

# This week at the UK regulators

## Thirty second guide: The week in overview

In a week with no notable enforcement activity, the House of Commons Treasury Select Committee recommended - in a report on the lessons to be learnt from the failure of HBOS in 2008 - that the FCA's enforcement functions should be exercised by a separate body. The recommendation echoes that made by the Parliamentary Commission on Banking Standards in 2013.

Elsewhere, the Fair and Effective Markets Review issued an update on its progress and the FCA has issued final rules for the introduction of an annual Financial Crime Return and written to the CEOs of general insurance firms reminding them of their regulatory obligations with regards to appointed representatives. The FCA has also issued a further consultation paper on the implementation of the Markets in Financial Instruments Directive II.

Further afield, EU Commission Vice President Valdis Dombrovskis and US Secretary of the Treasury, Jacob Lew, have exchanged letters outlining new arrangements for cooperation between EU and US financial regulators and supervisors.

### Treasury Select Committee calls for separation of enforcement functions

The House of Commons Treasury Committee has published a report on lessons for regulators arising from the failure of HBOS in 2008. The report draws together findings from the regulators' own review into the failure of HBOS, Andrew Green QC's review of the enforcement decisions taken, the independent review of these two reports by the Treasury Committee's advisers and oral evidence taken from the publishers of all three reports.

Among other things, the report makes the case for placing the FCA's enforcement function in a separate body, a proposal made by the Parliamentary Commission on Banking Standards in 2013, which the Committee suggests merits re-examination by HM Treasury ('HMT') in light of the Green Report. In particular, the Committee argues that a new enforcement body sitting equidistant between the FCA and PRA could enhance the perception of the enforcement function's independence and facilitate the objective scrutiny of supervisors' actions by enforcement staff and ensure clarity over the objectives of the FCA, PRA and the separate enforcement body.

The Committee has recommended that HMT appoint an independent reviewer to re-examine the case for a separate enforcement body.

<http://www.publications.parliament.uk/pa/cm201617/cmselect/cmtreasy/582/58202.htm>

### Fair and Effective Markets Review issues update on progress

The Fair and Effective Markets Review ('FEMR') has published its implementation report on developing fair and effective wholesale fixed income, currency and commodity ('FICC') markets. The report details the progress that has been made to implement recommendations made in the FEMR's June 2015 report, including:

- the coming into force of the Senior Managers and Certification Regimes (SM&CR), and its extension to all authorised financial firms with the Bank of England and Financial Services Act 2016;
- the FCA and PRA are in the process of finalising rules on the mandatory form for regulatory references;
- the establishment of the FICC Markets Standards Board (FMSB) to improve the quality, clarity and market-wide understanding of wholesale FICC trading practices, to produce guidelines and standards to promote good conduct and to periodically review wholesale FICC markets for emerging risks; and
- the launch of initiatives by international authorities to raise standards globally, including the Bank for International Settlements (BIS) producing a single Global FX Code, and the International Organization of Securities Commissions (IOSCO) aiming to publish a report including a toolkit to address conduct in wholesale markets by the end of 2016.

The report suggests that despite the progress, improvements can still be made and states that the FEMR aims to continue to catalyse reform where appropriate.

<http://www.bankofengland.co.uk/markets/Documents/femr/implementationreport.pdf>

### FCA publishes final rules requiring firms to complete an annual Financial Crime Return

In December 2015, the FCA consulted (CP 15/42) on the introduction of a Financial Crime Return to be completed annually by all firms that are subject to the Money Laundering Regulations. The purpose of the return is to improve the quality of the data that the FCA receives regarding financial crime so that it is better able to operate a risk-sensitive supervisory approach. In a policy statement issued on 29 July, the FCA reported on the feedback it had received on December's consultation and published the final rules. In light of the feedback received, the FCA will allow free-form group-based reporting in order to reduce the burden of the exercise and firms will be allowed to complete their first Financial Crime Return on a best endeavours basis. The new SUP rules concerning the return come into effect on 31 December 2016. Firms will have to submit a Financial Crime Return within 60 business days of their accounting reference dates.

<http://www.fca.org.uk/static/documents/policy-statements/ps16-19.pdf>

### FCA sends "Dear CEO Letter" to principal firms operating in the general insurance sector

Following the publication last week of a thematic review into the supervision by principal firms of their appointed

representatives in the general insurance sector, the FCA has (on 26 July) written to the CEOs of all principal firms reminding them of their regulatory obligations. The thematic review found widespread shortcomings in principal firms' awareness and understanding of the FCA's rules and guidance and compliance with these requirements. In the letter, the FCA reminds principal firms that they are responsible for the activities carried out by their appointed representatives because an appointed representative is an exempt person carrying out regulated activities. Accordingly, the FCA treats any act or omission of the appointed representative, in respect of the business for which the principal has accepted responsibility, as the act or omission of the principal itself.

<http://www.fca.org.uk/static/documents/dear-ceo-letters/dear-ceo-letter-expectations-principal-firms-general-insurance.pdf>

### Final Notice

The FCA has (on 25 July) issued a Final Notice cancelling Peter Alexander's permission to carry on regulated activities. Mr Alexander had failed to pay overdue balances to the FCA or respond to repeated requests for such payment. Accordingly, the FCA concluded that Mr Alexander was not a fit and proper person.

<http://www.fca.org.uk/static/documents/final-notice/peter-roy-alexander.pdf>

### FCA warnings

Name of firm	Date of warning	Details
Costello & Rubin LLP	29 July 2016	Not authorised <a href="https://www.fca.org.uk/news/warnings/costello-rubin-llp">https://www.fca.org.uk/news/warnings/costello-rubin-llp</a>
Kaufman Franz Wealth	29 July 2016	Clone firm

Management		<a href="https://www.fca.org.uk/news/kaufman-franz-wealth-management-clone">https://www.fca.org.uk/news/kaufman-franz-wealth-management-clone</a>
UBS Global Investment Management Ltd	28 July 2016	Clone firm <a href="https://www.fca.org.uk/news/warnings/ubs-global-investment-management-ltd-clone">https://www.fca.org.uk/news/warnings/ubs-global-investment-management-ltd-clone</a>
Unemployed Loans	27 July 2016	Not authorised <a href="https://www.fca.org.uk/news/warnings/unemployed-loans">https://www.fca.org.uk/news/warnings/unemployed-loans</a>
Bit Management Ltd	27 July 2016	Not authorised <a href="https://www.fca.org.uk/news/warnings/bit-management-ltd">https://www.fca.org.uk/news/warnings/bit-management-ltd</a>
Passion Finance	26 July 2016	Not authorised <a href="http://www.fca.org.uk/news/warnings/passion-finance-cc">http://www.fca.org.uk/news/warnings/passion-finance-cc</a>

## Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
<b>Consultation papers</b>	<p>The FCA has (on 29 July) published a consultation paper (CP16/19) on the implementation of the Markets in Financial Instruments Directive II. This consultation paper (which follows on from CP 15/43) seeks views on proposed changes to the FCA Handbook in the areas of:</p> <ul style="list-style-type: none"> <li>commodity derivatives</li> <li>supervision</li> <li>prudential standards</li> </ul>	28 October 2016	28 October 2016	<p>The PRA has (on 29 July) issued a consultation paper (CP 27/16) proposing a statement of policy setting out the PRA's approach to the implementation of the systematic risk buffer.</p> <p><a href="http://www.bankofengland.co.uk/pr/Pages/publications/cp/2016/cp2716.aspx">http://www.bankofengland.co.uk/pr/Pages/publications/cp/2016/cp2716.aspx</a></p>

	<ul style="list-style-type: none"> <li>• senior management arrangements</li> <li>• remuneration requirements for sales staff</li> <li>• whistleblowing</li> <li>• Client Assets Sourcebook</li> <li>• complaint handling</li> <li>• fees manual</li> </ul> <p><a href="http://www.fca.org.uk/static/documents/consultation-papers/cp16-19.pdf">http://www.fca.org.uk/static/documents/consultation-papers/cp16-19.pdf</a></p>			
			31 October 2016	<p>The PRA has (on 29 July) issued a consultation paper (CP 29/16) setting out proposed changes to its Supervisory Statement on internal ratings based approaches to calculating risk-weighted capital requirements for banks and building societies.</p> <p><a href="http://www.bankofengland.co.uk/p/ra/Pages/publications/cp/2016/cp2916.aspx">http://www.bankofengland.co.uk/p/ra/Pages/publications/cp/2016/cp2916.aspx</a></p>
			28 October 2016	<p>The PRA has (on 29 July) issued a consultation paper (CP 28/16) setting out proposals for data that the PRA intends to collect in connection with the final policy on operational continuity set out within Supervisory Statement (SS) 9/16 'Ensuring operational continuity in resolution' and the General Organisational Requirements and Outsourcing Parts of the PRA Rulebook.</p> <p><a href="http://www.bankofengland.co.uk/p/ra/Pages/publications/cp/2016/cp2816.aspx">http://www.bankofengland.co.uk/p/ra/Pages/publications/cp/2016/cp2816.aspx</a></p>

Finalised Policy and guidance			
		Implementation/effective date	
<b>Policy statements</b>	<p>The FCA has (on 29 July) issued a policy statement setting out the final rules for the introduction of an annual Financial Crime Return to be completed by all firms that are subject to the Money Laundering Regulations.</p> <p><a href="http://www.fca.org.uk/static/documents/policy-statements/ps16-19.pdf">http://www.fca.org.uk/static/documents/policy-statements/ps16-19.pdf</a></p>	31 December 2016	

## Further Afield

### EU and US agree on new arrangements for cooperation between financial regulators and supervisors

EU Commission Vice President Valdis Dombrovskis and US Secretary of the Treasury, Jacob Lew, have exchanged letters outlining new arrangements for cooperation between EU and US financial regulators and supervisors.

As of 18 July 2016, both sides will meet within the Joint EU-US Financial Regulatory Forum, which replaces the Financial Markets Regulatory Dialogue, to discuss as early and often as possible respective rules and policies to improve transparency, reduce uncertainty, identify potential cross-border implementation issues, work towards avoiding regulatory arbitrage and towards compatibility, as appropriate, of each other's standards, and, when relevant, promote domestic implementation consistent with international standards.

[http://ec.europa.eu/finance/docs/160718-fmrd-enhancement\\_en.pdf](http://ec.europa.eu/finance/docs/160718-fmrd-enhancement_en.pdf)

## 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

**Michael Lyons**  
Partner

E: michael.lyons  
@cliffordchance.com

**Kelwin Nicholls**  
Partner

E: kelwin.nicholls  
@cliffordchance.com

**Judith Seddon**  
Partner

E: judith.seddon  
@cliffordchance.com

**Luke Tolaini**  
Partner

E: luke.tolaini  
@cliffordchance.com

## Editors

**Chris Stott**  
Lawyer

E: chris.stott  
@cliffordchance.com

**Matthew Burn**  
Lawyer

E: matthew.burn  
@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](http://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](mailto: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.