

This week at the UK regulators

Thirty second guide: The week in overview

The most important development this week has been the release of a consultation paper bringing greater clarity to several important aspects of the new individual accountability regimes for banks.

In a week without significant concluded enforcement cases, other developments have included a consultation paper on whistleblowing, the release of the findings of a thematic review by the FCA highlighting some deficiencies in market abuse controls in asset management firms and a reminder sent to firms operating pension schemes of imminent changes to rules and the FCA's expectations of them. The FCA has also published an occasional paper on consumer vulnerability.

PRA and FCA set out new accountability regime for senior managers

The PRA and FCA have (on 23 February) published a consultation paper setting out how they propose to hold senior managers in banks, building societies and designated investment firms to account if they do not take reasonable steps to prevent or stop breaches of regulatory requirements in their areas of responsibility.

The consultation paper takes into account responses to previous consultations, and has changed the proposed approach to independent non-executive directors (NEDs) under the Senior Managers Regime (SMR). The NED roles that will now be in scope of the SMR are Chairman, Senior Independent Director and the Chairs of the Risk, Audit, Remuneration and Nominations Committees.

The paper also consults on (i) the approach to NEDs in the approval and accountability regime for Solvency II firms, (ii) the PRA's proposed fitness and propriety and notification requirements for those NEDs in relevant authorised persons who will not be in the scope of the SMR, (iii) a draft PRA Supervisory Statement clarifying the role and responsibilities of NEDs in scope of the SMR and (iv) FCA guidance on the role and responsibility of NEDs.

The consultation closes on 27 April 2015 and replies may be sent either to the FCA or to the PRA.

<http://www.bankofengland.co.uk/pr/ Documents/publications/cp/2015/cp715.pdf>

PRA and FCA publish whistleblowing consultation paper

The FCA and PRA have (on 23 February) published a consultation paper on whistleblowing in deposit-takers, PRA-designated investment firms and insurers in response to a recommendation from the Parliamentary Commission on Banking Standards that banks put in place mechanisms to allow their employees to raise concerns internally, and that the FCA and the PRA ensure these mechanisms are effective. The consultation closes on 22 May 2015.

<http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-04>

FCA reminds pension firms of new responsibilities

The FCA has (on 20 February) published a Dear CEO letter dated 6 February, sent to firms operating group personal pension schemes or group stakeholder pension schemes setting out its expectations of them ahead of the obligation to set up Independent Governance Committees (or equivalents) by 6 April 2015. The letter adds detail to the final rules published by the FCA earlier this month (see This week at the UK regulators, 10 February 2015).

<http://www.fca.org.uk/static/documents/dear-ceo-letters/igc-dear-ceo-letter.pdf>

<http://www.fca.org.uk/static/documents/policy-statements/ps15-03.pdf>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWibFgNhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe%2BVu2ut6eoBDBD55T7M>

[DRCvp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=129740](http://www.fca.org.uk/static/documents/thematic-reviews/tr15-01.pdf)

FCA finds weaknesses in asset management firms' market abuse controls

The FCA has (on 18 February) published a report setting out the findings of its thematic review on how asset management firms manage the risk that they may be involved in market abuse.

Its main finding is that only a minority of firms have appropriate controls to deal with the risks associated with receiving inside information. It sets out examples of good and poor practice in relation to identification and control of access to inside information, management of risk of improper disclosure, pre-trade controls, post trade surveillance, personal account dealing policies and training.

Unlike some other thematic reviews in other areas, there is no mention of any enforcement action commenced or contemplated as the result of the findings, but the FCA has indicated that it will follow up with firms through its supervision processes.

The paper does not discuss the difficulties for market participants in identifying what is inside information under the current broad interpretation (confirmed last year by the judgment of the Upper Tribunal in the action taken against Mr Ian Hannam – see our Clifford Chance briefing).

<http://www.fca.org.uk/static/documents/thematic-reviews/tr15-01.pdf>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfqNhlNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe1%2F21s4VY3XckjgzwLHV5np%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=128962>

FCA urges firms to review their approach to consumer vulnerability

The FCA has (on 23 February) published an occasional paper on consumer vulnerability, with the aims of (i)

stimulating debate and interest about the issue so that firms understand it and react appropriately, (ii) providing practical help and resources for firms in developing and implementing a vulnerability strategy and (iii) showing examples of good practice in the way some firms treat consumers in vulnerable circumstances.

<http://www.fca.org.uk/your-fca/documents/occasional-papers/occasional-paper-8>

Final Notices

The FCA has (on 18 February) cancelled the interim permission of Mr Paul Ridden. The action followed findings that he lacks fitness and propriety based upon historic convictions and disqualification as a director, failures to disclose these to the Office of Fair Trading (the previous regulator of consumer credit firms) and failures to comply with directions imposed by the FCA or to be open and co-operative.

<http://www.fca.org.uk/static/documents/final-notices/paul-christopher-ridden.pdf>

The FCA has (on 17 February) released a Final Notice refusing an application for permission made by Mr Michael Banks to carry on the regulated activities of limited permission credit broking, debt adjusting and debt counselling based upon findings that he lacks fitness and propriety as the result of a failure to provide information or to engage with the FCA in relation to the application.

<http://www.fca.org.uk/static/documents/final-notices/michael-banks.pdf>

FCA warnings

Name of firm	Date of warning	Details
Josef Lang Capital Management	20 February 2015	Not authorised http://www.fca.org.uk/news/warnings/josef-lang-capital-management
Verrazzano Capital/Verrazzano UK	20 February 2015	Clone firm http://www.fca.org.uk/news/warnings/verrazzano-capital-verrazzano-uk-clone
BC Financial Advisors	19 February 2015	Clone firm http://www.fca.org.uk/news/warnings/bc-financial-advisors-clone

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers			19 March 2015	The PRA has (on 19 February) published a consultation paper (CP 5/15) on applying the European Insurance and Occupational Pensions Authority's ("EIOPA") Set 1 guidelines to PRA authorised firms. http://www.bankofengland.co.uk/pradocuments/publications/cp/2015/cp515.pdf
	The FCA has (on 23 February, and jointly with the PRA) published a consultation paper (CP15/5) on its approach to non-executive directors in banking and Solvency	27 April 2015	27 April 2015	The PRA has (on 23 February, and jointly with the FCA) published a consultation paper (CP7/17) on its approach to non-executive directors in banking and Solvency II firms and application of the presumption of responsibility to Senior Managers in banking firms. http://www.bankofengland.co.uk/pradocuments/publications/cp/2015/cp715.pdf

	<p>Il firms and application of the presumption of responsibility to Senior Managers in banking firms.</p> <p>http://www.bankofengland.co.uk/pradocuments/publications/cp/2015/cp715.pdf</p>			
	<p>The FCA has (on 23 February and jointly with the PRA) published a consultation paper (CP15/4) on whistleblowing in deposit-takers, PRA-designated investment firms and insurers.</p> <p>http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-04</p>	22 May 2015	22 May 2015	<p>The PRA has (on 23 February and jointly with the FCA) published a consultation paper (CP6/15) on whistleblowing in deposit-takers, PRA-designated investment firms and insurers.</p> <p>http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-04</p>
Discussion papers	<p>The FCA has (on 20 February) published a discussion paper (DP 15/1) on UK Listing Authority ("UKLA") fees. It looks at the role of the UKLA, balancing transaction charges with periodic fees and the scope for simplifying charges.</p> <p>http://www.fca.org.uk/static/fca/documents/discussion-papers/dp15-1%20ukla-covering-the-cost-of-regulation18022015.pdf</p>	20 April 2015		

Occasional papers	The FCA has (on 23 February 2015) published an occasional paper no. 8 on consumer vulnerability. http://www.fca.org.uk/your-fca/documents/occasional-papers/occasional-paper-8			
Finalised Policy and Guidance				
		Implementation /effective date		
Supervisory statement			20 February 2015	The PRA has (on 20 February) issued an updated version of supervisory statement (SS2/14) on recognition of deferred tax (originally published in April 2014) to reflect updated rules published by EIOPA and feedback received since the publication of the original statement. http://www.bankofengland.co.uk/pradocuments/publications/ss/2015/ss214update.pdf
Feedback statement	Further to a discussion paper published in July last year (DP 14/3), the FCA has (on 19 February) published a feedback statement (FS 15/1) on the use of commission dealing regime. http://www.fca.org.uk/statements/documents/feedback-statements/fs15-01.pdf http://www.fca.org.uk/statements/documents/discussion-papers/dp14-03.pdf			
	Further to responses received to its call for	N/A		

	<p>inputs for the wholesale competition review in July 2014, the FCA has (on 19 February) published a feedback statement. The statement includes confirmation that the FCA will commence a market study on investment banking and corporate banking services this spring.</p> <p>http://www.fca.org.uk/static/documents/feedback-statements/fs15-02.pdf</p> <p>http://www.fca.org.uk/static/documents/market-studies/wholesale-sector-competition-review-call-for-inputs.pdf</p>			
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UK-0010-BD-CCOM