

This week at the UK regulators

Thirty second guide: The week in overview

Aside from the well publicised commencement of an internal investigation by the Bank of England in relation to allegations that officials condoned, or were aware of, alleged manipulation in the foreign exchange market or the sharing of confidential information, the focus last week was on consumer protection. In separate reports, the FCA released generally positive findings in reviews of firms' sales incentive schemes and preparations for the implementation of new platforms rules. It has also unveiled proposals in relation to the new payments regulator due to assume its powers from April next year and has reported further significant increases in the numbers of customers receiving redress under schemes relating to mis-selling of interest rate hedging products.

Bank of England confirms internal review on alleged foreign exchange manipulation

As has been widely publicised, the Bank of England has (on 5 March) confirmed that it is undertaking an internal review into allegations that Bank of England officials condoned, or were aware of, manipulation in the foreign exchange market or the sharing of confidential client information. For full details of its ongoing investigation, see its statement published on its website.

<http://www.bankofengland.co.uk/publications/Pages/news/2014/044.aspx>

FCA reports progress on sales incentive schemes

The FCA has (on 4 March) published the findings of its latest review into the sales incentive schemes maintained by retail financial services firms. This follows a report and consultation paper published by the FSA in September 2012 (see FSA Update, 10 September 2012) which found that, in its view, most firms with retail sales staff were operating sales incentive schemes likely to lead to mis-selling and led to changes to published guidance, finalised in January 2013 (see FSA Update, 21 January 2013).

The FCA's latest review has found good progress across the industry, with most large and medium sized firms committing to making further improvements on an ongoing basis. However, it has identified a number of areas in connection with the design, delivery and monitoring of sales incentive schemes where it considers there is room for

improvement. These include the systems employed to analyse sales patterns to identify areas of increased risk and the steps taken to address specific risks associated with face-to-face sales conversations, discretionary incentive schemes, non-advised sales and appointed representatives.

Whilst its thematic review has been ongoing, the FCA has taken a number of significant enforcement cases in this area. It has indicated that it is continuing with further industry-wide thematic work in this area as it supervises the steps firms are taking not only to replace bonus schemes with alternative performance management arrangements, but also to embed wider "cultural change that places consumers at the heart of firms' businesses". It has indicated that it does not propose any further rule changes at this stage, but will keep this under review as it begins implementation of the revised Markets in Financial Instruments Directive, and has identified smaller firms and consumer credit businesses coming under the FCA's supervisory remit from 1 April as areas of particular focus. Although the report does not set out any immediate plans for further enforcement action, the previous public statements of senior figures at the FCA indicate that it remains committed to taking such action where it does not perceive that firms are making rapid enough progress.

<http://www.fca.org.uk/static/documents/thematic-reviews/tr14-04.pdf>

<http://www.fca.org.uk/static/fca/documents/finalised-guidance/fsa-fg13-01.pdf>

<http://www.fca.org.uk/static/pubs/guidance/gc12-11.pdf>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGnHlNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe7uxG%2B5pKLE2G1NtFSo%2Fp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=114487>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGnHlNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe7uxG%2B5pKLE2G1NtFSo%2Fp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=147611>

FCA sets out plans for new payments regulator

Under the provisions of the Financial Services (Banking Reform) Act, a new regulator will oversee UK payment systems which, the FCA estimates to be worth over £75 trillion every year. The FCA has (on 5 March) released details of how it is proposed the new regulator will do so and has invited firms, groups and individuals affected by the changes to provide input by 15 April. The proposals published by the FCA emphasise the role of the new regulator in promoting competition and, in particular, of encouraging new entrants into the market. It also lists promoting innovation and ensuring payment systems operate in the interests of their users as the key objectives of the new regulator. Separate consultation exercises will follow in relation to rulebook amendments required and the fees regime ahead of the intended launch date for the new regulator in April 2015.

The new regulator will be a subsidiary of the FCA, will be separate from it, building upon initiatives already taken by the FCA. For example, in June last year, as part of its concerted efforts to place emphasis on the experience of consumers, the FCA reached agreements with banks in relation to same day retry systems and continuous payment authorities (see This week at the UK regulators, 11 June 2013 and 1 July 2013).

<http://www.fca.org.uk/static/documents/psr-call-for-inputs.pdf>

<http://www.fca.org.uk/news/continuous-payment-authorities>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGnHlNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe4jFyUhOBsv4kigzwlHV5n%2Fp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=149950>

<http://www.fca.org.uk/news/firms/commitment-high-street-banks-retry-system>

FCA reports on implementation of new platforms rules

The FCA has (on 3 March) released the findings of its thematic review into firms' preparations for new rules on platforms, which will enter into force on 6 April. The FCA has found firms to be generally well prepared for the introduction of the new rules. It has noted that an area of continuing uncertainty is how rebates, which are, in some circumstances, still allowed to be paid, will be administered in practice and has identified good communications with consumers as an area of particular priority for firms as the rules are implemented.

<http://www.fca.org.uk/news/review-of-implementation-of-platform-rules>

FCA issues update on interest rate hedging product redress

The FCA has released its latest statistics on the continuing process of payment of redress to customers for mis-selling of interest rate hedging products. The figures show further sharp increases during February in the numbers of customers currently in the redress phase, whose redress determinations have been completed and who have accepted offers of redress and in the total amount of redress paid as more customers progress through the process.

<http://www.fca.org.uk/consumers/financial-services-products/banking/interest-rate-hedging-products>

FCA warnings

Name of firm	Date of warning	Details
TL Mallen, LLC.	7 March	Not authorised http://www.fca.org.uk/news/warnings/tl-mallen-llc
Concept Fund Solutions PLC	7 March	Clone firm http://www.fca.org.uk/news/warnings/concept-fund-solutions-plc-clone
Aimdex Group Limited, Aimdex Limited	7 March	Not authorised http://www.fca.org.uk/news/warnings/aimdex-group-limited
Knox Securities Corp	5 March	Not authorised http://www.fca.org.uk/news/warnings/knox-securities-corp
Devonshire Holdings	4 March	Clone firm http://www.fca.org.uk/news/warnings/devonshire-holdings-clone
Ace Developments	4 March	Not authorised http://www.fca.org.uk/news/warnings/ace-developments
Finch Markets	4 March	Not authorised http://www.fca.org.uk/news/warnings/finch-markets
DP Wealth Management Limited	4 March	Clone firm http://www.fca.org.uk/news/warnings/dp-wealth-management-limited-clone

The Bond Consultants (UK) Ltd	3 March	Not authorised http://www.fca.org.uk/news/warnings/the-bond-consultants-uk-ltd
Aixia Limited, t/a T4X Binary, t/a T4X Signals	3 March	Not authorised http://www.fca.org.uk/news/warnings/aixia-limited-t4x-binary-t4x-signals
Maia Wealth Ltd	3 March	Not authorised http://www.fca.org.uk/news/warnings/maia-wealth-ltd

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers	<p>The FCA has (on 6 March) released its quarterly consultation paper (CP14/4), which proposes:</p> <ul style="list-style-type: none"> • minor changes to handbook rules relating to AIFMs, UCITS managers and certain AIF depositaries; • minor changes to the complaints data reporting form and accompanying guidance; • clarification of the scope of the scope of mortgage Product Sales Data reporting for some firms • changes to implement the Financial Policy Committee's recommendation on the 	4 April 2014 (6 May 2014 in relation to proposals on mortgage stress testing)	15 April 2014	<p>The PRA has (on 4 March) issued an occasional consultation paper (CP5/14) containing various proposed changes to rules, guidance and supervisory statements in relation to:</p> <ul style="list-style-type: none"> • Financial Conglomerates Capital Adequacy; • Internal Capital Adequacy Assessment Processes and Supervisory Review and Evaluation Processes (referred to in Supervisory Statement SS5/13) • Shari'ah compliant liquid assets

	<p>implementation of interest rate stress tests for mortgages.</p> <p>http://www.fca.org.uk/your-fca/documents/consultation-papers/cp14-04-quarterly-consultation-no-4</p>			<ul style="list-style-type: none"> Risk management of asset encumbrance <p>http://www.bankofengland.co.uk/pru/Documents/publications/policy/2014/ocp5-14.pdf</p>
	<p>The FCA has (on 7 March) released a consultation paper (CP14/5) proposing changes to the data it collects from certain regulated firms through the Retail Mediation Activities Return and annual questionnaire for Authorised Professional Firms. The paper forms part of its ongoing review of reporting adviser remuneration.</p> <p>http://www.fca.org.uk/your-fca/documents/consultation-papers/cp14-5</p>	<p>7 April 2014 (questions 6 to 8 and 11 and 12)</p> <p>6 June 2014 (questions 1 to 5, 9, 10 and 13)</p>		
		Implementation/effective date		
Policy	<p>Further to its consultation paper (CP13/13) in October 2013 The FCA has (on 6 March) published a policy statement (PS14/4) on its regulatory approach to crowd-funding over the internet and non-readily realisable securities by other media.</p> <p>http://www.fca.org.uk/your-fca/documents/policy-statements/ps14-04</p> <p>http://www.fca.org.uk/your-fca/documents/consultation-papers/cp13-13</p>	1 April 2014		

Further afield

The Dubai Financial Services Authority (DFSA) has released (on 6 March) a further consultation regarding proposals to expand the jurisdiction of the Financial Markets Tribunal (FMT) to include matters currently within the jurisdiction of the Regulatory Appeals Committee (RAC). The proposals will see the abolishment of the RAC.

The DFSA will continue to make first instance decisions in the use of its supervisory powers, with the FMT being the body providing independent review of any such decision. It is proposed that the FMT would also be able to exercise the supervisory powers available to the DFSA when making its decisions, thus putting the FMT in the position of the original decision-maker. The consultation is open until 5 May 2014.

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