

# This week at the UK regulators

## Thirty second guide: The week in overview

In a busy week of policy pronouncements, the FCA published its thematic review of oversight and controls of financial benchmarks. Following a ten month assessment of twelve sample banks and brokers, the FCA concluded that firms have made a number of positive changes to improve their governance and controls around benchmark activities but significant further work is needed. The FCA drew more positive conclusions in a thematic review of firms' treatment of customers who suffered unauthorised transactions where it found that firms were generally erring on the side of consumers. The FCA published guidance on how firms can prevent poor performance management from increasing the risks of front line sales staff mis-selling products. Developments in the enforcement arena were confined to the confirmation of a prohibition order imposed on an individual convicted of offences in the US in March 2015 in relation to attempts to manipulate benchmark rates.

As the FCA seeks to fill vacancies arising from the departure of Martin Wheatley as CEO in September, Megan Butler, currently Executive Director of the International Banks Directorate at the PRA, has been announced as Tracey McDermott's successor as Director of Supervision – Investment, Wholesale and Specialist. The FCA has also announced the elevation of Christopher Woolard, Director of Strategy and Competition to its board.

Further afield, the Australian government announced a capability review of the Australian Securities and Investment Commission.

### FCA announces changes to senior management

The FCA has (on 30 July) announced that Megan Butler will be joining the FCA on 1 September on a one year secondment from the PRA to take the role of Director of Supervision – Investment, Wholesale and Specialist. Ms Butler is currently Executive Director of the International Banks Directorate at the PRA and takes over from Tracey McDermott who will step up to acting CEO of the FCA on 12 September following the departure of Martin Wheatley.

In a separate announcement, it has (on 31 July) confirmed that Christopher Woolard, Director of Strategy and Competition, has been appointed to the Board of the FCA with effect from 1 August for a term of three years.

<http://www.fca.org.uk/news/megan-butler-appointed-director-of-supervision-investment-wholesale-and-specialist>

<http://www.fca.org.uk/news/christopher-woolard-appointed-to-the-fca-board>

### FCA publishes its thematic review of oversight and controls in relation to financial benchmarks

The FCA has (on 29 July) published the findings of a thematic review of oversight and controls in relation to financial benchmarks. The purpose of the review, which was carried out from August 2014 to June 2015, was to

assess the extent to which firms had acted in response to the failings highlighted by recent benchmark enforcement cases and to understand whether firms had implemented appropriate oversight and controls to manage the risks posed by involvement in benchmark activities. The LIBOR and FX (WM/Reuters London 4pm Closing Spot Rate) benchmark rates were out of scope of the review.

The FCA found that none of the twelve sample banks and brokers assessed had fully implemented the changes across all benchmark activities and said that the "lack of urgency" in making progress to improve oversight and controls was "disappointing" given the "importance of benchmarks to the economy". In particular the FCA found that some firms:

- had insufficient governance frameworks around benchmark activities and did not have clearly defined roles and responsibilities for either their first line (front-line staff) or second (Compliance, Legal and Risk) line of defence; and
- were applying a limited definition of benchmarks such that it did not fully encompass their strategic in-house benchmark business.

The FCA also warned firms to give careful consideration to the potential consequences of withdrawing from benchmarks and encouraged firms to ensure that there was an appropriate governance framework around the decision to enter or exit a benchmark.

<http://www.fca.org.uk/your-fca/documents/thematic-reviews/tr15-11>

### FCA publishes a thematic review on fair treatment for consumers who suffer unauthorised transactions

The FCA has (on 28 July) published the results of a thematic review into how firms ensure that customers receive refunds for unauthorised transactions and how these decisions are reached. The FCA found that firms are generally meeting their legal requirements and making good efforts to deliver fair outcomes for customers by erring on the side of customers when reviewing claims and not declining claims on the basis of customer "non-compliance" with prescriptive security requirements in terms and conditions. In addition, the FCA published a research report into the experiences of customers who are victims of unauthorised transactions in pursuing their claims with payment providers.

<http://www.fca.org.uk/static/documents/thematic-reviews/tr15-10.pdf>

<http://www.fca.org.uk/static/documents/research/consumer-research-unauthorised-transactions-victims-technical.pdf>

### FCA publishes finalised guidance on risk of mis-selling being driven by poor performance management

The FCA has (on 27 July) published the results of a thematic review and finalised guidance on the risks to

customers from poor performance management of front line sales staff. The guidance suggests ways in which firms can manage the risk of mis-selling being driven by poor performance management practices. In the report the FCA said that it had seen an increasing level of intelligence about poor performance management practices during 2014 including a growing number of whistleblowing reports. The finalised guidance suggests that firms should pay particular attention to identifying poor practices that may create an undue level of pressure on staff, which is likely to further increase the risk of mis-selling.

<http://www.fca.org.uk/static/documents/finalised-guidance/fg15-10.pdf>

### Enforcement Notices

The FCA has (on 30 July) published a Final Notice imposing a prohibition order on Lee Stewart. The FCA took the action after Mr Stewart, a former trader, pleaded guilty in the US on 23 March 2015 to one count of conspiracy to commit wire fraud and bank fraud relating to attempts to manipulate US Dollar LIBOR.

<http://www.fca.org.uk/static/documents/final-notice/lee-bruce-stewart.pdf>

## FCA warnings

Name of firm	Date of warning	Details
Repayment Management UK Ltd t/a Repayment Management Services	31 July 2015	Not authorised <a href="http://www.fca.org.uk/news/warnings/repayment-management-uk-ltd-cc">http://www.fca.org.uk/news/warnings/repayment-management-uk-ltd-cc</a>
Carter & Webb	28 July 2015	Not authorised <a href="http://www.fca.org.uk/news/warnings/carter-webb">http://www.fca.org.uk/news/warnings/carter-webb</a>
Nakamura Corporation	28 July 2015	Not authorised <a href="http://www.fca.org.uk/news/warnings/nakamura-corporation">http://www.fca.org.uk/news/warnings/nakamura-corporation</a>

## Policy developments

FCA		PRA		
Finalised policy and guidance				
		Implementation/effective date		
<b>Policy statements</b>	<p>Further to consultation paper 15/6 released in February 2015 the FCA has (on 31 July) issued a policy statement summarising the feedback received on the February 2015 consultation on proposed amendments to the Consumer Credit Sourcebook.</p> <p><a href="http://www.fca.org.uk/static/documents/policy-statements/ps15-20.pdf">http://www.fca.org.uk/static/documents/policy-statements/ps15-20.pdf</a></p> <p><a href="http://www.fca.org.uk/static/fca/documents/cp-15-06.pdf">http://www.fca.org.uk/static/fca/documents/cp-15-06.pdf</a></p>	31 July 2015	29 July 2015	<p>The PRA has (on 29 July) issued a policy statement setting out its responses to the feedback on Consultation Paper 1/15 'Assessing capital adequacy under Pillar 2'. The statement sets out changes to rules and supervisory statements and finalises a statement of policy.</p> <p><a href="http://www.bankofengland.co.uk/pradocuments/publications/ps/2015/ps1715.pdf">http://www.bankofengland.co.uk/pradocuments/publications/ps/2015/ps1715.pdf</a></p>

## Further afield

The Australian government has announced (on 24 July) that it will conduct a full audit of the Australian Securities and Investment Commission (ASIC). The capability review will be conducted by a panel of external experts and will focus on how ASIC is funded, its governance structure, the skills of the agency's staff and the penalties that it can impose. The review was launched in response to the report

of the Financial System Inquiry (known as the Murray Inquiry) published in December which, following a wide-ranging review of Australia's financial system, recommended that all of Australia's major regulators be reviewed every five years. The capability review will also consider the Murray Inquiry's recommendation that, instead of being funded by the government, ASIC's budget should be drawn from levies on the financial industry.

<http://jaf.ministers.treasury.gov.au/media-release/036-2015/>

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