

# REGULATION NEWS

## ISSUE 36

September 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.

MiFID II remains a top priority for the majority of firms and we will be issuing a MiFID II implementation summary briefing note in October. In the meantime, [the FCA has indicated](#) that for firms which require new or amended permissions, they will need to ensure that they have contingency plans in place if such new permissions are not in place by January 2018.

The [September](#) edition of the FCA's Regulation Round up has been issued and the [Policy Development Update](#) page was last updated on 1 September.

The Information Commissioner has also recently issued its [monthly 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.

Email – [natalia@gemcompliance.com](mailto:natalia@gemcompliance.com)  
Website – [www.gemcompliance.com](http://www.gemcompliance.com)

### Main features

- \* FCA makes Market Investigation Reference for investment consultancy services
- \* Culture and conduct - extending the accountability regime
- \* CP17/32: Quarterly Consultation Paper No 18
- \* Enforcement Actions and Prosecutions
- \* Industry News
- \* FCA Press Releases, FCA Speeches and Other FCA Publications

### FCA makes Market Investigation Reference for investment consultancy services

For the first time ever, the FCA has made a Market Investigation Reference (MIR) to the Competition and Markets Authority (CMA) in relation to investment consultancy and fiduciary management services. The FCA considered that there was a combination of the following issues, which could lead to unbalanced competition:

- A weak demand side.
- Relatively high levels of concentration and relatively stable market shares with the largest three firms together holding between 50-80 per cent of the market.
- Barriers to expansion.
- Vertically integrated business models.

Aon Hewitt, Mercer and Willis Towers Watson, the UK's top three investment consultants, had offered the FCA a package of undertakings in lieu (UIL) of a reference to address its concerns, which the FCA has now rejected.

Christopher Woolard, Executive Director of Strategy and Competition at the FCA, said:

"It is a significant step for us to make this recommendation. We have serious concerns about this market and believe that the CMA is best placed to undertake this work."

[Click here for full story](#)

### FCA Press Releases:

The FCA has issued a warning about Initial Coin Offerings (ICOs) - digital ways of raising funds from the public using cryptocurrency. The FCA stresses that most ICOs are not regulated and consumers are unlikely to benefit from any protection.  
[Click here for article](#)

FCA on fair treatment of longstanding customers review.  
[Click here for press release](#)

FCA and Hong Kong Insurance Authority sign Fintech co-operation agreement.  
[Click here for press release](#)

FCA publishes findings from the Ageing Population Project.  
[Click here for press release](#)

FCA finalises revised Payment Services Directive (PSD2) requirements.  
[Click here for press release](#)

Bank of England, FCA, PRA and PSR review Memorandum of Understanding in relation to payment systems in the UK.  
[Click here for press release](#)

### Enforcement Actions and Prosecutions

Two Société Générale managers have been charged in relation to a Libor manipulation scheme.  
[Click here for article](#)

The FCA has banned a compliance officer who deliberately failed to disclose two criminal convictions in application forms to become an approved person. Adam Lancelot assumed the FCA would not conduct any checks and also fabricated a letter that was supposedly issued by the regulator to confirm their approval.  
[Click here for article](#)

A financial adviser has been jailed for 3½ years for his participation in a cocaine operation.  
[Click here for article](#)

### Industry News

122 people have commenced legal action against advisers and Ingenious Media with regards to losses suffered after investing in film tax schemes.  
[Click here for article](#)

Just under a third of UK employees have said that they do not have a financial safety net if they would lose their main source of income. The survey also shows that only 13 per cent of employees have a critical illness policy.  
[Click here for article](#)

Former Northern Rock shareholders have re-launched their campaign to fight for compensation.  
[Click here for article](#)

This newsletter contains generic information and has been generated for professional clients and associates of Gem Compliance Consulting Limited only and should not be regarded as advice. We will not be liable for loss, however caused by parties acting on the information contained

## Culture and conduct - extending the accountability regime – Speech by Jonathan Davidson, Director of Supervision - Retail and Authorisations

At the City and Financial Summit, London, 20 September 2017

Mr Davidson noted that the Senior Managers and Certification Regime (SM&CR) or, the Accountability Regime, as he refers to it, was rolled out to 900 banks and deposit takers in March 2016. Now it will be affecting 47,000 other firms, including many small to medium sized firms.

Mr Davidson continued the speech by stressing the importance of culture and conduct as a protection mechanism against future financial crises and noting that the root causes of these crises are seen as the strategy and business models of firms on one hand and the culture of firms, on the other. The FCA cannot keep on top of every single strategy and business model, but it could stipulate what culture it would like to see. Mr Davidson noted that the FCA would use four levers to assess how management impacts the culture of their firm:

- A clearly communicated sense of purpose and approach.
- Tone from the top or leading by example.
- Formal governance processes and structures and the policies and systems that specify expected behaviours and decisions, as well as risk management.
- People related practices, including incentives and capabilities.

Mr Davidson continued by stating that there are three essential components to the SM&CR:

1. Conduct rules which apply to all financial service employees and which must be embedded in their training:

- You must act with integrity
- You must act with due care, skill and diligence
- You must be open and cooperative with the FCA, the PRA and other regulators
- You must pay due regard to the interests of customers and treat them fairly
- You must observe proper standards of market conduct

2. Rules for senior managers - clear accountabilities set out in an individual Statement of Responsibility

3. Certification rules, with an annual assessment.

Mr Davidson concluded with the statement that the FCA does not intend the SM&CR as a strict enforcement tool, rather, that it forms the foundation of good business.

[Click here for full speech](#)

## CP17/32: Quarterly Consultation Paper No 18

The FCA has issued CP17/3, its Quarterly Consultation Paper No 18. The consultation covers proposed changes to:

- FEES 3 (variations of permission) to provide payment initiation and account services
- DEPP and EG to reflect the transposition of the PRIIPs Regulation
- COBS 16 and to forms and associated parts of the Handbook related to the Insurance Distribution Directive
- IFRU 2.2 to ensure full implementation of the Capital Requirements Directive (CRD)
- clarify how firms may provide personal projections in relation to the PRIIPs key information document
- the economic assumptions in COBS 13 Annex 2 following periodic review
- SUP regulatory reporting requirements
- address a potential barrier to consumers accessing retirement interest-only mortgages and correct an error in the definition of 'lifetime mortgage'

Comments are due by 2 October 2017 for Chapters 4, 5 and 6, and 1 November 2017 for the others.

[Click here for Consultation Paper](#)

## Other publications

[Market Watch 53](#)

## FCA Speeches

A Better View - Mark Steward, Director of Enforcement and Market Oversight at the FCA, highlighted a 75% increase in the number of FCA investigations over the past year.

[Click here for speech](#)

## Industry News (continued)

Research by Equifax Touchstone shows that 82% of intermediaries have a centralised investment process and just over ¼ use model portfolios. The firm's director noted an overall shift to a "more structured investment process".

[Click here for article](#)

Michael Saunders, one of the four external members of the Bank of England's (BoE) Monetary Policy Committee (MPC), has revealed his reasons for voting to raise interest rates. In a speech, he clarified that the BoE was seeking to achieve an "appropriate trade-off" between high inflation and boosting the economy and employment. The unemployment rate is currently almost on par with the Bank's definition of full employment, at 4.4% versus 4.5% as the defined rate, but inflation is at 2.6%, which is 0.6% above target.

[Click here for article](#)

Properties located in London's commuter belt have seen a decrease in price, with 44 per cent of properties on sale in Reading reduced in August.

[Click here for article](#)

A senior economist at Hargreaves Lansdown has warned that optimistic investors awaiting a rise in UK interest rates could be left disappointed.

[Click here for article](#)

Following a roundtable in July, The Pensions Regulator faced calls from the industry to draw up a template for defined benefit transfer, and is now working on this with representatives from financial advisers, providers, and pension scheme administrators.

[Click here for article](#)

The Innovative Finance Isa, which allows savers to invest in peer-to-peer lending arrangements without tax on the gains, has proven to be an unpopular product. There are currently only about 14 of such products available on the market with £17 million invested in its first year of existence.

[Click here for article](#)

Research conducted by Which shows that consumers trust banks more than long-term products such as pensions.

[Click here for article](#)

Businesses are being warned about keeping unnecessary cash following a recent court battle with HMRC. The latter lost the case against an estate over whether the livery run on the estate was an investment business or not.

[Click here for article](#)

A financial services law firm estimates that the number of managers who will become personally responsible for misconduct will rise from just over 3,000 to 72,000 once the Senior Managers Regime comes into force.

[Click here for article](#)

71 per cent of millennials have not opted out of auto-enrollment, however, if the personal contribution was to increase to 5 per cent, only 62% would continue to save.

[Click here for article](#)

Financial Times' analysis indicates that UK corporate profits may halve to 7.8%, partly due to the weak Sterling benefits fading.

[Click here for article](#)

A survey of 1000 High Net Worth Individuals has shown that 77% of those with £50,000 or more to invest said they trust their own investment decisions while only 12% would trust robo-advice.

[Click here for article](#)

HMRC has been found to struggle to provide evidence where it had fined a taxpayer for not submitting their tax return on time.

[Click here for article](#)

HMRC has only lost three out of 26 tax avoidance cases. Ingenious Film Partners were one of the losing parties after it was ruled that investments in the setup were not legitimate.

[Click here for article](#)