

# REGULATION NEWS

## ISSUE 33

June 2017



**Welcome** to the latest edition of Gem Compliance's monthly regulation newsletter. The aim of the newsletter is to present 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 and PRA's websites for regulatory developments.

There have been no new statements regarding fake FCA emails, but we urge our clients to remain cautious when receiving any emails from fca.org.uk and to keep an eye on the [latest updates from the FCA on this topic](#). Cyber-attacks continue to be a hot topic for the FCA and the FCA has issued additional information on the topic, which you can find below.

MiFID II/MiFIR implementation plans continue and Gem Compliance will be issuing briefing notes on MiFID II in Q3. In the meantime, please visit the FCA's dedicated [webpage](#) for the latest developments.

The FCA relaunched the [Live and Local programs](#), primarily focusing on retail investment activity but other firms are welcome to attend.

The June edition of the FCA's [Regulation Round up](#) has been issued and the FCA's [Policy Development Update](#) webpage was updated on 13 June 2017.

The Information Commissioner published the [June edition](#) of its newsletter.

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

- \* Cyberattack Prevention
- \* CP17/13: Fourth money laundering directive and fund transfer regulation implementation (DEPP and EG)
- \* Enforcement Actions and Prosecutions
- \* Other FCA Publications
- \* FCA Speeches
- \* FCA Press Releases
- \* Industry News

### Cyberattack Prevention

With the recent increased threat in cyberattacks, Citywire has spoken to several experts to compile a list of useful tips on cyberattack prevention:

- Updates – make sure your operating system and applications on PCs, tablets and mobile phones are up to date, the most recent versions will have the best protection against attacks.
- Resources – make use of resources available to your firm and if necessary, pay for extra advice/protection.

### Industry News

Bank of England governor Mark Carney noted in a speech that interest rates will remain low due to the "mixed signals" in the UK economy.

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A survey conducted by Canada Life Group has shown that less than 20 per cent of employees have some form of critical illness cover, despite cancer affecting one in two people during their lifetime and UK employees having an average of just over £3,000 in their savings.

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Research from CapGemini and Efma shows that robo-advice is developing in a different direction in the US to help banks collect more information about their clients, in order to provide better wealth management advice.

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The managing director of Legal & General Insurance (Partnerships) has warned that millennials are 'dangerously under-protected' when it comes to insurance, despite data from his firm showing that just over 20 per cent of critical illness claims were paid out to people aged 20-39.

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It is reported that in the merger and acquisitions space advice firms are being chased by buyers, with as many as 10 per firm, a reverse of the situation 5 years ago.

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Financial education body Wealth at Work compiled a checklist for advisers to assess defined benefit transfers.

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Merck Mercuriadis, the former manager of bands including Guns N' Roses and Iron Maiden has launched a music investment trust which will invest in hit song royalties.

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Stoke-on-Trent has been named as the best place in the UK to be a landlord, based on affordability and returns.

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HMRC has addressed criticism of its tax guidance saying it is produced carefully, after Tax consultancy RSM highlighted two recent tribunal cases where HMRC's phrasing was criticised.

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As the average divorce age rises to an all-time high, Aviva warns that the agreement on a fair separation of pension must become a prominent consideration in divorce cases.

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## Cyberattack Prevention continued...

- Identify weaknesses – identify where entry points could be, not just on PCs and laptops, but also phones, tablets and other devices.

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The FCA also put together a printable [infographic](#) with details on how to become more resilient and how and when to report an attack.

The FCA's cyber resilience webpage can be found [here](#).

## CP17/13: Fourth money laundering directive and fund transfer regulation implementation (DEPP and EG)

The FCA has published a consultation paper on proposed changes to its Decision Procedure and Penalties manual (DEPP) and Enforcement Guide (EG) following the implementation of the Fourth Money Laundering Directive (4MLD) and the Fund Transfer Regulation (FTR), which update the European Union's (EU) anti-money laundering (AML) framework to meet new international standards issued by the Financial Action Taskforce. The proposed changes include:

### 1. Amendment to EG on applying penalties:

- \* Power to impose a financial penalty on, or to publicly censure, a person, including an auction platform, for a contravention of a relevant requirement applicable to them and a financial penalty on, or publicly censure, an officer of the above who was responsible for the contravention.
- \* Power to cancel, suspend or restrict an authorisation or registration of an authorised person or a payment service provider, or temporarily or permanently prohibit an officer responsible for a contravention from holding a management role at a relevant person or a payment service provider.
- \* Clarification on the settlement discount regime, which will apply to penalties, suspensions, restrictions and temporary prohibitions imposed under the regulations, but not to cancellations of authorisation or registration or to permanent prohibitions.

### 2. Amendment to DEPP and EG on decision making, regarding who will be making which decisions based on the type of notice.

### 3. Physical amendments to DEPP and EG to reflect the above additions or deletions.

These proposals will apply to banks and other credit institutions, building societies, wealth management firms, investment managers and auction platforms. Comments are to be sent to the FCA by 7 July 2017.

[Click here for the CP](#)

## Enforcement Actions and Prosecutions

Insurance provider Admiral has agreed with the FCA to contact consumers who have been quoted inaccurate premium figures for their insurance policies. This comes after new rules were introduced by the FCA relating to increased transparency and engagement at renewal in general insurance markets ([PS 16/21](#)).

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A mortgage broker from Dundee has been jailed for 9 months for forging his mother's signature on mortgage documents to obtain a £180k mortgage in order to impress his partner.

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London-based banker Andre Ryjenko has been jailed for 6 years following a combined US and UK investigation into a bribery case worth £6.2m, related to referring unknowing clients from his employer to a US based cohort.

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## Industry News continued

FOS has upheld about a third of complaints against financial advisers in the past year and received only 1,600 complaints against advisers compared to 3,400 in the year before.

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A Harvard paper written by Ed Balls and Peter Sands, based on interviews with mid-sized British businesses and trade associations, has shown that there is a fear of increased costs and additional red tape post-Brexit.

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Barclays Bank has had to strengthen its email security after Jes Staley, the chief executive of the bank, was duped by a prankster. A few days later, Bank of England governor Mark Carney, also fell victim to the same prankster.

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The FCA has confirmed that it will not be making any changes to its Conduct of Business rules following the publication of its suitability review in May 2017.

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Think tank Pensions Policy Institute has suggested that 'long-term planning' may be a better term than 'pension planning'. This was the result of their report entitled Consumer engagement: lessons from overseas.

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The FCA has published a data bulletin showing how advisers get paid and for what type of advice. Around 80 per cent get paid via facilitated payments and figures show that although there are fewer companies providing restricted advice, they tend to be larger firms.

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A Europe-wide survey has shown that 91% of those quizzed are not comfortable with robo-advice. Out of 15,000 responses, only 3 per cent would give up control and allow an algorithm to make an investment on their behalf.

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Emerging Market specialist Luke Barrs has warned investors over misleading benchmarks in emerging markets. The Goldman Sachs employee said that indices are often backward-looking and do not give an outlook for the future.

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Pensioners are fearing that their cash will have dried up by the end of their lives. A study of 50,000 UK adults over the aged of 50 found that almost 30% were worried about their money while 35% believed they will be left with nothing.

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Citywire has created an overview of five ways MiFID II will impact advice firms: stricter rules on inducements, remuneration requirements, research, monitoring of conflicts of interest and complaints handling policy.

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A survey by FE of 210 advisers has shown that 80 per cent of them are reluctant to encourage their clients to take more risks out of fear of punishment by the regulator.

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## Enforcement Actions and Prosecutions continued...

Basildon Borough Council has been fined £150,000 by the Information Commissioner's Office for publishing sensitive information about a family's status in a planning application.

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The FCA has received orders from the Central Criminal Court to confiscate a total of £2.1m from eight people who have sold unauthorised investments in agricultural land under Operation Cotton.

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The FCA has started criminal proceedings against Fabiana Abdel-Malek, a former compliance officer at UBS AG's London Branch and Walid Anis Choucair following a joint investigation with the National Crime Agency. Each of them have been charged with five counts of insider dealing between 3 June 2013 and 19 June 2014.

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## Other FCA Publications

[CP17/17: Handbook changes to reflect the application of the EU Benchmarks Regulation](#)

[CP17/16: Advising on Pension Transfers](#)

[CP17/15: Powers in relation to LIBOR contributions](#)

[CP17/10: Consultation on persistent debt and earlier intervention remedies](#)

[Call for input: Access to insurance](#)

[CP17/14 Quarterly Consultation Paper 17](#)

[PS17/12 Implementing information prompts in the annuity market](#)

## FCA Speeches

Our investigations – the evolving approach, by Jamie Symington, Director of Investigations at the FCA

[Click here for speech](#)

Improving access to insurance, by Christopher Woolard, Executive Director of Strategy and Competition at the FCA

[Click here for speech](#)

## FCA Press Releases

The FCA has launched the second cohort of its regulatory sandbox with 77 applications and 24 successful firms that will be taken through the testing process.

[Click here for press release](#)

The FCA has issued a reminder that MIFID II will apply from 3 January 2018. This will introduce new regulated activities and investments and applications from affected firms which require authorisation for the first time or variations to existing permissions should complete and submit their applications by 3 July 2017 to ensure that these applications will have been completed by the FCA before the implementation date.

[Click here for press release](#)

FCA proposes changes to advice on pension transfers

[Click here for press release](#)

FCA asks for feedback on consumer access to insurance

[Click here for press release](#)

John Griffith-Jones confirms plan to leave the FCA and PSR in March 2018

[Click here for press release](#)

## Industry News continued

A fund group has introduced an alternative fee structure whereby it only charges a performance fee, rather than a usual percentage of assets under management.

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A group of fund houses have joined forces to call for a change in company reporting standards, with a focus on the disclosure of unrealised profits.

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A survey conducted by the Alternative Investment Management Association has found that paying for research remains a dilemma for a third of alternative investment managers even with MiFID II around the corner.

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Interest-only mortgages are gradually being paid off with a third expected to have been completed by 2020, with almost 136,000 due to mature this year alone.

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The Pensions Regulator has urged the government to grant it more powers, including changes to its scheme funding powers, information gathering capacity and the introduction of a defined benefit chairman's statement.

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The Ingenious film financing scheme has lost a bid to overturn its £700m tax bill. The scheme was backed by celebrities such as David Beckham and Wayne Rooney. The scheme was found to rely on artificial losses.

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The FCA has written to the UK's top 20 asset management companies asking for details of their Brexit contingency plans. The letter contains 30 questions, including whether or not the companies are planning to relocate staff or operations to the EU.

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Surrey has been identified as the investment fraud hotspot of the UK. The overall fraud reporting figure for the whole of the UK has risen by over 10% in 2016, compared to the previous year.

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Self-employed parents who take parental leave are struggling to get approved for a mortgage, even if they can prove their income.

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Former England captain Alan Shearer was reported to be suing his former financial adviser and a pension specialist firm for £9m in damages, but subsequent to this the case has been settled out of court.

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A senior portfolio manager has called for more transparency surrounding green bonds. Bram Bos, senior portfolio manager for sustainable credits and green bonds at NN Investment Partners, stated that providing more information about key performance indicators could make green bonds more interesting to investors.

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Last but not least, an advisor prevented a catastrophe when he arranged for the rescue of a feline who had become stuck between the firm's outside boardroom wall and a neighbouring building.

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