

This week at the UK regulators

Thirty second guide: The week in overview

In a week without concluded enforcement developments, the spotlight has been on the FCA with the publication of the report setting out the findings of the review by Clifford Chance partner Simon Davis into the handling of the FCA's announcement of proposed supervisory work on the fair treatment of long standing customers in life insurance. The FCA has accepted all the recommendations set out in the report, although intense parliamentary scrutiny will continue, with appearances of key FCA executives scheduled before the Treasury Select Committee next week and in the new year.

Ahead of the publication of the report, the FCA announced significant changes to its strategy, structure and senior management. The FCA has stated that the changes are a response to the wider challenges associated with regulating a rapidly changing industry rather than a direct response to the issues identified by the Davis Review. These changes include the departure of some senior executives and the redistribution of leadership duties in relation to restructured divisions.

In other developments, the FCA has released the interim findings of its market study into the retirement income market and its separate but linked thematic review on annuity sales practices. Its concerns about a lack of effective competition in the sector have been confirmed. It has made recommendations aimed at addressing problems found and required some firms to undertake further work, specifically in relation to enhanced annuities, directed at establishing whether particular sales practices have caused these problems. Separately, it has also commenced consultation exercises in relation to new rules on Guaranteed Asset Protection insurance policies and new rules on complaints handling following other market studies and thematic reviews earlier this year.

Further afield, a US court has handed down an important ruling overturning the convictions of several individuals for insider trading and clarifying the scope of insider trading laws.

Davis review reports on FCA business plan announcement

On 10 December, Clifford Chance partner Simon Davis published his report setting out the findings of the independent inquiry into the handling of the FCA's announcement of proposed supervisory work on the fair treatment of long standing customers in life insurance in March. Simon Davis and Clifford Chance were appointed by the non-executive directors of the FCA in April to examine the circumstances of the announcement and subsequent steps taken in response to market turbulence. The report contains a number of criticisms of the way in which the announcement was handled and recommendations about changes to systems, controls and ways of working.

In a separate response, the FCA has accepted all the recommendations made in the report, and has confirmed that it is implementing them.

Following the publication of the report (also on 10 December), Simon Davis gave evidence to the Treasury Select Committee ("TSC"), answering MPs' questions about his findings on the circumstances in which the announcement was made and his recommendations to prevent similar problems in future. The TSC has since indicated that it will take evidence from Clive Adamson, Director of Supervision and Zitah McMillan, Director of Communications and International at the FCA on 16 December and from Martin Wheatley, CEO of the FCA in the new year.

<http://www.fca.org.uk/static/documents/reports/davis-inquiry-report.pdf>

<http://www.fca.org.uk/news/firms/fca-response-to-the-davis-review>

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news/pre-briefing-inquiry/>

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news/pre-briefing-inquiry-2/>

FCA announces strategic reorganisation

On 8 December, the FCA presaged the publication of the report setting out the findings of the Davis Review by announcing changes to its strategy, structure and senior management team. It has announced that Director of Supervision Clive Adamson, Director of Communications and International Zitah McMillan and Director of Authorisations Victoria Raffe will leave the FCA in January. The current Authorisations and Supervision Divisions will be brought together. The current Director of Enforcement and Financial Crime Tracey McDermott will oversee this process of transition and subsequently lead one of the divisions. Separate divisions for Competition and Strategy and Risk will be led by Christopher Woolard and Richard Sutcliffe respectively (the latter on an acting basis), a new Markets Policy and International Division will be led by current Director of Markets David Lawton and a Market Oversight Division incorporating market monitoring and UKLA functions will be led (on an acting basis) by Marc Teasdale.

The FCA has stated that the changes, proposed to take effect by April 2015, are not a direct response to the issues identified by the Davis Review, but are rather aimed at equipping it to deal with the changing regulatory landscape for which it is responsible and at enabling it to focus more sharply on the particular challenges in each area of its remit.

<http://www.fca.org.uk/news/fca-new-strategic-approach-to-ensure-sharper-focus-to-regulatory-challenges-ahead>

<http://www.fca.org.uk/static/documents/fca-organisation-chart-at-5-january.pdf>

<http://www.fca.org.uk/static/documents/reports/statements-regarding-changes-to-exco.pdf>

FCA reports on retirement income market study and annuities sales practice thematic review

The FCA has (on 11 December) published an interim report setting out its provisional findings on how the retirement income market is working. The study was commenced following the FCA's preliminary findings that the annuities market was not working well for most customers, which were first announced in February. Since then, wider changes to the retirement system have been announced,

providing greater choice as to how pension savings may be accessed and used. This led to changes to the scope of the market study to cover future developments and a separate thematic review examining non-advised annuity sales practices.

The study has confirmed the FCA's view that competition is not working well in the retirement income market. In summary, the study has identified that consumers do not shop around, that they consequently often do not obtain the best deal, and that this inertia is making it difficult for challenger firms to enter the market. The FCA has made a number of recommendations, centred on the removal of barriers to consumer choice and the promotion of greater levels of, and clearer, communication. The FCA has invited responses to its recommendations by 30 January 2015.

The release of the interim report coincided with the publication of the findings of a thematic review into annuities sales practices. This review covered around 70 per cent of the market over a period from September 2013 to November 2013. It studied product literature and recorded sales calls and examined potential drivers of risk within particular businesses. It found poor sales practices inhibiting competition, and in particular found that many consumers have not purchased enhanced annuities for which they may have been eligible. The FCA has asked some firms to undertake further work to establish whether problems with enhanced annuities, in relation to which the FSA undertook thematic work in 2008, are widespread and whether consumer detriment has occurred.

<http://www.fca.org.uk/static/documents/market-studies/ms14-03-2.pdf>

<http://www.fca.org.uk/your-fca/documents/market-studies/retirement-income-market-study-revised-terms-of-reference>

<http://www.fca.org.uk/your-fca/documents/thematic-reviews/tr14-20>

http://www.fsa.gov.uk/pages/Library/Other_publications/Pensions/2008/omo.shtml

FCA sets out plans for implementation of new Disclosure and Transparency Rules

Further to consultation in August, the FCA has (on 12 December) stated that it expects to confirm new rules requiring issuers involved in extractive or forestry sectors to produce annual reports on payments made to governments

in countries in which they operate before the end of 2014. The rules will take effect from 1 January 2015.

<http://www.fca.org.uk/static/documents/consultation-papers/cp14-17.pdf>

<http://www.fca.org.uk/news/new-disclosure-rules-and-transparency-rules-in-january-2015>

FCA warnings

Name of firm	Date of warning	Details
Unsecured Loans for You	10 December 2014	Clone firm http://www.fca.org.uk/news/warnings/unsecured-loans-for-you-clone
Apollo Multi Asset Management LLP	10 December 2014	Clone firm http://www.fca.org.uk/news/warnings/apollo-multi-asset-management-llp-clone
GF Portfolio Services	9 December 2014	Not authorised http://www.fca.org.uk/news/warnings/gf-portfolio-solutions

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Consultation papers	The FCA has (on 8 December) published a consultation paper (CP 14/28) on MIPRU simplification. http://www.fca.org.uk/static/documents/consultation-papers/cp14-28.pdf	19 January 2015	

	<p>The FCA has (on 12 December) published a consultation paper (CP 14/29) setting out proposed changes to rules covering Guaranteed Asset Protection Insurance, mostly contained in the Insurance: Conduct of Business Sourcebook. Supporting details in relation to the methodology for estimating the benefits to customers of the proposed changes are set out in a separate technical annex. The proposed changes flow from the findings of its market study into the general insurance add-ons, which were published in July (see This week at the UK regulators, 29 July 2014).</p> <p>http://www.fca.org.uk/static/documents/consultation-papers/cp14-29.pdf</p> <p>http://www.fca.org.uk/your-fca/documents/consultation-papers/cp14-29-technical-annex</p> <p>http://www.fca.org.uk/static/documents/market-studies/ms14-01-final-report.pdf</p> <p>https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhLNomwBl%2B33QzdFhRQAhp8D%2BxrlGRl2crGqLnALtlyZe2JXvFMbNdfi61Rhsa4rTDp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=280149</p>	13 March 2015		
	<p>Following the release of the findings of its thematic review on complaints handling last months (see This week at the UK regulators, 25 November 2014), the FCA has (on 12 December) published a consultation paper (CP 14/30) setting out proposed changes to rules on complaints handling procedures, mainly set</p>	13 March 2015		

	<p>out in the Complaints: Dispute Resolution ("DISP") and Consumer Credit Sourcebook ("CONC") sections of the handbook.</p> <p>http://www.fca.org.uk/static/documents/thematic-reviews/tr14-18.pdf</p> <p>https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGReI2crGqLnALtlyZe8Ulf5D2Usk8z3H0H4hmJ9np%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=114106</p> <p>http://www.fca.org.uk/static/documents/consultation-papers/cp14-30.pdf</p>			
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Further Afield

US court clarifies scope of insider trading laws

In an eagerly anticipated ruling handed down on 10 December, the United States Court of Appeals for the Second Circuit in New York has overturned the convictions of two hedge fund managers. Deciding against the Government, the Court held that it is necessary for prosecutors to prove that a remote tippee knew that the insider disclosing information to the first tippee received a personal benefit for doing so. For full details of the ruling, which is expected to have important ramifications in other insider trading prosecutions, see our Clifford Chance briefing.

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGReI2crGqLnALtlyZe3fx%2Bp435HSBbfbUta94swHp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=96198>

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