

# This week at the UK regulators

## Thirty second guide: The week in overview

This week, the FCA and the PRA published a slew of new policy statements as well as consultation and discussion papers. The main policy changes concern the extension of the Senior Managers and Certification Regime to FCA solo-regulated firms and insurers, as to which both the FCA and the PRA have now published near-final rules. The FCA's publications on this issue include a new final guidance on the Duty of Responsibility of Senior Managers. On other issues, the FCA published its final 2018/19 regulatory fees and levies, and the PRA introduced changes to insurance reporting requirements.

The FCA has also launched consultations concerning guidance on PPI complaints and recurring non-disclosure of commission, and a new public register of financial services workers. The PRA is consulting on its expectations in respect of firms investing in equity release mortgage portfolios and on the application of the systemic risk buffer framework in the UK leverage ratio framework. The FCA, the PRA and the Bank of England have jointly initiated discussion on the ways to improve the operational resilience of firms and financial market infrastructures.

In other developments, the FCA has re-confirmed its support for improving the standards of disclosure to institutional investors through the work done by the Institutional Disclosure Working Group.

Further afield, the Hong Kong Securities and Futures Commission is consulting on changes to its anti-money laundering and counter-terrorist financing guidelines with a view to, among other things, expanding the definition of politically exposed persons.

## Enforcement notices

In separate cases, the FCA has cancelled the permissions of the following firms and individuals. In all cases, cancellations were imposed for failures to be open and cooperative.

- Michelle Singlehurst (3 July)
- Hale Financial Services Limited (3 July)
- Claims Assessor Limited (3 July)
- Forethought Brokers Limited (3 July)
- Independent Portfolio Managers Limited (3 July)
- R J Funston Insurance Services Limited (Heather Tania Funston trading as) (3 July)
- R M H Financial Services (Robert Michael Hulme trading as) (3 July)
- Barrie Price Limited (2 July)
- Strawberry Communications Limited (2 July)
- CMAS Financial Services Limited (2 July)

<https://www.fca.org.uk/publication/final-notices/michelle-singlehurst-final-notice-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/hale-financial-services-limited-final-notice-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/claims-assessors-ltd-final-notice-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/forethought-brokers-ltd-final-notice-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/independent-portfolio-managers-limited-final-notice-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/r-j-funston-insurance-services-heather-tania-funston-trading-as-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/r-m-h-financial-services-robert-michael-hulme-trading-as-final-notice-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/barrie-price-limited-final-notice-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/strawberry-communications-limited-final-notice-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/cmas-financial-services-limited-final-notice-2018.pdf>

## FCA welcomes recommendations regarding new standardised disclosure template

As part of the Asset Management Market Study remedies package, the FCA launched the Institutional Disclosure Working Group (IDWG) with a view to agreeing a standardised disclosure template. According to the FCA, such a template could provide institutional investors with a clearer understanding of the costs and charges for a given

fund or mandate. On 15 June 2018, the IDWG provided the FCA with a full report setting out its recommendations as well as the supporting tools, documents and templates. In a statement issued on 5 July, the FCA has welcomed the recommendations and has indicated that it will continue to work with investors and industry to support them.

<https://www.fca.org.uk/news/statements/christopher-woolard-statement-welcoming-idwg-recommendations>

## FCA warnings

| Name of firm               | Date of warning | Details                     |
|----------------------------|-----------------|-----------------------------|
| Besla Investments          | 03 July 2018    | Clone of an authorised firm |
| Helmut Kob                 | 03 July 2018    | Clone of an authorised firm |
| Loan Match                 | 03 July 2018    | Clone of an authorised firm |
| Preussen Wealth Management | 04 July 2018    | Not authorised              |
| Easy Daily Loans           | 05 July 2018    | Clone of an authorised firm |
| Southampton Trust          | 05 July 2018    | Clone of an authorised firm |
| Tait Investment Group      | 05 July 2018    | Not authorised              |
| Xtraderfx                  | 06 July 2018    | Not authorised              |
| FXG Trade                  | 06 July 2018    | Not authorised              |

## Policy developments

| FCA                        |   | PRA                    |                   |  |
|----------------------------|---|------------------------|-------------------|--|
| Proposed developments      |   |                        |                   |  |
|                            |   | Deadline for responses |                   |  |
| <b>Consultation papers</b> | <p><b>Guidance on regular premium PPI complaints and recurring non-disclosure of commission (CP18/18)</b></p> <p>On 4 July 2018, the FCA issued a consultation paper on new guidance intended to clarify the FCA's expectations regarding the handling of certain regular premium payment protection insurance (PPI) complaints. The FCA's proposed guidance deals with uncertainty created by rules made in March 2017. It clarifies that firms should assess commission disclosures not only at the point of sale but on an on-going basis, and that this should be assessed under the FCA's general (non-PPI specific) complaint handling rule (DISP 1.4.1R). If the FCA decides to proceed, it will issue a policy statement with finalised guidance in late autumn 2018, with an immediate implementation date.</p> <p><a href="https://www.fca.org.uk/publication/consultation/cp18-18.pdf">https://www.fca.org.uk/publication/consultation/cp18-18.pdf</a></p> | 4 September 2018       | 30 September 2018 | <p><b>Solvency II: Equity release mortgages (CP13/18)</b></p> <p>On 2 July 2018, the PRA published a consultation paper setting out further proposed detail on its expectations in respect of firms investing in equity release mortgage (ERMs) portfolios, as set out in Chapter 3 of SS3/17. The purpose of the proposals is to ensure that, where firms have invested in ERMs and have approval to use the MA or TMTP, their TPs are not understated and that their Solvency II and ICAS balance sheets include appropriate allowance for the risks to which they are (directly or indirectly) exposed. Further summary of the proposal is set out in a letter from David Rule, PRA's Executive Director.</p> |
|                            | <p><b>Introducing the Directory (CP18/19)</b></p> <p>Also on 4 July 2018, the FCA proposed to introduce a new public Directory of financial services workers (i) holding Senior Manager positions requiring FCA approval, and (ii) those whose</p>  | 5 October 2018         | 25 September 2018 | <p><b>UK leverage ratio: Applying the framework to systemic ring-fenced bodies and reflecting the systemic risk buffer (CP14/18)</b></p> <p>In a consultation paper published on 3 July 2018, the PRA proposes to apply the systemic</p>   |

|                          |   |                |                |   |
|--------------------------|---|----------------|----------------|---|
|                          | <p>roles require firms to certify that they are fit and proper. The Directory will contain more information about the key individuals working in financial services and will present such information in a user-friendly way. Consumers and firms will be able to access the Directory to check the status and history of relevant financial services workers. Alongside the consultation paper, the FCA has published a basic prototype version of the Directory. Final rules are expected to be published this winter.</p> <p><a href="https://www.fca.org.uk/publication/consultation/cp18-19.pdf">https://www.fca.org.uk/publication/consultation/cp18-19.pdf</a></p>   |                |                | <p>risk buffer (SRB) framework in the UK leverage ratio framework. This includes a proposal to apply leverage ratio requirements on a sub-consolidated basis to those ring-fenced bodies whose groups are already required to meet leverage ratio requirements on a consolidated basis.</p>   |
| <b>Discussion papers</b> | <p><b>Building the UK financial sector's operational resilience (DP 18/4)</b></p> <p>On 5 July 2018, the Bank of England, the PRA and the FCA published a joint discussion paper on an approach to improving the operational resilience of firms and financial market infrastructures (FMIs). The paper envisages that boards and senior management can achieve better standards of operational resilience through increased focus on setting, monitoring and testing specific impact tolerances for key business services, which define the amount of disruption (such as one caused by a cyber-attack, failed outsourcing or technological change) that could be tolerated. The DP emphasises the need for firms and FMIs to develop and improve response capabilities so that any wider impact of disruptive events is contained.</p> <p><a href="https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/discussion-">https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/discussion-</a></p> | 5 October 2018 | 5 October 2018 | <p><b>Bank of England DP01/18 and PRA DP01/18)</b></p> <p>See details in relation to FCA DP 18/4</p> <p><a href="https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/discussion-paper/2018/dp118.pdf?la=en&amp;hash=4238F3B14D839EBE6BEFBD6B5E5634FB95197D8A">https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/discussion-paper/2018/dp118.pdf?la=en&amp;hash=4238F3B14D839EBE6BEFBD6B5E5634FB95197D8A</a></p> |

|  |  |  |  |  |
|--|--|--|--|--|
|  | <a href="https://www.fca.org.uk/publication/paper/2018/dp118.pdf?la=en&amp;hash=4238F3B14D839EBE6BEFBD6B5E5634FB95197D8A">paper/2018/dp118.pdf?la=en&amp;hash=4238F3B14D839EBE6BEFBD6B5E5634FB95197D8A</a> |  |  |  |
|--|--|--|--|--|

| Finalised Policy and guidance |   |                               |  |  |
|-------------------------------|---|-------------------------------|--|--|
|                               |   | Implementation/effective date |  |  |
| <b>Policy statements</b>      | <p><b>FCA regulated fees and levies 2018/19 (PS18/13)</b></p> <p>On 4 July 2018, the FCA published its final 2018/19 regulatory fees and levies including feedback on CP18/10: FCA regulated fees and levies: Rates proposals 2018/19. This includes FCA periodic fees, the Financial Ombudsman Service general levies, the Money Advice Service, Pension Wise, Single Financial Guidance Body and Illegal Money Lending levies. Firms can use the FCA fee calculator to calculate their individual fees based on the final rates.</p> <p><a href="https://www.fca.org.uk/publication/policy/ps18-13.pdf">https://www.fca.org.uk/publication/policy/ps18-13.pdf</a></p> | July 2018                     | <p>The policy relating to NSTs will take effect for all financial year-ends on, or after, 31 December 2018</p> <p>The modification by consent for Category 4 and 5 firms (introduced in the updated SS11/15) will apply from Q3 2018 onwards.</p> <p>The policy relating to Annual Controller Reports submitted by mutuals will apply from 1 September 2018.</p> | <p><b>Changes in insurance reporting requirements (PS16/18)</b></p> <p>On 6 July 2018, the PRA published its final policy concerning changes in insurance reporting requirements. This policy statement updates the Reporting Part and the Change in Control Part of the PRA Rulebook, attaches new SS6/18: National Specific Templates LOG files and updates SS11/15: Solvency II: Regulatory reporting and exemptions for changes to quarterly reporting waivers and clarification on the timing when resuming reporting should a waiver expire or be revoked. The policy statement also contains the PRA's feedback on responses to CP2/18: Changes in insurance reporting requirements.</p> <p>The changes are designed to reduce the burden for Solvency II firms and mutuals while maintaining the PRA's ability to meet its statutory objectives and to supervise firms. For example, the PRA has amended rule 5.2 of the Change in Control Part of the PRA Rulebook to exempt mutuals from submitting Annual Controller Reports if they do not have a Controller.</p> <p><a href="https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-">https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-</a></p> |

|  |   |  |  |   |
|--|---|--|--|---|
|  |   |  |  | <a href="https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2018/ps1618.pdf?la=en&amp;hash=B34422DB279AF4B2B86237AF3466D1913D361316">statement/2018/ps1618.pdf?la=en&amp;hash=B34422DB279AF4B2B86237AF3466D1913D361316</a>  |
|  | <p><b>Extending the Senior Managers and Certification Regime to FCA firms – Feedback to CP17/25 and CP17/40, and near-final rules (PS18/14)</b></p> <p><b>Extending the Senior Managers &amp; Certification Regime to insurers – Feedback to CP17/26 and CP17/41 and near-final rules (PS18/15)</b></p> <p>On 4 July 2018, the FCA published two policy statements containing near-final rules on the extension of the Senior Managers and Certification Regime (SMCR) to all FSMA authorised firms. The rules are subject to commencement regulations to be made by HM Treasury. SMCR currently applies to banking firms and, following the Bank of England and Financial Services Act 2016, is now being extended to FCA solo-regulated firms and insurers, replacing the existing Approved Persons Regime. A summary of the FCA's rules and guidance on SM&amp;CR has been set out in new guides for solo-regulated firms and dual-regulated insurers.</p> <p><a href="https://www.fca.org.uk/publication/policy/ps18-14.pdf">https://www.fca.org.uk/publication/policy/ps18-14.pdf</a></p> <p><a href="https://www.fca.org.uk/publication/policy/ps18-15.pdf">https://www.fca.org.uk/publication/policy/ps18-15.pdf</a></p> | <p>PS18/14 – 9 December 2019</p> <p>PS18/15 - 10 December 2018</p> | <p>When commencement regulations have been made by HM Treasury for the relevant amendments to FSMA</p> | <p><b>Strengthening individual accountability in insurance: Extension of the Senior Managers and Certification Regime to insurers (PS15/18)</b></p> <p>On 4 July 2018, the PRA published a new policy statement containing the final rules for the extension of the Senior Managers and Certification Regime (SMCR) to insurers, which amend the Senior Insurance Managers Regime (SIMR). The new statement also includes the PRA's feedback to responses to Consultation Papers CP14/17 and CP28/17 as well as an updated Supervisory Statement 35/15 "Strengthening individual accountability in insurance", a consolidated Statement of Policy "Conditions, time limits, and variations of approval" and the streamlined set of forms for the SM&amp;CR, and amendments to Part 4A permissions forms. PS15/18 contains equivalent policy regarding the extension of the SM&amp;CR to insurers to that published by the FCA on the same day.</p> <p><a href="https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2018/ps1518.pdf?la=en&amp;hash=9D28A1451F4AAF123C12E9ABF8E2213E17E70023">https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2018/ps1518.pdf?la=en&amp;hash=9D28A1451F4AAF123C12E9ABF8E2213E17E70023</a></p> |
|  | <p><b>Final Guidance: the Duty of Responsibility for insurers and FCA solo-regulated firms (PS18/16)</b></p> <p>On 4 July 2018, the FCA also published a separate policy</p>  |  | <p>10 December 2018</p>  | <p><b>Solvency II: Matching adjustment - illiquid unrated assets and equity release mortgages (SS3/17)</b></p> <p><b>Strengthening individual accountability in banking</b></p>   |

|  |  |  |  |
|--|--|--|--|
|  | <p>statement setting out how it will apply the Duty of Responsibility to insurers and FCA solo-regulated firms. When the SMCR is extended to such firms, as is currently the case for banks and other institutions covered by SMCR at present, the FCA will be able to take enforcement action against their Senior Managers if (i) there was a contravention of a relevant requirement by the Senior Manager's firm; (ii) at the time of the contravention or during any part of it, the Senior Manager was responsible for the management of any of the firm's activities in relation to which the contravention occurred, and (iii) the Senior Manager did not take such steps as a person in their position could reasonably have been expected to take to avoid the contravention occurring or continuing.</p> <p><a href="https://www.fca.org.uk/publication/policy/ps18-16.pdf">https://www.fca.org.uk/publication/policy/ps18-16.pdf</a></p> |  | <p><b>(SS28/15)</b></p> <p><b>Solvency II: Remuneration requirements (SS10/16)</b></p> <p><b>Corporate governance: Board Responsibilities (SS5/16)</b></p> <p><b>Whistleblowing in deposit-takers, PRA-designated investment firms and insurers (SS39/15)</b></p> <p><b>Strengthening individual accountability in insurance (SS35/15)</b></p> <p><b>Conditions, time limits and variations of approval (Statement of Policy)</b></p> <p>These supervisory statements and statements of policy have been updated (mostly to reflect changes in terminology) as a result of the publication of PS15/18 "Strengthening individual accountability in insurance: Extension of the Senior Managers and Certification Regime to insurers".</p> |
|--|--|--|--|

## Further Afield

### **Hong Kong: Securities and Futures Commission consults on amendments to anti-money laundering and counter-terrorist financing guidelines**

On 5 July 2018, the Hong Kong Securities and Futures Commission (SFC) commenced a consultation on proposals to amend the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (the "Guideline"). The amendments are aimed at bringing the Guideline in line with international anti-money laundering and counter-financing of terrorism standards, and making it more useful and relevant.

The proposed amendments expand the types of politically exposed persons requiring enhanced due diligence to include customers who have been entrusted with a prominent function by an international organisation; and streamline the identification and verification processes for onboarding of customers.

The consultation exercise will run until 9 August 2018.

<https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR76>



## 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

**Rae Lindsay**  
Partner

E: rae.lindsay  
@cliffordchance.com

**Michael Lyons**  
Partner

E: michael.lyons  
@cliffordchance.com

**Matthew Newick**  
Partner

E: matthew.newick  
@cliffordchance.com

**Kelwin Nicholls**  
Partner

E: kelwin.nicholls  
@cliffordchance.com

**Luke Tolaini**  
Partner

E: luke.tolaini  
@cliffordchance.com

## Editors

**Chris Stott**  
Lawyer

E: chris.stott  
@cliffordchance.com

**Iurii Nikitin**  
Lawyer

E: iurii.nikitin  
@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 2018

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 • Dubai • Düsseldorf • Frankfurt • Hong Kong • Istanbul • London • Luxembourg • Madrid • Milan • Moscow • Munich • New York • Paris • Perth • Prague • 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.