statements/ps16-18.pdf</p>	3 July 2016	1 August 2016	<p>The PRA has (on 29 June) issued a policy statement (PS 17/16) setting out the final rules and supervisory statement intended to implement Article 55 of the Bank Recovery and Resolution Directive. Article 55 requires firms to include in certain non-EU law contracts governing liabilities a term by which the relevant creditor or party to the contract recognises that the liability may be bailed in by the Bank of England as resolution authority.</p> <p>http://www.bankofengland.co.uk/pradocuments/publications/ps/2016/ps1716.pdf</p>

	<p>The FCA has (on 30 June) issued a policy statement (PS 16/17) setting out the 2016/17 regulatory fees for the Payment Systems Regulator</p> <p>http://www.fca.org.uk/static/documents/policy-statements/ps16-17.pdf</p> <p>The FCA has (on 30 June) issued a policy statement (PS16/16) setting out its 2016/2017 regulatory fees and levies.</p> <p>http://www.fca.org.uk/static/article-type/policy%20statement/ps16-16.pdf</p>	<p>8 July 2016</p>	<p>30 June 2016</p>	<p>The PRA has (on 30 June) issued a policy statement (PS 18/16) setting out the PRA's fee rates for the period 1 March 2016 to 28 February 2017, including a new ring-fencing implementation fee.</p> <p>http://www.bankofengland.co.uk/pradocuments/publications/ps/2016/ps1816.pdf</p> <p>The PRA has (on 30 June) issued a policy statement (PS19/16) setting out final rules for the new reporting requirements that apply to insurance firms that are outside the scope of Solvency II (non-Directive firms).</p> <p>http://www.bankofengland.co.uk/pradocuments/publications/ps/2016/ps1916.pdf</p>
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Further afield

SEC fines Merrill Lynch for misusing customer cash and misleading structured note investors

The US Securities and Exchange Commission has (on 23 June) announced that Merrill Lynch had agreed to pay \$415m and admit wrongdoing to settle charges that it breached the SEC's Customer Protection Rule by using customer cash, which ought to have been deposited in a reserve account, to finance its own trading activities and by failing to adhere to requirements that fully-paid customer securities should be held in lien-free accounts and protected from third-party claims. The SEC said that it will begin a coordinated effort to find potential violations by other firms and encourage firms to self-report any potential violations of the Customer Protection Rule.

The SEC also announced that Merrill Lynch had agreed to pay \$10m to settle charges that it was responsible for misleading statements in offering materials provided to retail investors for structured notes. The SEC found that the offering materials failed to adequately disclose a cost included in a proprietary volatility index to which the notes

were linked and that policies or procedures were ineffective to ensure adequate disclosure of this factor.

<http://www.sec.gov/news/pressrelease/2016-128.html>

<http://www.sec.gov/news/pressrelease/2016-129.html>

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