

REGULATION NEWS

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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.

The FCA seems to have slowed down its rate of publications ahead of MiFID II implementation early next year. It has however published its third consultation paper on Insurance Distribution Directive implementation and launched its Asset Management Authorisation Hub, more about those below. Gem will also be issuing a briefing note on the third IDD consultation paper.

The [October](#) edition of the FCA's Regulation Round up has been issued and the [Policy Development Update](#) page was last updated on 6 October.

The Information Commissioner has also recently issued its [monthly newsletter](#). The newsletter contains more information on [registration requirements under GDPR](#). In addition the FOS published its latest [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

- * FCA launches the Asset Management Authorisation Hub
- * CP17/33 - Insurance Distribution Directive implementation – Consultation Paper 3
- * Other FCA Publications
- * FCA Speeches
- * FCA Press Releases
- * Enforcement Actions and Prosecutions
- * Industry News

FCA launches the Asset Management Authorisation Hub

Following their Asset Management Market Study's findings on weak competition, the FCA has launched its [Asset Management Authorisation Hub](#). The aims of the hub are to aid firms in their application by improving access to necessary information and to simplify the regulatory process, without lowering entry standards.

The initial Asset Manager Authorisation Hub consists of:

- dedicated web pages for asset managers
- weekly pre-application meetings for asset managers
- a dedicated and named case officer from day one
- improved support in transitioning newly authorised firms to supervision

Industry News

Shareholders who suffered as a result of Tesco's mis-stated annual accounts in 2014 can now begin their claiming process. It is estimated that the misinformation affected around 10,000 shareholders.

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New government plans mean that listed UK companies will have to publish the ratio of pay between the highest and lowest paid employees. The Investment Association will also be overseeing a register of listed companies where a fifth of shareholders have voted against the level of executive pay.

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Age UK has teamed up with the City of London Police to research methods to better protect the elderly from scams and fraud.

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The Financial Services Compensation Scheme has clarified its stance on funeral plans – it does not provide protection for failed companies that provide funeral cover schemes.

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FOS has ruled in favour of a couple that had been misadvised by an advice firm regarding porting their mortgage.

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EFTs are becoming progressively more successful with ever-increasing fund flows into the products. 2017 is looking to be another record-breaking year with £296bn invested so far.

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A financial adviser is suing Sony after an exploding phone caused him to lose his job and his girlfriend.

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Figures from the Office of National Statistics show that EU-based UK retirees are in no rush to return to the UK since Brexit proceedings started.

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The FCA is looking to widen the availability of retirement interest-only mortgages, which has been welcomed by the Building Societies Association.

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A poll suggests that only 6 per cent of asset managers are ready for MiFID II, especially in relation to the new best execution analysis standards.

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The IDD entered into force on 23 February 2016 and firms must follow its requirements from 23 February 2018.

Like the Insurance Mediation Directive (IMD), the IDD covers the authorisation, passporting arrangements and regulatory requirements for insurance and reinsurance intermediaries. However, the application of the IDD is wider, covering organisational and conduct of business requirements for insurance and reinsurance undertakings. The IDD also introduces requirements in new areas – e.g. product and oversight governance (POG).

The IDD empowers the Commission to adopt delegated acts related to the POG requirements and in relation to the distribution of insurance-based investment products (IBIPs). The Commission published two draft IDD regulations for consultation on 20 July 2017 (the consultation exercise closed on 20 August 2017):

- the delegated act on POG requirements for insurance undertakings and insurance distributors (referred to as the draft POG Regulation); and
- the delegated act on conduct of business rules for the distribution IBIPs (referred to as the draft IDD Regulation).

This CP has been prepared using the draft POG and IDD Regulations, which were adopted by the Commission on 21 September 2017. Therefore, the FCA will consider whether any additional changes are necessary as a result of the final versions in due course.

Some Handbook changes are contingent on changes to be made to legislation. The proposals are currently based on HMT's draft statutory instrument, which is subject to change, so the FCA may need to consult again when the statutory instrument is finalised.

Due to the links between the IDD provisions and the draft regulations, and the way in which firms utilise COBS, the FCA plans to reproduce the provisions of the POG and IDD Regulations in its Handbook, so that firms will have a single point of reference for seeking to understand the IDD requirements.

In this CP, the FCA is consulting on its final proposals for implementing the IDD. The proposals cover the delegated acts, alignment with MiFID II and those relating to changes to UK legislation:

Part I – for life insurance distribution business, in relation to:

- inducements requirements for IBIPs (Chapter 4)
- suitability and appropriateness requirements for IBIPs (Chapter 5)
- disclosure requirements for IBIPs and mandatory occupational pensions (Chapter 6)

Part II – for all insurance distribution business, including life and non-investment business, in relation to:

- conflicts of interest (Chapter 7)
- product oversight and governance (Chapter 8)
- changes to the Perimeter Guidance (Chapter 9)
- regulatory processes (Chapter 10)
- additional changes, including consequential amendments, to other parts of the Handbook (Chapter 11)

In some places, the FCA's proposals go beyond the minimum standards required by the IDD, and these areas are explained in more detail in Chapter 3 and in Annex 2.

Stakeholders are advised to read this CP together with CP 17/23. For ease of consultation, the draft Handbook text included in Appendix 1 of this CP is prepared as if the amendments proposed in CP 17/23 have been made and so are not identified by underlining or strike through.

Comments are requested by 25 November 2017. The FCA aims to publish a summary of responses and a Policy Statement in January 2018.

[Click here for the CP](#)

The 'Shaping Our Digital future' report from the Trade Union Congress suggests that productivity and economic gains from using robots to fulfil certain tasks should be used to lower the state pension age.

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FT Adviser has published a summary of the Finance Bill, which contains a range of measures for investors and savers.

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A group of investors is challenging the FSCS over small compensation pay-outs. The group had invested in unregulated funds managed by Stirling Mortimer, which invested in overseas property. The investments totalled £91m and came from self-invested personal pensions. So far, pay-outs stand at about 20% of their total investments.

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The FCA has warned of the risks cryptocurrency investments pose. The regulator expressed particular concern with retail clients investing in contracts for difference with cryptocurrencies as the underlying investment due to their volatility.

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HMRC has won a case against the Alchemy tax avoidance scheme that was based on stock market betting, which could result in a £110m tax recovery.

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A number of panels have told the FCA that they are causing "regulatory overload" and the regulator promised that they would seek to reduce the regulatory impact on firms.

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The FCA has revealed findings from its first Financial Lives Survey, which shows that at least 1.3m people have indicated that they were mis-sold a pension or investment product. The survey also showed that a quarter of the respondents were confused about how their pensions work.

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The Pensions Administration Standards Association has revealed that pension savers have been scammed out of more than £1bn with the average loss being nearly £15,000.

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Lawyers have warned that a new online power of attorney, proposed by the FCA, could make it easier for scammers to take advantage of the elderly.

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The FCA will allow customers to port fact finds from a previous financial adviser to a new one as long as it is done in line with applicable data protection rules and with the client's express permission.

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The government has launched a taskforce in which the impacts of Brexit on financial services in the UK will be discussed. The aim is to bring together CEOs across the industry.

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A poll among financial advisers has shown that Brexit negotiations are the main concern for them when it comes to their clients' portfolios, followed by rising inflation.

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Other FCA Publications

CP17/34: Joint PRA and FCA form, PRA Rulebook, and FCA Handbook changes - MiFID II, IDD and BMR amendments

[Click here for consultation paper](#)

FCA Speeches

Ageing population and financial services - by Linda Woodall, Director of Life Insurance and Financial Advice

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Where next for investment and asset management regulation? - by Megan Butler, Executive Director of Supervision - Investment, Wholesale and Specialists at the FCA

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Free Trade in Financial Services matters - by Andrew Bailey, Chief Executive of the FCA

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Challenges for the regulator - consumer credit, long-term savings and an ageing population - by Andrew Bailey, Chief Executive of the FCA

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FCA Press Releases

Financial Conduct Authority outlines lessons learned in year one of its Regulatory Sandbox

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Review of debt management sector gets underway

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The FCA's work on Defined Benefit Pension Transfers

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FCA statement on the Work Plan for ESMA opinions on pre-trade transparency waivers and commodity position limits

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Response to the CMA's final report for its digital comparison tools market study

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Enforcement Actions and Prosecutions

The FCA has fined Rio Tinto plc £27,385,400 for breaching Disclosure and Transparency Rules.

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The FCA has banned a married couple for integrity failings. Mrs Colette Chiesa and Mr John Chiesa, ran a personal investment advice firm which became insolvent. The couple subsequently made inadequate, incomplete and misleading disclosures to their Trustee about their financial situation, while funding a lavish lifestyle.

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A financial adviser has been banned by the FCA after failing to act with due skill, care and diligence. After a failed appeal to the initial case which was first heard in 2013, Mr Rosier's firm has had its permissions cancelled and he has also been fined £10,000.

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A tax adviser who was formerly banned has been jailed after stealing again. Mr Moysey was able to continue work as a bookkeeper which gave him access to client funds, which he stole and then used to pay off his own mortgage and credit card debts.

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Industry News (continued)

Calculations have shown that the average retired couple would have run out of money on the 6th of October this year, if they were to rely on state pension alone. This would leave them with a shortfall of over £5,000 until the end of the year.

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Prudential reported that lifetime allowance is the number one topic on its adviser helpline.

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FOS is set to become leaner after the PPI deadline of 29 August 2019. In the last ten years, the organisation has grown from 350 staff to 4,000.

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FOS is urging advisers who are dealing with insistent clients to put their wishes in writing or to record their conversations.

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The FCA has dropped its investigation into a senior manager at Barclays. Mr Boath was one of the four former Barclays executives who was charged by the Serious Fraud Office with conspiracy to commit fraud and the provision of unlawful financial assistance in relation to activity around an emergency fundraising of £11.8bn in 2008.

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The FCA's Christopher Woolard has reiterated that regulations will not weaken after Brexit. He stressed that the FCA agrees with a lot of the rules that came out of the EU.

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The International Monetary Fund (IMF) wrote in its World Economic Outlook that the UK was a global exception when it comes to economic growth. Previously, the IMF reduced its previous growth expectations for the UK's economy by 0.3 per cent to 1.7 per cent.

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Kantar's 'Winning over Women' study shows that the financial industry is missing out on £133bn worth of investments by not targeting women.

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A new type of income replacement plan has been trialled targeting those who play high-risk contact sports. The first target was an amateur rugby club.

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Research shows that nearly half of surveyed brokers see robo-advice as the biggest threat to their businesses. The research also found that the vast majority would seek to diversify their businesses in the next year.

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Action Fraud reports that binary fraud is a growing concern with £18m lost in the first half of this year. A binary option is a financial option in which the payoff is either a fixed monetary amount or zero.

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HM Treasury is not going to change a rule that results in low paid earners losing out on 20% tax relief on their pensions. Instead, it put the responsibility on employers to decide which scheme best suits their employees.

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A survey has shown that nearly 75% of respondents have been cold contacted for personal information and 12% have been the subject of fraud after revealing personal information.

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