REGULATION NEWS

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Compliance Consulting

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.

It's been another busy month of publications, which included an FCA statement on EU withdrawal (summarised as a feature below) as well as a number of FCA corporate publications for 2018/19, including the FCA's Business Plan and a consultation paper for regulatory fees and levies, both of which have been summarised in this newsletter.

The April edition of the FCA's Regulation Round-up has been issued, which notes the publication of two FCA approach documents covering authorisations and enforcement. The Round-up also highlights, inter alia, other EU withdrawal considerations, speeches on culture and regulating innovation, the latest regulatory developments concerning the Asset Management Market Study (see below) and proposed updates to its Financial Crime Guide (also summarised below).

The FCA's Policy Development Update page was last updated on 6th April.

The ICO has issued its April newsletter in which the ICO highlights that the GDPR is (at the time of publication) just 30 days away! The FOS also published its April 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

- PS18/7: Staff incentives, remuneration and performance management in consumer credit – Feedback to CP17/20 and final rules
- GC18/1: Proposed guidance on financial crime systems and controls: insider dealing and market manipulation
- CP18/10: FCA regulated fees and levies: Rates proposals 2018/19
- FCA statement on EU withdrawal following the March European Council
- FCA Business Plan for 2018/19
- PS18/8: Implementing asset management market study remedies and changes to our Handbook – feedback to CP17/18 and final rules

Industry News

PRA has published its business plan for 2018/19.
Click here for publication.

PRA consults on regulatory fees and levies.
Click here for consultation paper.

The Alternative Investment Management Association (AIMA) publishes a position paper on the impact of Brexit on the alternative investment industry.
Click here for paper.

It is reported that Aberdeen Standard Investments (ASI), a top shareholder in consumer loan provider, Provident Financial, is suing Provident for failing to disclose an FCA probe into its Vanquis credit cards arm. Vanquis was fined £1.98m by the FCA for selling so-called 'repayment option plans' that the regulator said were poorly explained. It was also ordered to compensate customers £169m.
Click here for article.

As part of three wide-ranging reviews into Britain's tax system, the Treasury Select Committee has issued a call for evidence regarding how HMRC deals with tax enquiries and the resolution of tax disputes.
Click here for article.

Government publishes its response to a consultation launched in September '16, which looked at whether the need to take financial advice, introduced with pension freedoms, created difficulties for overseas residents wishing to transfer their pension savings from the UK to a qualifying recognised overseas pension scheme (Qrops).
Click here for response document.

Eclipse 35 Film Partnership scheme members receive 'double blow' with HMRC stating it will implement a dry tax charge on members, meaning they would face an income tax liability on money they didn't receive. This follows the Supreme Court ruling in 2016 that led to members receiving notification from HMRC that their tax benefits were to be reversed and they would be required to return the tax, plus interest.
Click here for article.

FCA reiterates warning to firms that "the onus is on the authorised firm which accepts business from an introducer to meet its regulatory requirements" and "if it's non-advised, then the onus is still on the regulated firm who has the introduction to do their due diligence". The repeat warning came from the FCA in the wake of the High Court case where an investor claims a self-invested personal pension provider, Carey Pensions, colluded with an unregulated introducer to push retirement savers into high-risk unsuitable investments where the investor lost as much as £3m.
Click here for article.

PS18/7: Staff incentives, remuneration and performance management in consumer credit – Feedback to CP17/20 and final rules

Following the consultation in July 2017, the FCA have published their final rules on staff incentives, remuneration and performance management in consumer credit.

The consultation found that a large proportion of consumer credit firms had: high-risk financial incentives likely to encourage high-pressure sales or collection; inadequate or ineffective controls; and, inadequate understanding of the risks these incentives may pose.

On this basis, the FCA created a new section in the Consumer Credit sourcebook (CONC), 2.11, which includes:

- A high-level rule requiring firms to have adequate arrangements to identify and manage any risk of non-compliance with their regulatory obligations arising from their remuneration or performance management practices;
- A proportionality provision requiring a firm, when deciding how to comply, to take into account the nature, scale and complexity of its business;
- Guidance on the purpose of the proposed new provisions and a reminder of the existing obligations under Principle 3 of PRIN and 4.1.1R of SYSC;
- Guidance setting out examples of relevant measures and procedures firms can introduce to manage these risks; and
- Cross-reference to non-Handbook guidance.

Non-handbook guidance elaborated on the above and:

- Gave examples of good and poor practice found during the thematic review;
- Reiterated messages from previous guidance;
- Gave more detailed examples of potential risks and how firms might reduce or manage them; and
- Explained expectations of the types of controls and governance firms could put in place to identify and manage risks.

The rules come into force on 1 October 2018.

Click here for policy statement.

GC18/1: Proposed guidance on financial crime systems and controls: insider dealing and market manipulation

The FCA's FC Guide (FCG) provides practical assistance to firms on the actions they could take to minimise the risk that their firms are used to further financial crime.

The current version of the FCG in the Handbook is dated July 2016 and there have been a lot of recent developments in the financial crime space that now need to be taken into account, such as: implementation of the 4th Money Laundering Directive through the 2017 Money Laundering Regulations, the Criminal Finances Act and a number of high-profile cyber security incidents.

This Guidance Consultation sets out its proposals to:

- Introduce a new chapter covering insider dealing and market manipulation. As with other chapters in the FCG, this new chapter will include examples of good and poor practice relating to the detection, reporting and countering of financial crime in respect of insider dealing and market manipulation.
- Make minor amendments to reflect the updated Money Laundering Regulations and sanctions references.
- Renumber the FCG to improve access and search functionality in the online Handbook version. The CP includes a table mapping the old headings and numbering to the proposed headings and numbering.

Key points from the proposed new insider dealing and market manipulation chapter are:

(Continued on Page 2, left-hand column)

Industry News continued

The Pensions Ombudsman rules that AJ Bell must compensate a client after incorrectly processing a £50k contribution made to a SIPP "resulting in loss of investment opportunity" for the client.
Click here for article.

The High Court has ruled that Lloyds is to pay around £2.5m in total to its former CEO and another director after it withheld bonus payments relating to the purchase of HBOS.
Click here for article.

Following publication of the FCA's policy statement regarding the provision of advice on pension transfers, Standard Life Aberdeen has withdrawn its transfer value analysis service because of potential conflicts of interests with advisers that use it.
Click here for article.

A number of former Premier League football players are suing Courts because of substantial losses in relation to property investments in Monte Resina, Spain and Florida, presented to them by the now liquidated Formation Asset Management (FAM). Coutts is accused of entering into a 'common design' with the advice firm (FAM), which has also seen a number of claims brought against it.
Click here for article.

David Davis gives no guarantee that the UK's financial services industry will be able to operate on the same terms as it does now with Europe post Brexit.
Click here for article.

Darktrace's CEO makes speech in London and describes the hacking of a casino through its fish tank's internet-connected thermometer. It is reported the hackers exploited a vulnerability in the thermostat to get a foothold in the network. Once in, the hackers managed to access the casino's database of gamblers and "then pulled it back across the network, out the thermostat, and up to the cloud." This example of a cyber attack comes from Darktrace's Global Threat Report.
Click here for Darktrace's Global Threat Report.

In upholding a complaint against the FCA, the Complaints Commissioner (CC) cites serious concerns over the FCA's supervision of firms after it came to the light that the FCA learned that a firm was defrauding investors but did nothing about it for 6 months. In its defence the FCA said the firm was in administration and so not subject to its supervision. In response the CC said: *"Although I accept that there will no longer be supervision, I remain concerned that the allegations of fraud and misrepresentation [...] have not been investigated and that there appears to be a lack of curiosity or sense of urgency about these matters from the regulator."*
Click here for article.

Mortgage Brain has produced a tool that can be installed into Amazon's Alexa to help people search for a mortgage. Alexa will ask a number of questions before searching the market to find a suitable mortgage. Alexa can also provide mortgage advisers' details by running a postcode-based search.
Click here for article.

European Parliament publishes provisional text on the proposed Fifth Money Laundering Directive (5MLD). If the European Commission replaces or substantially amends the proposal the matter will need to be re-referred to Parliament. The Directive then needs to be adopted by the Council, 20 days after which it will appear in the Official Journal. According to the provisional text, member states will have 18 months to implement the Directive into national law.
Click here for provisional text.

GC18/1 continued

- ✳ Section 1H(3) of the Financial Services and Markets Act 2000 (FSMA) defines financial crime to include 'any offence involving: (a) fraud or dishonesty, (b) misconduct in, or misuse of information relating to, a financial market, (c) handling the proceeds of crime, or (d) the financing of terrorism'. Insider dealing and market manipulation both meet this definition.
- ✳ Reference to insider dealing and marketing manipulation in the new chapter of the FCG will refer to the criminal offences above whereas the civil offences (of insider dealing, unlawful disclosure of inside information and market manipulation) will be referred to collectively as market abuse.
- ✳ The FCA recognises that firms' surveillance and monitoring of clients and employees won't distinguish between the criminal and civil regimes.
- ✳ The FCA expects senior management to take responsibility for the firm's measures in relation to insider dealing and market manipulation, and to be aware of the potential conflicts of interest arising from management's focus on revenue versus its obligation to counter the risk of the firm being used to further financial crime.
- ✳ The new chapter includes some self-assessment questions for senior management, such as:
    1. Does senior management understand the legal definitions of insider dealing and market manipulation, and the ways in which the firm may be exposed to the risk of these crimes?
    2. Does senior management regularly receive management information in relation to suspected insider dealing or market manipulation?
    3. How does senior management make sure that the firm's systems and controls for detecting insider dealing and market manipulation are robust, and how do they set the tone from the top?
- ✳ Firms should ensure that their policies cover procedures for both: (1) identifying and preventing attempted financial crime before any trade is executed, and (2) mitigating future risks posed by clients who have already been identified as having traded suspiciously.

The updated Guide is due to come into force on 1st October 2018.

Click here for guidance consultation.

CP18/10: FCA regulated fees and levies: Rates proposals 2018/19

This CP contains proposals for 2018/19 regulatory fees and levies in order to fund: the FCA, FOS, Money Advice Service (MAS), Pension Wise Service, Single Financial Guidance Body (bringing together the MAS, Pensions Advisory Service and Pension Wise) and the illegal money lending (IML) expenses of HMT. It should be noted that consultation rates don't include the FSCS levies, which are consulted on separately.

The policy statement will be published in July, and will also contain final FCSC levies. It should be noted that rates/costs might be revised once the final rates are published.

Key proposals are as follows:

- ✳ A 3.2% increase to the FCA's annual funding requirement (AFR) on last year.
- ✳ Exceptions to an even application of the 3.2% increase to the AFR are as follows:
    - ➡ Additional ongoing regulatory responsibilities relating to payment services and OPBAS (Officer for Professional Anti-Money Laundering Supervision);
    - ➡ EU withdrawal costs; and
    - ➡ Scope change recovery.
- ✳ Authorised and consumer credit firms contribute 92% of the FCA's AFR.
- ✳ Movements in AFR allocations across fee blocks have been proposed with most positive movements being roughly in the range of 2-5%. However, the AFR allocation to the D-fee block (for designated professional bodes and professional body supervisors) has increased by 973.5% in order to recover the costs of setting up the OPBAS.
- ✳ Minimum and flat fees to increase by 3%, so the proposed new minimum fee for solo-regulated firms will be £1,128.

(Continued page 4, left-hand column)

Industry News continued

HMT publishes joint statement with the US Treasury on the formation of a new "official-led" US-UK financial regulatory working group.
Click here for publication.

FCA updates its webpages on asset manager authorisations with three new interactive forms to assist firms in the pre-application stages of authorisation.
Click here for authorisation options.
Click here for fund structuring options.
Click here for collective vs individual portfolio management.

The Ministry of Housing, Communities and Local Government has published its feedback to a call for input on improving the home buying and selling process. Proposed measures will include requiring estate agents to hold professional qualifications and to be transparent about the fees they receive for referring clients to solicitors, surveyors and mortgage brokers. Steps to crack down on gazumping and improve access to information to improve the efficiency of the house buying process have also been proposed. In addition, Guides on 'How to Buy' and 'How to Sell' will be developed and published to ensure customers are better informed of the process and know what questions they should be asking.
Click here for press release.

The third annual Financial Institutions Sentiment Survey by Lloyds Bank, which comprises responses from more than 100 boardroom and senior executives of global banks, asset managers, insurers and private equity firms, has revealed that Brexit is the biggest risk to the UK economy for the coming year.
Click here for article.

In a speech at the launch of the FCA's Business Plan for 2018/19, the FCA's CEO Andrew Bailey, has said: "Although we are reprioritising some areas to make room for Brexit, we are clear that Brexit cannot obstruct our other priorities."
Click here for article.

HMRC reveals proposals to tackle tax avoidance schemes designed to move UK profits outside the charge of UK tax, often using offshore trusts and companies. The new legislation, which is intended to take effect in April 2019, would bring these profits within the UK tax charge and require notification of the arrangements to HMRC and earlier payment of tax.
Click here for consultation.

It is reported that a wealth manager is considering bringing a judicial review against the FCA to force it to take action on fund manager charges, saying the latest FCA response to the issues "achieves nothing".
Click here for article.

Tobias Haynes, a solicitor at FS Legal, which represents a group of claimants against the self-invested personal pension (Sipp) provider, Lifetime Sipp, has warned that millions of pounds of claims could hit the FSCS if the firm defaults.
Click here for article.

The Office of Tax Simplification (OTF) has published a paper, which assesses how well tax relief and charges achieve their objectives over the life of businesses, and how the reliefs/charges interact with each other. In its conclusion the OTF states "the complex patchwork of tax charges and reliefs which apply at various points in the business lifecycle would benefit from an overhaul to reduce complexity, make reliefs more accessible and to better enable businesses to fulfil their potential."
Click here for paper.

CP18/10 continued

- Firms that trigger variable periodic fees will see some year on year rate movements, however variable fee rates for consumer credit firms will remain unchanged. Some of the periodic fee block variable rate movements are listed below:
  - A2 Home finance providers and administrators: 4.1%
  - A7 Portfolio managers: -6.5%
  - A9 Managers and depositories of investment funds: -19.0%
  - A13 Advisory arrangers, dealers or brokers: -5.7%
  - A14 Corporate finance advisors: -9.5%
  - A18 Home finance providers, advisers and arrangers: -9.2%
  - A19 General insurance intermediation: -5.8%
- The total FOS levy and allocation across fee blocks is in line with the forecast that complaints (excluding PPI) will remain broadly stable.
- The total MAS levy has increased by 11.3% on last year.
- The total Pension Wise funding requirement is likely to increase by 18% but this figure may be revised once the pensions guidance levy rates are finalised in June.
- Recovery of £3.6m for the SFGB finding requirement. This will be allocated to the same fee bocks and in the same proportions used for the MAS and Pension Wise levies.
- The IML levy is expected to increase by 12% year on year.
- Rebates resulting from retained financial penalties will reduce fees to be collected in 2018/19 by £48.2m.

Click here for consultation paper.

FCA statement on EU Withdrawal

The FCA has issued a statement on EU withdrawal following the March European Council session.

During the implementation period - from 29 March '19 until the end of December '20 - European law will remain applicable in the UK meaning: firms and funds would continue to benefit from passporting between the UK and EEA; obligations derived from EU law would continue to apply; and consumer rights and protections derived from EU law would also continue to apply. However, the agreement is still subject to further negotiations.

The government also plans to implement a Temporary Permissions Regime for firms which passport into the UK. This would allow relevant firms and funds to undertake new business that falls within the scope of their existing permissions, enable them to continue performing their contractual rights and obligations, manage existing business and mitigate risks associated with a sudden loss of permission. Subject to legislation, firms wishing to benefit from the regime will need to notify the FCA.

The Prudential Regulation Authority and Bank of England have also set out their approach.

Click here for FCA's withdrawal statement.

FCA's Business Plan for 2018/19

The FCA has published its 2018-2019 business plan which sets out its key priorities for the year ahead.

In respect of EU withdrawal, the FCA's main focus areas are: working with the government; ensuring appropriate transition for EEA firms; working with regulated firms and monitoring risk; ensuring operational readiness; and international cooperation.

In terms of cross-sector priorities, the FCA highlighted:

- Firms' culture and governance should drive behaviours and produce outcomes that benefit consumers and markets.
- Combatting financial crime, including fraud, scams and anti-money laundering and improving intelligence sharing with law enforcement partners.
- Data security, resilience and outsourcing.
- Innovation, big data, technology and competition, which are driving change in financial markets.

(Continued on page 5, left-hand column)

Industry News continued

ESMA issues warning that an individual called "Edward Stewart" is using ESMA's name and logo to present himself as an employee of ESMA, conducting investigations in order to steal personal data and convince potential victims to transfer money. ESMA has lodged a complaint with the French Police.
Click here for warning.

It is reported that HMRC is investigating 181 footballers at 51 football clubs into alleged tax avoidance from image rights management schemes.
Click here for article.

An independent review of the FOS is to go ahead and the review will not be restricted to the issues raised in the Channel 4 programme Dispatches. The programme claimed some decisions by ombudsmen may not have been fair to consumers because of pressure to meet targets and a lack of understanding of the products involved.
Click here for article.

Following complaints from Royal London, HMRC took down its annual allowance calculator for pension contributions after it was made aware that the calculator was showing less annual allowance than it should do for the 2017-2018 year onwards.
Click here for article.

Technical pensions manager at Curtis Banks warns that the artificial creation of small pension pots to avoid the lifetime allowance excess tax charge, which is possible within the legislation, could be considered aggressive avoidance and not in the spirit of the rules.
Click here for article.

Financial Services Consumer Panel calls on FCA to force firms to design terms and conditions (Ts and Cs) in way that works for consumers (not just themselves) and enables customers to provide informed consent for the sharing of their financial data. The Panel's research found most people don't read Ts and Cs in detail - at best skimming them - and instead rely on the "wisdom of the crowd".
Click here for article.

European Parliament's Economic and Monetary Affairs Committee (ECON) publishes draft report on the proposed Investment Firms Directive (IFD), which covers the prudential supervision of investment firms and looks to amend the CRD IV and the MiFID II Directives.
Click here for draft report.

ESMA sends letter to European Commission to clarify ancillary activity test under MiFID II in relation to the exemption from authorisation as an investment firm for non-financial entities when their commodity derivative trading activity is ancillary to their main business.
Click here for letter.

Thomson Reuters has published its latest report on culture and conduct risk for 2018, the fifth report in the series.
Click here for report.

Publication of gender pay gaps has shown that St James's Place has one of the largest gaps in the industry at 47.2% in favour of men.
Click here for article.

Enforcement Actions and Prosecutions

Former BHS owner Dominic Chappell faces directorship ban on running or controlling a business for up to 15 years by the Insolvency Service.
Click here for article.

FCA's Business Plan for 2018/19

- The treatment of existing customers, including PPI claims and SMEs' access to FOS.
- Long-term savings, pensions and intergenerational differences which reflect the ageing UK population and their financial needs.
- High-cost credit, building on the significant impact already made in the market.

The FCA highlighted the following sectoral priorities:

- Wholesale financial markets, including operational resilience and clarification of the FCA's approach to market integrity.
- Investment management, focusing on finalising rule changes following the Asset Management Market Study, Working with European Supervisory Authorities in the implementation and review of PRIIPS, consulting on new rules and guidance on liquidity management, considering the extension of governance remedies to with-profits and unit-linked funds, assisting the Treasury in the development of a new prudential regime for investment firms authorised under MiFID II and publishing research that explores the rise of passive investment.
- Retail lending, including the launch of the FCA's Market Study on Credit Information.
- Pensions and retirement income, including the development a joint pensions strategy with the Pensions Regulator.
- Retail investments, including a review of high-risk and complex investments.
- Retail banking, including the delivery of the revised Payment Services Directive.
- General insurance and protection, including the implementation of the Insurance Distribution Directive.

Click here for Business Plan.

PS18/8: Implementing asset management market study remedies and changes to our Handbook – feedback to CP17/18 and final rules

PS18/8 provides the FCA's responses to feedback on its proposals in CP17/18 and on related proposals connected to the Senior Managers and Certification Regime (in CP17/25), and sets out its final rules and guidance on changes to the governance arrangements for authorised fund managers (AFMs) of authorised funds (that is, authorised open-ended collective investment schemes) and other technical changes to improve the fair treatment of investors in funds.

Some key points from PS18/8:

- Value for money proposal: The FCA has redrafted its final rules to clarify that fund charges should be assessed in the context of the overall value delivered, rather than using the term 'value for money'. The FCA has also decided to extend the implementation period for this requirement from 12 to 18 months.
- Independent directors: The FCA remains committed to its proposal that AFMs appoint a minimum of two independent directors and for them to comprise at least 25% of the total board membership. However, it has extended the implementation period from 12 to 18 months.
- SM&CR: The FCA will continue with its proposal for a new Prescribed Responsibility for AFMs to ensure compliance with the obligation to carry out the assessment of value, the duty to recruit independent directors, and the duty to act in the best interests of fund investors. The FCA intends to publish its final rules on the SM&CR extension later this year.
- Share Classes: The recast guidance now recommends AFMs make a simple, one-off notification to investors, which does not require a response, a minimum of 60 days before a mandatory movement of investors to cheaper but otherwise identical classes of the same fund.
- Trail commission: the FCA is still considering whether or not to continue to allow the payment of trail commission.
- Box profits: the FCA is proceeding with its proposal to require these profits to be repaid to the fund for the benefit of investors but with some technical adjustments and added flexibility for the fair allocation of these profits.

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Enforcement Actions and Prosecutions continued

RAC has been forced to apologise to, and where appropriate, compensate customers after failing to meet the FCA's new transparency rules on insurance renewals a year after their implementation. Jonathan Davidson, executive director of supervision at the FCA said: "It is simply unacceptable to see that some firms are still not being properly transparent with their customers a year on from the introduction of the rules."
Click here for article.

High Court rules that Capital Alternatives Limited, Renwick Haddow, Marcia Hargous, Robert McKendrick and others should pay a total of £16.9m in restitution for their roles in four unauthorised collective investment schemes that were unlawfully promoted to the public by false, misleading and deceptive statements. If the Defendants do not appeal the decision, the FCA can proceed to obtain monies from them for return to affected consumers. In the meantime, the FCA is seeking new injunctions restraining the assets of some of the defendants.
Click here for article.

The Pensions Regulator has accused Workchain Ltd of opting its employees out of its pension scheme illegally. It is alleged that the firm logged into its workplace pension scheme's online system using employees' details and ended their scheme memberships. The TPR is looking to prosecute the firm and some of its senior staff for unauthorised access to a computer programme, contrary to section 1(1) of the Computer Misuse Act 1990. The offence carries a penalty of an unlimited fine and up to 2 years in prison.
Click here for article.

Barclays has published a statement confirming the FCA and PRA have concluded their investigations into Jes Staley, the Group CEO, and Barclays regarding an attempt by Mr Staley to identify the author of anonymous letter. The statement reads: *"In respect of Mr Staley, the FCA and PRA have recently issued confidential draft warning notices setting out their reasons for proposing enforcement actions. The FCA and PRA are alleging that Mr Staley's actions in relation to this matter represented a breach of Individual Conduct Rule 2 (requirement to act with due skill, care and diligence) and each have proposed that he pay a financial penalty. The FCA and PRA are not alleging that he acted with a lack of integrity or that he lacks fitness and propriety to continue to perform his role as Group Chief Executive Officer."* The statement confirms that no action will be taken against the two banking entities but each entity will be subject to dual reporting requirements on certain aspects of their whistleblowing programmes.
Click here for Barclays' press statement.

Andrew Brooke and Gary Gregson of Gregson and Brooke Financial Services Ltd (GBFS) and One Tick Ltd (OT), have been disqualified for 13 and 10 years respectively and are now prevented from acting, directly or indirectly, as directors of companies. Together GBFS and OT received payments from customers into debt payment plans. GBFS and OT would pay minimal contributions to the credit providers from their clients' debt payment plans, while keeping a significant portion of their clients' money to go towards 'service fees'. Some customers complained to the FOS that their debts had increased despite having paid money into their debt payment plans. The FCA visited the offices of GBFS and OT in July 2014 and as a result the firm agreed to a number of directions including stopping acceptance of new customers. Brooke was then appointed director of the firms but the FCA continued to have concerns and issued Supervisory Notices to GBFS and OT on 29 August 2014. Brooke then transferred a total of £442,000 to another company he was a director of before both GBFS and OT entered into administration in October 2014.
Click here for press release.

PS18/8 continued

* Extending the scope of its governance proposals to other investment products: the FCA has planned further diagnostic work into with-profits and unit-linked products but does not plan any immediate actions on changes to investment trust governance. It is not proceeding with its extension proposals to pensions at this time.

The rules are expected to come into force on various dates in 2019. However, the recast finalised guidance publication (FG18/3, formerly 14/4)) has already taken effect.

The finalised measures in PS18/8 and the additional proposed measures in CP18/9 (see below, which focuses on the way authorised fund managers communicate with investors) are intended to address weaknesses identified in the FCA's asset management market study.

Some key points from CP18/9, Consultation on further remedies – Asset Management Market Study:

* Publish guidance reminding AFMs how they should express fund objectives and investment policies
* When describing the objectives of their funds require AFMs to explain clearly: what they are looking to achieve and how; the constraints that the fund's portfolio construction may be under; and any non- financial objectives they have, e.g. environmental or social objectives, and how they will measure and report progress against these objectives.
* Require AFMs to explain why they use benchmarks, or if they do not, how investors should assess the performance of the fund
* Require AFMs that use benchmarks to use them consistently across the fund's documents and presented alongside past performance where benchmarks are used as a constraint or target on portfolio construction;
* Require performance fees to be calculated on performance net of other fees in all cases.

The consultation period for CP18/8 closes on 5th July 2018.

Click here for policy statement.

Other FCA Publications

CP18/7: Improving the quality of pension transfer advice

PS18/6: Advising on Pension Transfers

CP18/8: PSR Regulatory fees

DP18/3: Ex post Impact Evaluation Framework

FCA statement on ESMA's temporary product intervention measures applied to retail CFD and binary option products

Information for investors in the Collateral Companies

Letter to Rt Hon Nicky Morgan MP from Andrew Bailey regarding Aviva plc preference shares

FCA's Response to Complaints Commissioner's Report

Quarterly KPIs: 2017/2018, as at December 2017

FCA Board Minutes for 21st and 22nd February

Dear CEO Letter re. Irredeemable preference shares and other similar capital instruments

Webpage on the basic advice regime under MiFID II and IDD

Enforcement Actions and Prosecutions continued

ICO is investigating a data breach regarding the members of WASPI (Women Against State Pension Inequality). Following a leadership dispute, the campaign's new board claim former directors have been using the organisation's databases to poll members about whether they should be reinstated to the leadership.
Click here for article.

ASA rules adverts produced by CDP Tax and Wealth Ltd, trading as Fiducia Wealth and Tax, must be withdrawn for being misleading. The adverts were headed *"Calculate stamp duty land tax. We will save you a minimum of 60 per cent".* Following its review of the adverts the ASA concluded that it had not seen "sufficient evidence to show that Fiducia's arrangement was not a scheme of avoidance and would not be subject to a challenge from HMRC".
Click here for article.

FCA Speeches

Payments after PSD2: evolution or revolution, by Karina McTeague, Director of Retail Banking Supervision at the FCA
Click here for speech.

FCA Press Releases

Insurance firms still failing to meet FCA general insurance renewal rules, which were introduced in April 2017. The FCA has warned it will take action against firms that fail to properly implement the rules, which are aimed at increasing transparency and encouraging people to shop around. (Since this press release, the RAC has been forced to contact customers and apologise for failing to meet these rules: see article above)
Click here for press release.

Animatronic Arnie returns to raise awareness of the 29th August 2019 PPI deadline. The new adverts will run on radio, social media, video on demand and outdoor advertising including bus stops and alongside some of the existing adverts, which first appeared in August last year. Since the campaign launched on 29 August 2017 the FCA has received nearly 17,000 calls to its helpline and nearly 900,000 people have visited its campaign website.
Click here for press release.

New FCA data for the first half of 2017 shows 3.76 million complaints about financial services firms were received, an increase of 13% on the second half of 2017. PPI complaints rose by 40%, the highest level for more than 4 years.
Click here for press release.