

This week at the UK regulators

Thirty second guide: The week in overview

Although no significant enforcement cases were concluded last week, the FCA and PRA released several consultation papers and policy statements. The FCA published findings from its thematic review of financially vulnerable customers and the Treasury Committee published letters from the major UK retail banks concerning overdraft charges following a report by the Competition and Markets Authority.

Away from the financial services regulators, in a development which will be important to all corporate organisations, the UK government is expected to release the detail of proposals to extend the scope of criminal offences of failing to prevent economic crime beyond bribery and tax evasion.

Further afield, a US federal court has given guidance on the circumstances in which a trader who places US futures market orders manually can be found to have engaged in prohibited "spoofing", without direct proof of intent.

FCA publishes findings of thematic review on financially vulnerable customers

The FCA has published the findings of its thematic review on financially vulnerable customers. The review of nine firms, which included banks, building societies and non-deposit taking lenders was commenced in early 2016, when an interest rate rise was anticipated. Since that time, interest rates have been cut and the FCA has recognised that preparing for interest rate rises may not seem like a high priority.

Nevertheless, the FCA decided to share the results of the review. The FCA was encouraged to find that most of the firms have taken steps to respond to issues identified in its previous thematic report and Occasional Paper No.8: Consumer Vulnerability, although it has indicated that some firms need to undertake more work before they are ready to implement their strategies to mitigate the impact of an interest rate rise on financially vulnerable customers.

<https://www.fca.org.uk/news/news-stories/financially-vulnerable-customers-thematic-review-key-findings>

Enforcement notices

On 5 September 2016, in separate cases, the FCA issued final notices cancelling the authorisations of Get Paid Limited ("GPL") and Paul Brooks Machinery Limited ("PBM") to conduct consumer credit business for failures to notify the FCA of address and other details.

<https://www.fca.org.uk/sites/default/files/get-paid-limited.pdf>

<https://www.fca.org.uk/sites/default/files/paul-brooks-machinery-limited.pdf>

On 6 September 2016, in separate cases, the FCA issued final notices cancelling the authorisations of Broom Boat Sales Limited and Bathesafely Limited for breaches of Principle 11 (relations with regulators) of the Principles for Businesses.

<https://www.fca.org.uk/sites/default/files/broom-boat-sales-limited.pdf>

<https://www.fca.org.uk/sites/default/files/bathesafely-limited.pdf>

Bank Levy: amendments to the definition of "high quality liquid asset" and "high quality securities"

On 5 September 2016, amendments were made to the definition of "high quality liquid assets" and "high quality securities" for the purposes of Bank Levy legislation. The amendments were made to accommodate changes made by the PRA to its definitions, which were amended to introduce new Basel III liquidity coverage ratios for banks.

The revisions will have effect from 1 October 2016, when the PRA starts to use its new definitions. The regulations are in the same form as the draft dated 26 May 2016.

<https://www.gov.uk/government/publications/bank-levy-amending-the-definition-of-high-quality-liquid-assets-and-high-quality-securities/bank-levy-amending-the-definition-of-high-quality-liquid-assets-and-high-quality-securities>

Treasury Committee publishes letters from the major UK retail banks on overdraft charges

On 6 September 2016, the House of Commons Treasury Committee published a press release on retail bank overdraft charges including a number of letters from the major UK retail banks in relation to overdraft charges.

This followed a report from the Competition and Markets Authority on overdraft charges and calls from some members of the committee to impose monthly maximum charges.

<http://www.parliament.uk/business/committees/committees->

[a-z/commons-select/treasury-committee/news-parliament-2015/retail-banks-overdraft-charges-chairs-statement-16-17/](http://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news-parliament-2015/retail-banks-overdraft-charges-chairs-statement-16-17/)

FCA warnings

Name of firm	Date of warning	Details
Chiba & Associates (not authorised)	9 September 2016	https://www.fca.org.uk/news/warnings/chiba-associates
Purple Loans (clone)	9 September 2016	https://www.fca.org.uk/news/warnings/purple-loans-clone
Charming Money Limited t/a Debt Vanish and Debt Rid (not authorised)	9 September 2016	https://www.fca.org.uk/news/warnings/charming-money-limited-debt-vanish-debt-rid
Hargreaves Lansdown (clone)	8 September 2016	https://www.fca.org.uk/news/warnings/hargreaves-lansdown-clone
Bookers Trust (not authorised)	7 September 2016	https://www.fca.org.uk/news/warnings/bookers-trust
Alco Investment Company (not authorised)	7 September 2016	https://www.fca.org.uk/news/warnings/alco-investment-company
Yamazaki Acquisition Group (not authorised)	7 September 2016	https://www.fca.org.uk/news/warnings/yamazaki-acquisition-group
Thomas and Johnson	7 September 2016	https://www.fca.org.uk/news/warnings/thomas-and-johnson-

Consultancy (not authorised)		consultancy
Loan In A Flash (clone)	7 September 2016	https://www.fca.org.uk/news/warnings/loan-flash-clone
WB Wealth Group / WB Wealth Management (clone)	7 September 2016	https://www.fca.org.uk/news/warnings/wb-wealth-group-wb-wealth-management-clone

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Consultation papers	<p>On 6 September 2016, the FCA published a consultation paper on Pension Wise standards: changes for secondary annuity market guidance (CP16/22).</p> <p>The changes are required as a result of the Government's decision to extend access to Pension Wise to individuals considering selling their annuity income and to beneficiaries with an interest in the annuities.</p> <p>https://www.fca.org.uk/publications/consultation-papers/pension-wise-standards-changes-secondary-annuity-market-guidance</p>	4 October 2016	
	<p>On 9 September 2016, the FCA published a consultation paper (CP 16/23) on the FCA Regulated fees and levies: Insurers' tariff data for 2017/18.</p> <p>To accommodate Solvency II changes to insurers' regulatory</p>	9 November 2016	

	<p>returns, the FCA plans to use the same tariff data as used for 2016/2017 fees and levies. In specified cases firms will be able to make adjustments.</p> <p>https://www.fca.org.uk/sites/default/files/cp16-23.pdf</p> <p>https://www.fca.org.uk/publication/consultation-papers/regulated-fees-levies-insurers-tariff-data-2017-18-cp16-23</p>			
Guidance consultation	<p>The FCA requested input to the post-implementation review of the FCA's crowdfunding rules.</p> <p>The call for input has now closed and the FCA is working with firms and carrying out research into the market to inform the review.</p> <p>https://www.fca.org.uk/publication/calls-input/post-implementation-review-fca-crowdfunding-rules</p>	<p>This call for input is now closed and the FCA is considering feedback.</p>		

Finalised Policy and guidance				
		Implementation/effective date		
Policy statements	<p>On 5 September 2016, the FCA updated its Policy Statement reporting on the main issues arising from Consultation Paper 15/41 – Increasing transparency and engagement at renewal in general insurance markets.</p> <p>The FCA's consultation closed in March 2016 and it received 113 responses. The FCA made some changes in response to the feedback, including an alteration to some of the requirements the FCA proposed. Where a consumer's circumstances have changed during the course of holding their policy, firms must</p>	1 April 2017		

	<p>give an annualised premium reflecting any mid-term adjustments, in place of last year's premium.</p> <p>https://www.fca.org.uk/publications/increasing-transparency-and-engagement-renewal-general-insurance-markets-ps16-21</p> <p>https://www.fca.org.uk/sites/default/files/ps16-21.pdf</p>			
				<p>On 5 September, the PRA published a policy statement on amendments to the definition of credit unions (PS23/16).</p> <p>PRA will amend:</p> <ul style="list-style-type: none"> • The Glossary of the PRA Rulebook to include a reference to the Credit Unions (Northern Ireland) Order 1985, to expand the definition of "credit unions" to include Northern Ireland credit unions. • The Depositor Protection Part to insert a definition of "credit union". <p>http://www.bankofengland.co.uk/p/ra/Documents/publications/ps/2016/ps2316.pdf</p>

Further Afield

UK government to consult on criminal offence of failure to prevent economic crime

As has been widely reported in the press, the UK government is expected to consult imminently on plans to change the law to extend the scope of the criminal offence failing to prevent criminal offences beyond bribery and tax evasion to cover other economic offences such as fraud and money laundering. The Ministry of Justice announced

plans to do so in May 2016. The detailed consultation paper is expected to be released this week.

<https://www.gov.uk/government/news/new-plans-to-tackle-corporate-fraud>

US Court determines that circumstantial evidence can prove manual "spoofing" of futures market

An Illinois federal court denied a constitutional challenge brought against the anti-spoofing provision of the U.S. Commodity Exchange Act (the "CEA"). The court held that the CFTC's complaint need not allege direct evidence of

intent to spoof. Circumstantial evidence could suffice to prove intent.

The court's that circumstantial evidence can suffice to prove intent is noteworthy because direct evidence of intent may not always exist in spoofing cases. Unlike many other CEA prohibitions, a trader need not enlist the help of anyone else in order to spoof the market. It is less likely, therefore, that direct evidence might exist. Had the court required direct evidence, the authorities' ability to pursue spoofing cases would be greatly constrained. The authorities are likely to continue to aggressively pursue spoofing cases, including cases of "manual" spoofing.

For further details, see our Clifford Chance briefing.

https://www.cliffordchance.com/briefings/2016/09/u_s_court_determinesthatcircumstantia.html

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