

This week at the UK regulators

Thirty second guide: The week in overview

In a week without concluded enforcement developments, the FCA published details of its intention to conduct a review of the redress methodology for pension transfers in autumn 2016. The FCA also published a document warning of the risks associated with authorised firms accepting business from introducers. The PRA issued a statement inviting firms to apply for a temporary modification of the Rulebook that would exclude central bank reserves from the exposure measure in the current UK leverage ratio framework and the Treasury Committee published responses from the FCA and PRA regarding its concerns regarding crowd funding regulation.

Further afield, the Malaysian Central Bank published corporate governance guidelines setting out the responsibilities of senior management and their expectations in relation to culture.

FCA to consult on redress methodology for pension transfers

The FCA has (on 3 August) announced that in autumn 2016 it will consult on whether the methodology used to calculate the levels of redress due in cases where individuals have been given unsuitable advice prior to transferring from defined benefit ("DB") occupational pension schemes to personal pensions should be updated. A key aim of the exercise will be to identify whether the existing redress methodology puts the consumer back in the position they would have been in if they had stayed in the DB scheme.

<http://www.fca.org.uk/news/fca-statement-redress-methodology-pension-transfers>

FCA warns firms about accepting business from unauthorised introducers

The FCA has on (2 August) published an article highlighting some of the risks associated with authorised firms accepting business from introducers. It focuses on the risk of being held responsible where a customer is given unsuitable advice by an introducer and sets out some warning signs to note and suggested steps to mitigate these risks.

<http://www.fca.org.uk/news/investment-advisers-and-authorized-firms-responsibilities-when-accepting-business-from-unauthorized-introducers-or-lead-generators>

FCA releases details of MiFID II discussions

The FCA has on (4 August) published minutes of the MiFID II implementation Trade Association Roundtable held on 26 May 2016. The minutes summarise discussions relating to the MiFID II delay legislation, the MiFID II and MiFIR delegated regulations and the FCA's approach to communicating with firms about the finalisation of MiFID II. They also acknowledge the substantial logistical challenges associated with record keeping for the purposes of MiFID II and other new legislation, most notably the Market Abuse Regulation.

<http://www.fca.org.uk/static/documents/mifid-ii-ta-roundtable-minutes-260516.pdf>

FCA publishes minutes of the Stakeholder Liaison Group meeting

The FCA has (on 4 August) published minutes of the Stakeholder Liaison Group meeting held on 12 July 2016. The minutes detail discussion designed to assist the FCA as it develops its approach and guidance in response to the revised Payment Services Directive ("PSD2"). Issues discussed included the blocking of funds on a card based payment account, the data that should be collected in cases of fraud, and the definitions of "acquiring" and "accessible online" in PSD2.

<http://www.fca.org.uk/static/fca/documents/stakeholder-liaison-group-minutes-july-16.pdf>

PRA publishes statement on the leverage ratio

The PRA has (on 4 August) published a statement inviting firms to apply for a temporary modification of the Leverage Ratio Part of the PRA Rulebook in order to reflect the

recommendations of the Financial Policy Committee ("FPC") (in its policy meeting of 25 July) to exclude central bank reserves from the exposure measure in the current UK leverage ratio framework. The PRA strongly encourages firms subject to the leverage ratio to apply for this modification and they are able to do so with immediate effect. The PRA also intends to publish a list of all firms that have consented to the rule modification on 29 September 2016, with that list being updated on a monthly basis.

<http://www.bankofengland.co.uk/prs/Reports/publications/reports/prstatement0816.pdf>

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Treasury Committee published responses from FCA and PRA on crowd funding regulation

The Treasury Committee has (on 4 August) published the responses from the FCA (on 16 June) and PRA (on 16 June) to the Treasury Committee's questions on the regulation of crowd funding. The FCA explained that crowd funding firms are responsible for ensuring that the information provided to potential investors on crowd funding platforms is accurate, by ensuring that they describe the nature and risks of their investments in sufficient detail to enable retail clients to take investment decisions on an informed basis. The FCA also explained that crowd funding platforms had to comply with the creditworthiness rules applied to professional lenders when the borrower is an individual or a particular type of small business. Additionally the FCA requires investment-based crowd funding

platforms to make it clear to potential investors what analysis has been undertaken so in selecting the investments so that investors can determine how much further due diligence they need to do.

<http://www.parliament.uk/documents/commons-committees/treasury/Correspondence/Tracey-McDermott-to-Treasury-Committee-Chair-Crowdfunding-16-06-16.pdf>

<http://www.parliament.uk/documents/commons-committees/treasury/Correspondence/Andrew-Bailey-to-Treasury-Committee-Chair%20-Crowdfunding-16-06-16.pdf>

<http://www.parliament.uk/documents/commons-committees/treasury/Correspondence/Treasury-Committee-Chair-Tracey-McDermott-Crowdfunding-01-06-16.pdf>

<http://www.parliament.uk/documents/commons-committees/treasury/Correspondence/Treasury-Committee-Chair-Andrew-Bailey-Crowdfunding-01-06-16.pdf>

FCA warnings

Name of firm	Date of warning	Details
CF Investment Funds	5 August 2016	Clone firm http://www.fca.org.uk/news/warnings/cf-investment-funds-clone
Inter Global Limited	4 August 2016	Not authorised https://www.fca.org.uk/news/warnings/inter-global-limited

Baumer Mansoor Financial Advisory	1 August 2016	Clone firm https://www.fca.org.uk/news/list/baumer-mansoor-financial-advisory-clone
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Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Consultation papers	<p>The FCA has (on 2 August) published a consultation paper (CP 16/20) providing feedback on the responses to the Rules and Guidance on payment protection insurance complaints (CP 15/39) it published in November 2015. The consultation paper sets out the FCA's proposal to implement a new rule that would set a deadline by which consumers would need to make their payment protection insurance ("PPI") complaints or lose their right to have them assessed. The paper also includes new rules and guidance on the handling of PPI complaints in light of the <i>Plevin</i> case.</p> <p>http://www.fca.org.uk/static/documents/consultation-papers/cp16-20.pdf</p> <p>http://www.fca.org.uk/static/fca/documents/consultation-papers/cp15-39.pdf</p>	11 October 2016	
Discussion Papers	The FCA has (on 3 August) published a discussion paper (Occasional Paper 20) about how	N/A	

	<p>consumer credit lenders evaluate whether lending to an individual is affordable. This finds that one of the strongest predictors of an individual's financial distress is their debt-to-income ("DTI") ratio. Those with high DTI ratios were found to be much more likely to suffer financial distress than those with low DTI ratios. It was also acknowledged that socio-economic characteristics and 'life events' (such as unemployment or divorce) were usually prevalent factors in an individual's financial distress. The report finds that whilst consumer credit lenders cannot estimate which individuals will suffer financial distress in the future, it appears possible to consider whether groups of individuals with a specific set of characteristics are especially vulnerable to future financial distress and therefore whether lending to them is predictably unaffordable. It was also suggested that affordability policies should be tailored to the products people apply for and the individual applicant's circumstances.</p> <p>http://www.fca.org.uk/static/documents/occasional-papers/occasional-paper-20.pdf</p>			
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Finalised Policy and guidance				
		Implementation/effective date		
Policy statements	The FCA has on (1 August) published a policy statement (PS 16/20) reporting on the main issues arising from "The Payment Accounts Regulations 2015 – Draft Handbook changes and	18 September 2016		

	<p>draft guidance" (CP 16/7) published in March 2016. This reports that the FCA will amend the reporting requirements in the Handbook such that payment service providers ("PSPs") will be required to report the total number of refused switching and basic bank account applications, rather than just reporting the proportions these types of refused application represent of the total of all types of applications refused. The FCA also agreed to issue two pieces of non-Handbook guidance on the definition of "payment accounts" and on the rules relating to packaged accounts (see below).</p> <p>http://www.fca.org.uk/static/fca/documents/policy-statements/ps16-20.pdf</p> <p>http://www.fca.org.uk/static/fca/articletype/consultation%20paper/cp16-07.pdf</p>			
Finalised Guidance	<p>The FCA has on (1 August) published a finalised guidance statement (FG 16/6) relating to regulation 40 of the Payment Accounts Regulations 2015 ("PARs"). It provides guidance to PSPs in determining which of the accounts they offer fall within the definition of a "payment account" in the PARs. The guidance had been published alongside its guidance statement (FG 16/7) which clarifies the FSA's expectation of PSPs in relation to packaged accounts. The guidance clarifies the scope of the PARs provisions on packaged accounts and includes guidance on the timing and method of providing information on the costs and fees of purchasing the other products/services separately rather than as part of the</p>	18 September 2016		

	<p>packaged account.</p> <p>http://www.fca.org.uk/static/fca/documents/finalised-guidance/fg16-6.pdf</p> <p>http://www.fca.org.uk/static/fca/documents/finalised-guidance/fg16-7.pdf</p>			
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Further Afield

Malaysian Central Bank publishes corporate governance guidance

The Malaysian Central Bank has (on 3 August) published a corporate governance policy applying to all licensed persons and financial holding companies. The policy sets out various expectations and responsibilities of CEOs and senior managers, including that CEOs are expected to establish management structures promoting accountability and transparency whilst preserving the effectiveness and independence of control functions. It also includes a prohibition on substantial shareholders holding senior manager positions and requires each member of senior management to undergo an annual review to ensure that they continue to satisfy the requirements set out in the policy.

The policy also requires financial institutions to adopt a code of ethics providing guidelines on appropriate conduct and addressing issues of confidentiality, conflicts of interest, integrity in reporting and the fair treatment of customers and establish effective whistleblowing policies.

http://www.bnm.gov.my/guidelines/01_banking/04_prudential_stds/CorporateGovernance_Aug2016.pdf

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