# REGULATION NEWS

## ISSUE 38

*November 17*

**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.

As we approach the end of 2017, and the start of 2018 when a number of significant regulatory developments come info force, the number of publications from the FCA and other organisations is increasing. Among other things, the FCA has published: an alert for authorised Principal firms; a statement on MiFID II inducements and research; and a consumer approach document, which confirms the FCA expects customers to take responsibility for their financial decisions but adds that firms must treat their customers fairly and take extra care when they are vulnerable.

November has also seen the first interest rate rise in over a decade and presentation of the 2017 Autumn Budget.

The November edition of the FCA's Regulation Round up has been issued and the Policy Development Update page was last updated on 3rd November.

At the time of writing, the FOS hasn't issued a November newsletter but the Information Commissioner has published a new edition of its monthly newsletter. The ICO's November issue includes links to GDPR guidance from the Article 29 Working Party on profiling, breach reporting and administrative fines.

PRIIPs Regulation comes into force at the beginning of January 2018 and accompanying this edition of the newsletter is a Gem Briefing Note on the Regulations. The scope of PRIIPs Regulation is broad, so non-retail investment firms are also advised to review the note.

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

- National Risk Assessment of Money Laundering and Terrorist Financing 2017
- CP17/36: Reviewing the funding of the Financial Services Compensation Scheme (FSCS): feedback from CP16/42, final rules, and new proposals for consultation
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- MS17/2: Wholesale Insurance Broker Market Study: Terms of Reference
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- FCA Speeches, Press Releases and Other Publications
- Enforcement Actions and Prosecutions
- Industry News

## Industry News

HMRC wins £18m tax avoidance case against scheme known as Clavis Liberty Fund 1 Limited Partnership. The scheme sought to create artificial tax losses that were later claimed against scheme users' other income to reduce their tax bills. HMRC's director general for customer compliance, Penny Ciniewicz, said: "We have repeatedly warned people about the financial consequences of using tax avoidance schemes. More and more people are coming forward and settling what they owe because they know the game is up. Our message is clear – steer clear of tax avoidance schemes or, like Liberty's users, you'll face a hefty consequence."
Click here for decision.

FCA board agrees plans to collect more information from advisers on higher risk products via the RMAR, as part of its review into the funding of the FSCS.
Click here for article.

As part of a panel of more than 50 top leaders from finance, business and policymaking, UK business heads have criticised capitalism in the UK describing it as a culture of "management greed, corporate tax dodging and investor short-termism." The panel concluded that there should be long-term focus on customer and society needs, as well as moves to tax companies globally on sales in order to tackle obscure tax avoidance structures.
Click here for article.

Reports of insider dealing to the FCA have hit another record-high. In 2016, 3,008 reports were made, which was also a record at double the number of reports made in 2015, but reports made so far in 2017 are already 24% higher than for the whole of 2016. The increase in 2016 and 2017 is thought to be the result of MAR, which came into force in July 2016.
Click here for article.

Unsuitable advice was the biggest cause of complaints to authorised firms in the first half of 2017. 29% of complaints related to unsuitable advice with general admin and customer services being the next biggest category at 19%.
Click here for article.

FCA's director of strategy and competition says reforms in the asset management sector are encouraging companies to invest in the UK.
Click here for article.

Pension experts warn of an end to the National Insurance exemption for employers in respect of pension contributions.
Click here for article.

ICO launches small business GDPR helpline.
Click here for more information.

## National Risk Assessment of Money Laundering and Terrorist Financing 2017

Regulation 18 requires firms to take appropriate steps to identify and assess the risks of money laundering and terrorist financing to which their business is subject. Under Regulation 16(2) the assessment should be informed by relevant findings in the National Risk Assessment (NRA).

The NRA sets out: the legal, regulatory and law enforcement framework; the key money laundering and terrorist financing risks for the UK; how these risks have changed since the UK's first NRA was published in 2015; and the action taken since 2015 to address these risks (e.g. Criminal Finances Act 2017).

Key findings of the 2017 NRA include:

- High-end money laundering and cash-based money laundering remain the greatest areas of money laundering risk to the UK. New typologies continue to emerge, including risks of money laundering through capital markets and increasing exploitation of technology, though these appear less prevalent than long-standing and well-known risks.
- The distinctions between typologies are becoming increasingly blurred. Law enforcement agencies see criminal funds progressing from lower level laundering before accumulating into larger sums to be sent overseas through more sophisticated methods, including retail banking and money transmission services.
- Professional services are a crucial gateway for criminals looking to disguise the origin of their funds. While intelligence gaps remain in these areas, understanding of the specific services and specific types of professional at greatest risk of abuse has developed and improved substantially since 2015.
- Cash, alongside cash intensive sectors, remains the favoured method for terrorists to move funds through and out of the UK. The UK's terrorist financing threat largely involves low levels of funds being raised by UK individuals to send overseas, fund travel or fund attack planning. The primary means of doing this are assessed to be through cash, retail banking or money service businesses (MSBs).
- A wide-ranging set of reforms by government and law enforcement over recent years is still in its early days, but starting to take effect. These have included reforms to tackle abuse of professional services, legislation to improve the law enforcement response and measures to improve corporate transparency. In addition, improvements to the public-private partnership have reportedly already delivered strong results.

Chapter 4 of the NRA discusses financial services. Criminals use the UK financial system to hide illicit funds among huge volumes of legitimate business. In 2015 the financial services sector was rated high-risk for money laundering and medium risk for terrorist financing. Gaps and weaknesses in law enforcement understanding and information sharing between law enforcement agencies and the banking sector were also noted. Following work by a number of organisations, the FCA included, understanding has increased and the 2017 NRA provides separate assessments for retail banking, wholesale banking and capital markets, wealth management and insurance.

- **Retail banks**
  - Continue to be exposed to the highest volume of criminal activity out of all financial sectors.
  - The 2015 NRA identified the terrorist financing risk within the banking sector as medium. While the risk profile is not assessed to have shifted, when looking specifically at retail banking the terrorist financing risk is assessed to be high relative to other financial and non-financial sectors.

- **Wholesale banking and capital markets**:
  - Assessed to be exposed to high risks of money laundering due to the known risks around correspondent banking, as well as the risks of large sums being laundered through capital markets and the relative lack of controls. However, significant intelligence gaps around the extent and nature of the risk around capital markets exist.
  - While it is possible that international terrorist funds could or have transited through UK capital markets, no specific incidents of this taking place have been identified and the terrorist financing risk in this area is assessed to be low. *(Continued on page 3, left-hand column)*

## Industry News (continued)

Aviva reports that many employers are missing the deadline for setting up workplace pensions. Andy Beswick, managing director of SME solutions at Aviva, said: "employers need to understand the implications. Not only could they be fined but, unlike Aviva, not all pension providers will take on 'late stagers' so they are limiting their choice."
Click here for article.

House of Lords has approved amendments to the Financial Guidance and Claims Bill – which will merge Pension Wise, The Pensions Advisory Service and The Money Advice Service into a new body called the Single Financial Guidance Body (SFGB) – to give the SFGB more powers to fight pensions cold calling. The amended Bill will also require the new body to pass on consumers cases to the FCA in two situations:

1. where the SFGB suspects inappropriate, misleading or harassing approaches for debt advice, debt management, pensions access and claims management; and
2. where the SFGB suspects dishonest, unfair or unprofessional conduct by the suppliers of financial services within the SFGB's ambit.

Click here for amended Bill.

HMRC wins court battle against the Liberty tax scheme and expects to net £325m. The partnership claimed a deduction for the cost of purchasing dividend drawing rights but tried to exclude the dividends received from its trading results. This created a loss that was used to reduce users' tax bills.
Click here for article.

Financial planning director reports that some DB scheme trustees are sending unsolicited cash equivalent transfer values to members in their retirement packs. The director believes this is a worrying development and not in members' best interests.
Click here for article.

Department of Work and Pensions (DWP) has published draft legislation and a consultation paper proposing, inter alia, that from April 2018 managers and trustees of thousands of workplace schemes will have to publish comprehensive information about their charges or face a fine up to £50,000.
Click here for consultation paper.

The Investment Association (IA) is writing to any company in the FTSE All-Share index that received votes of 20 per cent against any resolution, or withdrew a resolution in 2017, asking them what they are doing to alleviate shareholder concerns about how they are run or how senior staff are paid. The response would need to be received before the Public Register goes live later this year, so that it can be included alongside the relevant voting data as part of the Public Register.
Click here for article.

SEC issues three 'no action relief' letters providing US brokers with a 30-month relief period to meet MiFID II research rules. The decision comes after SEC consultation with European authorities on concerns that investors could lose access to valuable research.
Click here for article.

After the FSCS warned a financial adviser that his former firm, Barretts Financial Solutions LLP, might be declared in default following receipt of a complaint from a client the adviser denies advising, the FSCS is now in agreement with the adviser that he had not given the client advice.
Click here for article.

## National Risk Assessment of Money Laundering and Terrorist Financing 2017 (continued)

- **Wealth management and private banking**:
  - Assessed to be exposed to high money laundering risks due to the sector's exposure to the proceeds of political corruption and tax evasion, and persisting regulatory concerns.
  - There is no specific evidence of terrorists using this sector to store or transfer funds and the sector is assessed to be exposed to relatively low risks for terrorist financing.

- **Insurance**:
  - The 2015 NRA flagged that the sector is a known target for fraud, and that Kidnap for Ransom is a known issue from a terrorist financing perspective, but that the level of known money laundering or terrorist financing risk was limited.
  - The FCA assesses there to be risks given the global nature of the London market, but that firms have suitable controls to deal with these risks.
  - Relative to other sectors, the insurance sector in the UK is assessed to be low risk for both money laundering and terrorist financing.

Where risks around services, sectors or entities have been identified the message for firms and individuals in those areas is that "they should be vigilant towards the persistent efforts of criminals and terrorists to exploit the vulnerabilities involved."

Click here for NRA.

## CP17/36: Reviewing the funding of the Financial Services Compensation Scheme (FSCS): feedback from CP16/42, final rules, and new proposals for consultation

This consultation paper follows CP16/42 (PDF) published in December 2016, which sought views on how FSCS funding could be reformed. Following the feedback received the FCA is now consulting on the following proposals:

- **Reforming funding classes and provider contributions (chapter 4):**
  - merge the Life and Pensions and Investment Intermediation funding classes and leave the rest of the structure as it is currently (with the addition of provider contributions to all of the intermediation classes);
  - requiring product providers to contribute 25% of the compensation costs falling to the intermediation classes;
  - moving pure protection intermediation from the Life and Pensions intermediation funding class to the General Insurance Distribution funding class.
- **FSCS compensation limits (chapter 5):**
  - increasing the FSCS compensation limit for investment provision, investment intermediation, home finance intermediation, and debt management claims to £85,000 to reflect changes to the options available to consumers when they retire; and
  - changing the limit for claims in relation to the intermediation of long-term care insurance, which is a pure protection contract, to bring it in line with the limit for other kinds of pure protection claim, at 100% of the claim instead of £50,000.

The FCA is also proposing for discussion:

- whether requiring certain Personal Investment Firms (PIFs) to pay capital into a trust account or purchase a surety bond might ensure that more consumer claims are paid for by firms or their insurers, subsequently reducing the cost of the FSCS to other firms; and
- a possible requirement preventing PIFs from purchasing PII policies which contain exclusions for the insolvency of the firm or any related party.

As well as proposals that seek to ensure the FSCS continues to provide the right protections, this paper also contains the final rules for changes to FSCS scope and operation (see chapter 3 for more information) that were consulted on in December 2016.

*(Continued on page 4, left-hand column)*

## Industry News (continued)

Bulk transfers of DC pension schemes set to become easier from April 2018.
Click here for article.

A study by KPMG indicates asset managers are falling short of FCA capital requirements because of the sophisticated statistical models used to quantify operational risk. The auditing firm highlights an increased regulatory focus on the ICAAPs of smaller firms through desk-top reviews and therefore urges firms to ensure their ICAAPs are of high quality.
Click here for article.

Investment firm gives finance masterclass to 20 football managers and coaches. Private bankers at Kleinwort Hambros gave an overview of the financial planning process and outlined the principles of investment structuring, retirement planning and estate planning. The firm's CIO also spoke about the current investment landscape and how to achieve investment goals.
Click here for article.

FCA's CEO reveals the FCA is to consult on aspects of the Financial Ombudsman Service such as the maximum award limit and extending the scope of the scheme to include SMEs.
Click here for article.

FSCS warns consumers about a Russian site that claims to represent the Scheme and asks people to register a claim.
Click here for warning.

In Q3 2017 HMRC repaid more than £36.8m in overpaid tax on pensions.
Click here for article.

FCA confirms it will be undertaking an assessment of the developing market for automated-advice models, which will include testing the suitability of advice provided, and the pre and post-advice support given to customers.
Click here for article.

The ICO's review of 30 UK websites in the retail, banking and lending, and travel and finance price comparison sectors, as part of a global investigation by 24 data protection regulators led by the ICO, found that data protection and privacy notices were often inadequate. The international study noted that 'there is significant room for improvement in terms of specific details contained in privacy communications'.
Click here for more information.

Tax advice provided by an AR of Friends Life in the late '90s resurfaces as a complaint from deceased client's daughter, acting as executor of her late mother's estate. In 1997, the deceased was advised to take out a with-profits investment bond, with £36,828 life cover, to help mitigate against her inheritance tax (IHT) liability. However, the daughter believes the advice was unsuitable because an IHT tax liability didn't exist. The land owned by her mother was agricultural land and therefore exempt from this tax.
Friends Life rejected the complaint saying the advice was suitable and if there was any issue her mother would have raised an objection at the time. However, the FOS ruled the adviser had an obligation to establish whether there was an actual IHT liability before giving advice about it and therefore upheld the complaint. Friends Life was ordered to refund all premiums paid with 8 per cent simple interest from the date of payment to the date of settlement.
Click here for article.

## CP17/36 (continued)

The rules set out in chapter 3, which come into force on 01/04/18 are as follows:

- **Introducing and extending consumer protection** – extending FSCS coverage for some aspects of fund management and introducing it for certain debt management activities and structured deposit intermediation.
- **Requiring Lloyd's of London to contribute to the retail pool** – which will be called upon if costs in a particular funding class are so high they breach the class's affordability thresholds.
- **Additional reporting requirements** – which will potentially enable the introduction of risk-based levies (RBLs) in the future.
- **Amending payment arrangements** – so some firms can be asked to pay a proportion of the levy on account and removing the rule that allows firms to pay the FSCS levy by direct debit.

Comments on the proposals are requested by 30/01/18.

Click here for consultation.

## CP17/37: Consultation Paper on Industry Codes of Conduct and Discussion Paper on FCA Principle for Business 5

Financial firms and their staff should be clear about the FCA's expectations of good conduct. For authorised firms, the FCA sets the framework for conduct and makes clear its expectations of firms and individuals undertaking regulated activities. However, for unregulated markets and activities the FCA's expectations of authorised firms are seen as less clear. This consultation therefore includes proposals to clarify expectations. The two main proposals are:

**1. A 'General Approach' to supervising and enforcing SM&CR (Senior Managers and Certification Regime) rules for unregulated markets and activities, including those covered by industry-written codes of conduct.**
The FCA expects firms and their senior management to consider market codes in determining the 'proper standard of market conduct' as part of the SM&CR requirements and obligations (e.g., individual conduct rule 5 - observe proper standards of market conduct - certification and regulatory referencing), including where there is no framework of rules.
The FCA will supervise adherence to the SM&CR rules and may take enforcement action in cases of serious and 'egregious' misconduct leading to harm or potential harm. (See the FCA's Mission for 2017 for more information.)

**2. Public 'Recognition' of particular industry codes of conduct that, in the FCA's view, set out proper standards of market conduct for unregulated markets and activities.**
This proposal means the FCA will review and assess industry codes against new criteria and then publicly state that it considers a particular code is a helpful explanation of the proper standard of market conduct for a particular market, which should encourage participants to adhere to that code.

**The FCA is also opening up for further discussion, extension of the application of Principle for Business 5** – A firm must observe proper standards of market conduct – to unregulated activities, placing firms and their staff under comparable obligations to observe proper standards of market conduct.

As well as providing clarity, the proposals should also encourage firms to follow appropriate standards in unregulated markets even when they are not binding, and enhance the FCA's ability to act against authorised firms and individuals for misconduct. However, the FCA proposals are not meant to give relevant codes equivalent standing akin to binding regulation. Firms and staff will not be required to become signatories to any particular code and codes will remain voluntary.

The proposals in this CP will affect all authorised firms, but will be of particular interest to those already subject to the SM&CR. As the SM&CR is extended, these proposals will also be relevant to a wider group of firms.

*(Continued on page 5, left-hand column)*

## Industry News (continued)

FATF publishes final guidance on private sector information sharing.
Click here for guidance.

Another tax leak, referred to as the Paradise Papers, reveals the offshore investments of the Queen and other wealthy individuals.
Click here for article.

FCA is currently reviewing the effectiveness of the retirement wake-up packs and possible changes will be announced in the retirement outcomes review final report, to be published in 2018.
Click here for article.

Corporate Compliance Insights publishes article on anti-bribery and corruption compliance.
Click here for article.

Regulation to amend EuVECA and EuSEF Regulations published in Official Journal of the EU. The Regulation comes into force on 30/11/17 and applies from 01/03/18.
Click here for summary article by Simmons and Simmons.

ESMA issues statements for firms and investors regarding initial coin offerings.
Click here for firm statement.
Click here for investor statement.

European Commission consults on encouraging sustainable investments.
Click here for consultation.

European Parliament adopts resolution on Action Plan on Retail Financial Services.
Click here for Action Plan.

ESMA publishes statement/Q&A on trading obligation for shares under MiFID II.
Click here for press release.

Members of the asset management industry accuse the FCA of acting against its own competition objective in relation to the proposals in its Asset Management Study. One of the Asset Management Study proposals is a rule requiring AFMs (i.e fund managers of authorised funds) to appoint a minimum of two, and at least 25% of the total board membership, independent directors to their AFM boards.
Click here for article.

Supreme Court rules in favour of HMRC regarding collection of avoided tax in failed tax avoidance film partnership case.
Click here for article.

David Davis, Secretary of State for Exiting the European Union, gave a speech on the post-Brexit relationship between the UK and the EU relating to the financial services sector.
Click here for speech.

Press release on the progress of MLD5 trialogue negotiations published.
Click here for press release.

The Bank of England warns of potential post-Brexit rate rise.
Click here for article.

Speech by Steven Maijoor, ESMA Chair, on ESMA's priorities for 2018.
Click here for speech.

## CP17/37 (continued)

Comments are requested by 05/02/18 and depending on the nature of the feedback, the FCA expects to publish a Policy Statement in Q2 2018.

Click here for consultation.

## MS17/2: Wholesale Insurance Broker Market Study: Terms of Reference

The FCA has published its Terms of Reference for a Market Study into the wholesale insurance broker market with the aim of assessing how well competition is working. The FCA wants to ensure that the sector is working well, and fosters innovation and competition in the interests of its diverse range of clients.

The wholesale insurance broker sector was last examined in detail around 10 years ago (by the FSA) and since then there have been significant changes, which have put pressure on earnings from commission. In response, brokers have developed a range of new and additional services and facilities for both clients and insurers. These additions to the London Market have increased over recent years and stakeholders have raised concerns about the potential impacts on competition. This study will therefore assess how effectively competition is working, as well as how brokers influence competition in the underwriting sector.

The study will explore three main areas:

1. Market power – whether individual broker firms have market power (the ability to raise the prices of their services beyond normal competitive levels) and, if so, what impact this has on competition.
2. Conflicts of interest – how these are affecting competition and client outcomes.
3. Broker conduct – how certain broker practices are impacting competition. The FCA will also consider whether there is any evidence of coordination between firms, potentially through an implicit understanding rather than a formal agreement.

The FCA is not formally consulting on this Terms of Reference but welcomes feedback on the topics selected for exploration and to the questions listed within the document. Views are requested by 19/01/18.

The FCA will begin gathering information from stakeholders soon and will include data and other forms of information from insurers, brokers and the purchasers of insurance policies sold in this industry. The FCA will also speak to stakeholders through individual meetings, roundtable events and market research with purchasers.

The FCA aims to publish an interim report for comment in autumn 2018 including its analysis and preliminary conclusions. The FCA will consider responses to the interim report and incorporate the feedback into its final report. If the FCA finds that competition isn't working it may intervene to improve outcomes. This intervention could involve rule-making, publishing general guidance, proposing better self-regulation for the industry, introducing firm-specific remedies and/or enforcement action. The FCA could also refer issues to the Competition and Markets Authority for further investigation.

Click here for Terms of Reference.

## FCA alert for authorised firms with ARs

The FCA has issued a second alert to all Principals with appointed representatives (ARs) regardless of sector, highlighting the risks to Principals for not having adequate oversight of their ARs. This alert follows a previous alert issued in August 2016.

The FCA expects Principal firms to consider and act on the following risks where relevant:

✳ **Introducers' influence** – ensure this is appropriate and that the Principal is able to meets its regulatory requirements in full.

*(Continued on page 6, left-hand column)*

## Industry News (continued)

The Pensions Advisory Service (TPAS) has introduced post-scam appointments to help savers in rebuilding their pension pots.
Click here for article.

Action Fraud, the UK's national fraud and cyber reporting centre run by City of London Police, has become the latest organisation to be cloned by scammers. The organisation warned a fake twitter account was asking for personal information and hijacking conversations.
Click here for article.

Goldman Sachs boss calls for second Brexit referendum. In a tweet the CEO said "'Reluctant to say, but many wish for a confirming vote on a decision so monumental and irreversible. So much at stake, why not make sure consensus still there?"
Click here for article.

Financial Reporting Council (FRC) has announced a thematic review to improve corporate reporting and auditing in the 2018-19 financial year, including the effects of Brexit on how companies disclose their risks. It will write to 40 smaller listed AIM-quoted companies before year-end informing them that it will inspect two aspects of their next published reports and accounts.
Click here for article.

Advisers have been urged by lenders to ensure they provide clear guidance to their clients about the terms of buy-to-let mortgages or risk being a party to fraud, as many loans come with terms preventing clients from using their property as a holiday let. A spokesperson for Yorkshire Building Society told *FTAdviser* that if they found several cases where a breach of contract has occurred, they would conduct an investigation and possibly remove the broker from the panel if they had been a party to the arrangements. An Aldermore spokesperson confirmed a similar view.
Click here for article.

JMLSG proposes further revisions to all Parts of its AML and CTF guidance. The revisions include, inter alia, inclusion of provisions of the Criminal Finances Act 2017.
Click here for revised guidance.

## Enforcement Actions and Prosecutions

FCA fines Merrill Lynch International (MLI) £34.5m (with 30% early settlement discount) for failing to report 68.5 million exchange traded derivative transactions between 12/02/14 and 06/02/16. The action is the first taken against a firm for failing to report details of trading in exchange traded derivatives under the EMIR.
Click here for Final Notice.

Brighthouse is to provide more than £148m in redress to around 249k customers for lending that may not have been affordable and for payments that should have been refunded. In 2014 the FCA identified that the firm's lending affordability assessment and collections processes did not always deliver good outcomes for customers particularly those who were at higher risk of falling into difficulty. As part of its programme to improve its processes, it identified customers that may have been treated unfairly and the firm has committed to putting things right for them.
Click here for press release.

## FCA alert for authorised firms with ARs (continued)

- **AR activities and use of Firm Reference Number (FRN)** – Principals should be aware of all the activities carried out by their ARs and ensure the FRN is being used/displayed correctly.
- **Monitoring and due diligence by Principals** – Principals should ensure they conduct sufficient due diligence on, and ongoing monitoring of, ARs.
- **Individuals** – Principals should ensure that no-one at their ARs is appointed for a role without prior FCA approval (where required) and that they identify all associated persons with significant control or senior management responsibilities/functions.

The FCA states that Principals should keep their AR relationships under review to ensure they remain necessary, appropriate and relevant. FCA work in this area will continue and the FCA warns that action will be taken for non-compliance with the requirements.

Click here for latest alert.

## FCA Speeches

**"Competition in the asset management industry: UK experiences, global implications"** by Christopher Woolard, FCA's Executive Director of Strategy and Competition.
Click here for speech.

**"The art of thinking independently together – why the regulator cares about diversity"** by Christopher Woolard, FCA's Executive Director of Strategy and Competition
Click here for speech.

**"Robo Advice: an FCA perspective"** by Bob Ferguson, Head of Department, Strategy & Competition Division, FCA
Click here for speech.

**"Effective compliance with the Market Abuse Regulation – a state of mind"** by Julia Hoggett, FCA's Director of Market Oversight
Click here for speech.

**Speech on retail banking and payments at the PayExpo 2017** by Karina McTeague, Director of Retail Banking Supervision at the FCA
Click here for speech.

**"Cyber resilience and supplier risk: moving beyond compliance"** by Nausicaa Delfas, Chief Operating Officer at the FCA, at the Cyber Security Summit and Expo 2017
Click here for speech.

## FCA Press Releases

FCA statement that it is investigating the circumstances surrounding the cyber security incident at Equifax.
Click here for press release.

FCA urges the public to report and speak out against fraudulent investment schemes.
Click here for press release.

FCA named as a Best Employer for Race in new listing.
Click here for press release.

FCA publishes statement to PSR's paper on authorised push payment scams.
Click here for press release.

FCA launches Wholesale Insurance Brokers Market Study.
Click here for press release.

*(Continued on page 7, left-hand column)*

## Enforcement Actions and Prosecutions (continued)

FCA decides to ban Tom Hayes, the first individual to be convicted in the Libor fixing scandal and sentenced to 14 years in prison, for failing to be fit and proper. Hayes referred the decision to The Upper Tribunal, which has decided to delay proceedings pending the Criminal Cases Review Commission's (CCRC's) decision of Hayes's conviction.
Click here for press release.

Capita Financial Managers Limited (CFM) has been publicly censured by the FCA and will pay up to £66 million to those investors who suffered loss as a result of investing in the Guaranteed Low Risk Income Fund, Series 1 (or as it became later known, the Connaught Income Fund, Series 1), which is now in liquidation.
CFM was found to have breached Principle 2 because it failed to conduct adequate due diligence on the Fund prior to taking it on and failed fully to rectify this failure when it became aware that its processes had been inadequate. It also failed to adequately monitor the Fund throughout most of its tenure as Operator. In addition CFM failed to ensure the Replacement Operator was fully informed about the issues that had arisen and was also also found to have breached Principle 7 because it failed to communicate with the Fund's investors in a way that was clear, fair and not mis-leading. The failings would normally have resulted in a financial penalty but CFM would not have been able to make a payment of up to £66m for the benefit of the Fund's investors if a financial penalty were also imposed. Therefore the FCA opted for public censure instead.
Click here for press release.

A tax adviser with no accounting qualifications, Leib Paul Berger, 53, also known as Lawrence Goldberg, has been sentenced to 4.5 years in prison for using the identities of traders to falsely claim £150,000 in tax repayments from HM Revenue and Customs (HMRC). Berger was also given a five year Serious Crime Prevention Order to start when he leaves prison, meaning - among other restrictions - he cannot work as a tax adviser during this time.
Berger succeeded in claiming £66,000 and laundered the proceeds through bank accounts, with accomplice, Seema Haider. Haider, after admitting cheating the public revenue and money laundering, was given 15 months (suspended for 18 months), ordered to do community service and pay costs.
Click here for article.

In an unusual and convoluted case involving an order of possession over business premises, criminal proceedings relating to trespass and criminal damage, and County Court judgments, the FCA has banned financial adviser, Anthony Badaloo, for failing to satisfy the suitability and appropriate resources threshold conditions, and because he was not a fit and proper person to carry out regulated activities.
Click here for Final Notice.

WH Ireland's former compliance director, Stephen John Cooper, has lost his fight against the FCA over allegedly damaging comments relating to a Final Notice handed to the firm in 2016, because he failed to file a challenge in time. In his decision, judge Timothy Herrington wrote that he found no grounds for extending the deadline but expressed certain sympathy for Cooper, who had blamed the delay on fighting a separate private notice issued to him by the FCA in December 2015 in which it expressed concerns that Cooper 'may' have acted without due skill, care and diligence in relation to his compliance duties at WH Ireland.
Click here for article.

## FCA Press Releases (continued)

FCA publishes Future Approach to Consumers.
Click here for press release.

Consumer warning about the risks of investing in cryptocurrency CFDs.
Click here for press release.

Consumer warning about the risks of investing in binary options.
Click here for press release.

Additional events for mortgage and general insurance firms announced for Live & Local regional programme.
Click here for press release.

## Other FCA Publications

Complaints data Analysis for H1 2017

Interim Summary of the independent review of Royal Bank of Scotland's (RBS's) treatment of small and medium-sized enterprise (SME) customers transferred to its Global Restructuring Group (GRG)

FS17/3: Feedback Statement to DP17/2 Review of the Effectiveness of Primary Markets: the UK Primary Markets Landscape

PS17/22: Review of the Effectiveness of Primary Markets: Enhancements to the Listing Regime

PS17/23: Reforming the availability of the information in the UK equity IPO process

CP17/35: Recovering the costs of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS): fees proposals

CP17/38: Regulatory fees and levies: policy proposals for 2018/19

FG17/9: Guidance for firms on how to calculate redress for unsuitable defined benefit pension transfers

Update on PPI campaign response

PS17/24: Handbook changes to reflect the new regulatory framework for Insurance-Linked Securities – Feedback to CP16/34 and CP17/3 and near-final rules

Minutes for FCA Board Meeting on 11th and 12th September 2017

FCA analysis of skilled persons reports commissioned in Q2 17/18

FCA Mission: Our Future Approach to Consumers

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FCA Guidance Document "Completing the application to cancel your firm's authorisation"

Minutes of the second meeting of the Fund Objectives Working Group

## Enforcement Actions and Prosecutions (continued)

J O Hambro Capital Management (JOHCM) is being investigated by the FCA in relation to the "eligibility of certain services" paid for by JOHCM out of dealing commissions between 2006 and 2016. The investigation follows dialogue between the FCA and JOHCM during a thematic review in 2015.
Click here for article.

Five jailed in £100m tax scam, which used 'ethical' environmental projects to convince investors they could reduce their tax bills by investing in reforesting projects in Brazil and China. The scheme, which is believed to be the biggest tax fraud in UK history, involved the setting up of a number of companies around the world, which were marketed on the basis they were independent of each other and acting in their own interests. However, they were found to be under the control of the defendants who were cycling cash between them to create an illusion of lending. The scheme attempted to deceive HMRC into believing that the overall project was much larger than it was and into granting false tax relief.
Click here for article.

FCA cancels firm's Part 4A FSMA permission for non-compliance with FOS award. A customer of Foreman Financial Services Ltd (FFSL) made a complaint to the FOS concerning advice received from FFSL to transfer his existing pension into a self-invested personal pension (SIPP) to fund the purchase of a property investment. On 09/09/16 the FOS upheld the customer's complaint and instructed the firm to calculate fair compensation. The customer accepted the award, at which point the determination became binding on both parties. FFSL disputes the FOS award but has not sought a judicial review, and despite repeated requests by the FOS and the FCA, has failed to comply with the award. The FCA therefore decided the firm breached Principles 6 and 11 (as well as DISP 3.7.12R(1)), and is not fit and proper, which also means that the firm fails to satisfy the suitability threshold condition.
Click here for Final Notice.

ICO fines Verso Group (UK) Ltd £80k for failing to comply with data protection law because it was not clear with people about what it was doing with their personal information.
Click here for article.

FCA bans former directors of now dissolved debt management firm, First Step Finance Ltd, for misappropriating more than £6m of client money from 4,000 customers, many of whom were vulnerable, to fund the couple's lavish lifestyle.
Click here for press release.

Former HSBC banker Mark Johnson faces up to 20 years in prison after being found guilty of defrauding a client in a $3.5bn front-running currency deal.
Click here for article.

Alan Kentish, CEO of Sipp firm, STM Group, has been arrested in Gibraltar under the proceeds of Crime Act 2015 for allegedly failing to disclose information about a client involved in a tax dispute with two countries. The firm reports that, at the time Kentish was not aware the client was involved in a tax dispute, so followed compliance procedures by filing two suspicious activity reports with the company's MLRO. These reports were then sent to the Gibraltar Financial Intelligence Unit (GFIU). In an update, the company said that as the GFIU did not respond within 14 days, it was in its rights to continue with business as normal.
Click here for article.