



Welcome to the latest edition of Gem Compliance's monthly regulation newsletter. The aim of the newsletter is to tailor industry news in an easily digestible format. As such, not all sources of industry information and FCA publications (and no PRA publications unless specified) will be covered. Therefore clients and associates of Gem Compliance should periodically check the FCA's website for other developments.

November saw the publication of FCA's 'Our Future Mission', which is summarised below. The FCA reiterates its strategic objective – ensuring that relevant markets function well, underpinned by its three operational objectives: to protect consumers, protect the integrity of the UK markets and enhance competition.

The FCA also published a consultation paper on proposed changes to its regulatory fees and levies for 2017/18 and held a conference on financial crime.

Also this month, the Chancellor presented the Autumn Statement which included important new investments which would benefit startups and promote innovation. There will also be a gradual drop in corporation tax and changes to personal tax allowances, inheritance tax and employee benefits.

The November edition of the FCA's Regulation Round-up was published.

The FCA's latest Policy Development Update, as of 4 November 2016, was also released.

We hope you find this newsletter useful and should you have any compliance queries or require advice on any of these topics, please do not hesitate to contact us.

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Main features

- * FCA's Future Mission
- * CP 16/33 Regulatory fees and levies: policy proposals for 2017/18
- * FCA Financial Crime Conference
- * Other FCA Speeches
- * Other FCA Publications
- * FCA Press Releases
- * Industry News
- * Enforcement Actions and Prosecutions

Industry News

Chancellor Philip Hammond delivered the Autumn Statement which covered the following key points:

- £23bn to be invested over the next five years into infrastructure and innovation
- An extra £2bn to be invested in research and development each year by 2021
- £400m to be invested into venture capital funds through the British Business Bank
- Corporation tax cut to 17 per cent by 2020 from the current 20 per cent upheld.
- Tax advantages linked to employee shareholder status will be abolished for arrangements entered into on, or after, December 2016.
- The bank levy charge will be restricted to UK balance sheet liabilities from 1 January 2021
- Inheritance tax will be charged on UK residential property when held indirectly through an offshore structure.
- The government will continue to pursue tax avoidance schemes and is set to equalise tax treatment between offshore and onshore funds.

[Click here for the article on innovation investment](#)

[Click here for the article on tax](#)

[Click here for a general summary article](#)

The FCA has capped pension exit fees to one per cent of the value of the pension from 31 March 2017.

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HM Treasury has banned cold-calling for the sale of pension products to stem the recent surge in scam offers with fines of up to £500,000 for a violation of the ban.

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A survey indicated that businesses will up or maintain their innovation spending post-Brexit with increasing collaboration and partnership, followed by greater access to technical skills listed by the firms involved as priorities.

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The Association of Professional Financial Advisers has issued a guidance note to help advisers understand how to deal with the Financial Ombudsman Service.

[Click here for guidance note](#)

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FCA's Our Future Mission

The Future Mission covers the following key areas:

- * Ensuring markets function well – outlines the different types of markets regulated by the FCA and proposes a three – tier approach to measure the FCA's impact: operational efficiency, impact of the FCA's interventions and measuring outcomes in markets.
- * Meeting the FCA's objectives:
 - * Lists the principles of good regulation: efficiency and economy, proportionality, sustainable growth, consumer responsibility, senior management responsibility, recognising the differences in the businesses of different regulated persons, openness and disclosure and transparency.
 - * The FCA also states that it is likely to look at activities outside of its regulatory perimeter if the activity is: illegal or fraudulent, has the potential to undermine confidence in the UK financial system, is closely linked to, or may affect, a regulated activity or call into questions the suitability of the firm.
 - * The FCA also defines harm in financial conduct and sets out its intervention framework which relies on six main diagnostic tools: individual firm analysis, multi-firm reviews, thematic reviews, investigations, market studies and policy work.
- * Regulation and public policy - the FCA identified the following challenges: general access to financial services and specifically access for an ageing population, price discrimination, technological change, regulation of long term products such as pensions and the debate surrounding duty of care.
- * Protecting consumers – focus on redress schemes; views are asked on: how quickly redress is needed, number of affected consumers, activity outside the FCA's regulatory remit and communication.
- * Vulnerable consumers – focus on providing greater level of protection.
- * The role of disclosure in consumers' choices – the challenge of the right amount of disclosure.
- * When will we intervene? – The FCA bases the decision on whether or not to intervene on severity, scale and impact of the issue and also in consideration of the risks to the FCA's objectives. The FCA aims to increase transparency on its intervention process.
- * Competition and market design – the FCA considers different methods of potential intervention based on a range of diagnostic tools: transparency, proxies for competition, minimum standards and high-level principles, specific market interventions and product interventions.
- * Supervising firms – upon entering the sector, firms must meet Threshold Conditions in effective supervision, appropriate resources, suitability and business model. Recently, the FCA also increased efforts to attract new business models into the market, with Project Innovate, the Regulatory Sandbox, the Advice Unit, FCA RegTech sprints, the Bank mobilisation and New Bank Start Up Unit and International Agreements. As for continuing supervision of firms, the FCA continues to advocate the Principles for Business and more recently, the Senior Managers and Certification Regime and finally, continues efforts to ensure that firms leave the market in an orderly fashion.
- * Approach to enforcement – the FCA's main focus remains deterrence rather than intervention.
- * Looking ahead – the FCA's next focus is on financial crime.

The FCA welcomes feedback/additional questions and answers to the questions listed in the Mission Statement over the next three months and will publish the final Mission next Spring.

[Click here for the full Mission.](#)

Industry News continued...

The FCA has published a warning against the Bolivian bank Seedoro who they believe are targeting people in the UK and carrying out regulated activities without authorisation.

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The FCA has issued a statement on its review of the Royal Bank of Scotland's (RBS) treatment of SMEs and RBS announced how it will address the poor outcomes.

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FCA chief executive Andrew Bailey said that professional indemnity insurance is failing to act in its intended role as an element of the first line of defence against the failure of advice firms.

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A global pensions rating report indicates that the UK has dropped two places to 11, which means "a system that has some good features, but also major risks or shortcomings that need to be addressed, and without these improvements the efficacy of the system can be questioned."

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The Women Against State Pension Inequality Campaign is crowdfunding for legal fees to present the government with a case against the changes of women's pension age to protect those born in the 1950s.

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The FCA will reveal how it uses data collected on GABRIEL and also publish common mistakes made in submissions.

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The World Economic Forum has found that the gender pay gap has reverted to the level of 2008 and is not set to close for another 170 years, with the UK ranked 20th in the world for equality.

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FCA chief executive Andrew Bailey has warned the financial industry not to become too complacent with measures put into place after the previous financial crisis, citing an overall drop in young people's wealth and the changes to pension savings as new challenges.

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Concerns are growing over the use of power of attorneys. The head of a compliance firm specified that an ageing population means that more and more clients are making use of a power of attorney for their advisors to act on their behalf, but their actions are not always in the best interest of the client.

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Research found that the majority of statutory notices issued by the Pensions Regulator in respect of auto-enrolment were incorrect.

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Research has found that a third of British businesses have scrapped investment plans post - Brexit. The study, carried out by the Centre for Economic and Business Research and Hitachi Capital, found that a total of £65.5bn will no longer be invested in the UK.

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CP 16/33 Regulatory fees and levies: policy proposals for 2017/18

The FCA has released a consultation paper with its policy proposals with regards to regulatory fees and levies for 2017/18, structured as follows:

- * Chapter 2 – proposals for a new levy on consumer credit firms to provide funding for action against illegal money lending.
- * Chapter 3 – proposals to amend fee – blocks for the recovery of costs of MiFID II implementation which would affect: portfolio managers, managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes, firms dealing as principal, advisors, arrangers, dealers or brokers, corporate finance advisers, market operators, operators of multilateral trading facilities, and recognised investment exchanges. A consultation on the cost will follow in spring 2017.
- * Chapter 4 – proposes to base the fees of recognised investment exchanges and benchmark administrators on income and to adjust the charging structure for service companies.
- * Chapter 5 – updates to the Fees manual

The FCA requests for any comments to be sent to them by 16 January 2017 and feedback will be published in February or March 2017.

[Click here for the Consultation Paper](#)

FCA Financial Crime Conference

The FCA held a financial crime conference on 10 November. In his opening comments, Andrew Bailey, FCA's chief executive, noted that the FCA's approach to the future will be twofold. On one hand, there will be a focus on rules and expectations and hitting the balance between enabling innovation and maintaining a clear framework of rules. On the other hand, the FCA will focus on technology and the use of Big Data to tackle financial crime.

[Click here for a full overview of the conference](#)

Other FCA Speeches

- * [The economic challenge of regulating the mortgage market by Peter Andrews, FCA Chief Economist](#)

Other FCA Publications

- * [CP16/32](#) - Handbook changes to reflect the introduction of the Lifetime ISA
- * [PS16/24](#) - Capping early exit pension charges: feedback on CP16/15 and final rules
- * [FS16/12](#) - Call for Input on our approach to the current payment services regime
- * [Handbook Notice 38](#)
- * [FS16/11](#) - Call for Input on regulatory barriers to social investments
- * [GC16/7](#) - Revised proposed guidance on guarantor loans

FCA Press Releases

- * [FCA charges sixth defendant in alleged investment fraud](#)
- * [FCA finds weak price competition in some areas of the asset management sector](#)
- * [FCA publishes rules for the sale of the Lifetime ISA](#)
- * [FCA acts to improve competition in the current account market](#)

Industry News continued...

Law firm criticises HMRC for the lack of use of Conduct Notice powers over tax avoidance schemes.

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FCA halts new investment into discretionary fund manager Greyfriars Asset Management's Portfolio Six for unspecified reasons.

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The FCA has listed the eighteen firms and their ideas which are part of the first cohort of Project Innovate, which includes a micro savings app and a payments service provider that aims to provide cross-border payments using blockchain technology.

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The chief executive of the FCA, Andrew Bailey, has said that, post-Brexit, Britain would suffer from a lack of influence over standards and that firms should have a contingency plan for the future.

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Enforcement Actions and Prosecutions

FOS has upheld two further complaints against financial adviser Kellands Northern Ireland in inheritance tax cases. The firm had applied earlier in the year to cancel its permissions.

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The government has commenced a criminal tax probe into more than 30 individuals and companies brought to light by the Panama Papers.

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Former BlackRock manager Mark Lyttleton pleads guilty to two counts of insider dealing and will be sentenced on 21 December.

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The FCA has banned six individuals for different roles in an unauthorised collective investment scheme though the companies Plott Investments Ltd (which changed its name to Plott UK Ltd), European Property Investments (UK) Ltd and Stirling Alexander Ltd. The scheme caused 100 investors to lose just under £4.3 million together.

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Debt purchase and collections firm Motormile Finance entered into an agreement with the FCA to redress 500,000 customers, by providing £154,000 in cash payments and writing-off of £414m of debt due to failures in their due diligence and collections processes.

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A judge has ruled that Caledonian Ltd and Caledonian Commodities, which sold carbon credits, rare earth metals and storage pods are to be wound up due to failings in due diligence processes.

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