

This week at the UK regulators

Thirty second guide: The week in overview

There were no concluded enforcement cases last week, although the FCA did announce further charges in connection with an investigation into alleged 'boiler room' operations in East London. The main development emerging from the FCA was its announcement of the interim findings of its asset management market study, which found weaknesses in competition in some areas.

Both regulators released consultation papers and policy statements. The FCA discharged a duty placed on it by Parliament to cap early exit charges in existing and new personal and stakeholder personal pension schemes and published a consultation paper on proposals to introduce the Lifetime Individual Savings Account announced in the March 2016 Budget. The PRA commenced consultation exercises in several areas, the most notable being a paper on cyber insurance underwriting risk.

Further afield, the US Securities and Exchange Commission continued the trend of making significant financial awards to whistleblowers, whilst the financial regulator in the British Virgin Islands imposed its largest ever fine in a case involving the local unit of Panamanian law firm Mossack Fonseca.

Refusals of applications for/cancellations of permission

On 14 November 2016, the FCA issued a final notice refusing permission for Richard Barca to carry on various consumer credit related regulated activities. The refusal was based on the FCA's findings that he had failed to be open and co-operative.

In separate notices, both issued on 17 November 2016, the FCA has cancelled authorisations of Phillip Whiffin and Yemar Restaurants Limited to conduct consumer credit business for failures to be open and co-operative in the consumer credit sector.

Other regulatory notices

On 16 November 2016, the FCA approved the change in control of EFG Asset Management (UK) and EFG Independent Financial Advisers Limited in relation to new controllers BTG Pactual G7 Holding SA, BTG Pactual Holding SA, Banco BTG Pactual SA and BTGP-BSI Ltd (UK) BTG.

Sixth individual to be prosecuted in alleged investment fraud case

On 18 November, the FCA announced that Mr Charanjit Sandhu had appeared before City of London Magistrates'

Court charged with offences under the Financial Services and Markets Act 2000 and the Fraud Act 2006 in connection with alleged involvement in 'boiler room' companies operating from addresses in East London. Five other individuals were charged with offences in connection with the same investigation in June 2016.

<https://www.fca.org.uk/news/press-releases/fca-charges-sixth-defendant-alleged-investment-fraud>

FCA announces interim findings of asset management market study

On 18 November 2016, the FCA published an interim report in relation to its asset management market study (MS15/2.2). The report sets out the FCA's interim findings on how well competition is working in the asset management market and the resulting outcomes for investors. Emphasising the importance of effective competition in a low interest rate environment, the FCA found that there was limited competition in relation to actively managed funds. It found that competition was stronger in relation to passively managed funds, although there were some examples of poor value for customers. Other findings included some shortcomings in clarity of fund objectives and reporting arrangements, significant levels of price clustering and a lack of effectiveness amongst investment consultants at identifying outperforming asset managers.

The report outlines some proposed remedies aimed at improving competition, including a strengthened duty on asset managers to act in the best interests of investors and various changes to charging arrangements.

The FCA has invited comments on the interim report by 20 February 2017.

<https://www.fca.org.uk/publication/market-studies/ms15-2-2-interim-report.pdf>

FCA warnings

Name of firm	Date of warning	Details
The Loan Lenders	18 November 2016	Not authorised https://www.fca.org.uk/news/warnings/loan-lenders
Search Loans Ltd	18 November 2016	Not authorised https://www.fca.org.uk/news/warnings/loan-lenders
London Commodity Exchange Plc	16 November 2016	Not authorised https://www.fca.org.uk/news/warnings/london-commodity-exchange-plc
Seedoro Bank	14 November 2016	Not authorised https://www.fca.org.uk/news/warnings/seedoro-bank
Mirabaud Asset Management / Mirabaud Group	14 November 2016	Clone firm https://www.fca.org.uk/news/warnings/mirabaud-asset-management-mirabaud-group-clone

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers	<p>On 16 November, the FCA published a consultation paper (CP 16/33) entitled regulatory fees and levies: policy proposals for 2017/18. The paper sets out the FCA's proposed policy changes to how FCA fees will be raised from 2017/18.</p> <p>The FCA's propositions include: a new levy on consumer credit firms to recover HM Treasury's expenses in tackling illegal money lending; fee-blocks to recover costs in implementing MiFID II; basing the fees of recognised investment exchanges and benchmark administrators on income, to adjust the charging structure for service companies; and updating the Fees manual of the Handbook with a number of technical clarifications.</p> <p>The FCA intends to consult on any changes to the policy on how fees and levies are raised over October/November 2016, and will publish feedback on the responses received to the consultation between February – April 2017.</p> <p>https://www.fca.org.uk/publication/consultation/cp16-33.pdf</p>	16 January 2017	14 February 2017	<p>On 14 November, the PRA published a consultation paper (CP 39/16) on cyber insurance underwriting risk.</p> <p>The PRA proposes a new supervisory statement setting out its expectations for the prudent management of cyber underwriting risk.</p> <p>The PRA's proposed expectations include that firms should be able to identify, quantify and manage the risk emanating from underwriting cyber insurance, both in terms of affirmative and "silent" cover.</p> <p>http://www.bankofengland.co.uk/p/ra/Documents/publications/cp/2016/cp3916.pdf</p>
	<p>On 16 November, the FCA published a consultation paper (CP 16/32) on proposals to introduce a Lifetime ISA, and the</p>	25 January 2017	13 December 2016	<p>On 16 November, the PRA published a consultation paper (CP 40/16) proposing changes to National Specific Template in</p>

	<p>changes required to the FCA Handbook rules.</p> <p>The introduction of the Lifetime ISA was announced in the March 2016 Budget. It is intended to help adults under 40 to save, or invest flexibly. The consultation paper sets out the FCA's proposed approach to regulating its promotion and distribution.</p> <p>In its approach, the FCA seeks to address the risks that the Lifetime ISA may present to the FCA's objectives, particularly consumer protection. These risks include: complexity; contributions; investments; access; and tax.</p> <p>Draft handbook text was published with the consultation paper.</p> <p>https://www.fca.org.uk/publication/consultation/cp16-32.pdf</p>			<p>respect of the file type and reporting format for the 2016 financial year end, and future financial year ends.</p> <p>Specifically the PRA proposes:</p> <ul style="list-style-type: none"> • firms to submit NSTs in Excel templates, that have been designed using XBRL principles; • the information requirements for NSTs are brought into the Reporting Part of the PRA Rulebook; and • updates to the NST LOG files to reflect changes in cell references, reporting clarifications and technical corrections. <p>http://www.bankofengland.co.uk/p/ra/Documents/publications/cp/2016/cp4016.pdf</p>
<p>Feedback statements</p>	<p>On 15 November, the FCA published a feedback statement (FS16/12) on the call for input on its approach to the current payment services regime. The paper asks for views on the guidance that the FCA currently provides to firms to help them comply with the payment services regime.</p> <p>The paper indicates that respondents were broadly happy with the current guidance, and found it a useful source of information. Respondents did identify a need for the guidance to be updated to reflect developments in the market since 2009.</p> <p>The FCA has stated that it will take the feedback into account as changes are made to the existing guidance, to reflect changes as a result of the revised Payment</p>	<p>N/A</p>		

	<p>Services Directive.</p> <p>https://www.fca.org.uk/publication/feedback/fs16-12.pdf</p>			
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Finalised Policy and guidance				
		Implementation/effective date		
Policy statements	<p>On 15 November, the FCA published a policy statement (PS 16/24) setting out rules that discharge a new duty placed on the FCA by Parliament to cap early exit charges in existing and new personal and stakeholder personal pension schemes, together with a policy statement on capping early exit pension charges.</p> <p>From 31 March 2017, early exit charges will be capped at 1% of the value of a members benefits being taken, converted or transferred from a scheme.</p> <p>https://www.fca.org.uk/publication/policy/ps16-24.pdf</p>	31 March 2017	1 October 2017 (deferred from 1 July 2017)	<p>On 16 November, the PRA published a policy statement (PS 32/16) of responses to Chapter 3 of CP17/16 forecast capital data. The PRA had proposed formalising the collection of the existing Capital + return by introducing three new returns (PRA101 – PRA103).</p> <p>The PRA will publish details of the systems which will be used by firms to report the new returns by Tuesday 31 January 2017 on the "CRD firms – Reporting Requirements" webpage.</p> <p>The appendices to the policy statement contain the final rules, Supervisory Statement 34/15 and templates and instructions for the new reporting requirements related to forecast capital data.</p> <p>http://www.bankofengland.co.uk/pr/Documents/publications/ps/2016/ps3216.pdf</p>
			3 January 2017	<p>On 14 November, the PRA issued a policy statement (PS 31/16) providing feedback to responses to the consultation paper 24/16 "credit union regulatory reporting". The statement also sets out final rules, together with updated notes, on completing credit union returns.</p> <p>No material changes have been made to the proposals in the</p>

			<p>consultation paper, where the PRA proposed to:</p> <ul style="list-style-type: none"> • require electronic submission of credit union returns; • move the credit union reporting rules from the Regulatory Reporting Part to the Credit Unions Part; • update the notes on completing credit union returns; and • update existing quarterly and annual returns to align with the data requirements of the Credit Unions Part introduced in February 2016. <p>http://www.bankofengland.co.uk/p/ra/Documents/publications/ps/2016/ps3116.pdf</p>
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Further Afield

SEC makes another significant whistleblower award

On 14 November 2015, the Securities and Exchange Commission ("SEC") announced an award of more than \$20 million to a whistleblower who promptly alerted the SEC with valuable information, enabling the SEC to quickly initiate an enforcement action before the wrongdoer could dissipate investor funds. This \$20 million award is the third highest since the SEC issued its first award in 2012.

<https://www.sec.gov/news/pressrelease/2016-237.html>

is the largest ever imposed by the BVI FSC. The BVI government has also indicated that the BVI FSC has made changes to the way it operates in order to monitor corporate service providers more effectively.

<http://www.bvifsc.vg/Publications/EnforcementAction/tabid/378/ctl/EnforcementSummary/mid/1188/actionId/17069/language/en-US/Default.aspx>

BVI regulator takes action against Panama Papers law firm

The British Virgin Islands financial regulator ("BVI FSC") fined the local unit of Panama law firm Mossack Fonseca & Co \$440,000, after a probe sparked by April's "Panama Papers" revelations. The BVI FSC identified that anti-money laundering and terrorist financing controls were inadequate at Mossack Fonseca & Co (B.V.I.) Ltd. The fine

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