

# This week at the UK regulators

## Thirty second guide: The week in overview

In yet another week without any major concluded enforcement cases being published, the regulators have been active in several other ways. The FCA issued a final decision to make a Market Investigation Reference to the CMA in relation to investment consultancy and fiduciary management services as well as issuing a warning to consumers relating to the risks of Initial Coin Offerings. The PRA published details of banks' ring-fencing transfer scheme court dates.

Further afield, the Hong Kong Securities and Futures Commission and Monetary Authority of Singapore have entered into separate cooperation agreements with the Securities Commission Malaysia to establish a framework for cooperation on Fintech.

### The FCA makes Market Investigation Reference for investment consultancy services

The Financial Conduct Authority has (on 14 September) confirmed its final decision to make a Market Investigation Reference ("MIR") to the Competition and Markets Authority ("CMA") in relation to investment consultancy and fiduciary management services. The FCA has the power to make a MIR when it has "reasonable grounds to suspect that any features of a financial services market prevent, restrict or distort competition".

An interim report was published in November 2016 in which the FCA announced a provisional decision to make a MIR, following which the three largest investment consultants offered the FCA a package of undertakings in lieu of a MIR to address the FCA's concerns. Following further consultation, the FCA made a final decision to reject the package of undertakings in lieu and make a MIR. This is the first time that the FCA has made a MIR to the CMA.

<https://www.fca.org.uk/news/press-releases/fca-makes-market-investigation-reference-investment-consultancy-services>

### FCA issues consumer warning about risks of Initial Coin Offerings

The FCA has (on 12 September) issued a consumer warning about the risks of Initial Coin Offerings ("ICOs"). It has highlighted risks including a lack of regulation and investor protection, price volatility, potential for fraud, and inadequate documentation. The FCA stated that whether an ICO falls within the FCA's regulatory boundaries or not can only be decided on a case by case basis but expects

that many will fall outside the regulatory perimeter. The FCA has also stated that some ICOs may involve regulated investments and warned that firms involved in an ICO should carefully consider if their activities could mean they are conducting regulated activities.

<https://www.fca.org.uk/news/statements/initial-coin-offerings>

### High Court dismisses challenge to market abuse penalties

The High Court has dismissed an application by a defendant in long running civil proceedings relating to market abuse through "layering" by two companies and three individuals. Following the conclusion in 2015 of proceedings against Da Vinci Invest Limited, Mineworld Limited, Mr Szabolcs Banya, Mr Gyorgy Szabolcs Brad and Mr Tamas Pornye and the imposition of permanent injunctions and financial penalties totalling £7,570,000, Mr Pornye applied to set aside the Court's on the basis that he was not aware of the trial, had not instructed the solicitors on the record and had not signed a defence served in the proceedings.

The court made an order providing that unless Mr Pornye produced certain documents in support of his application, it would be struck out. Mr Pornye did not comply with this order, but instead applied to vary it. On 6 September, the Court handed down a judgment dismissing this application (which it found had no real prospect of success) and declining to grant any relief from the sanctions imposed. Snowden J held that a defendant's failure to comply with an unless order was serious and significant, the failure had continued and no good reason for it had been given.

Case reference: *Financial Conduct Authority v Da Vinci*

*Invest Ltd & 6 Ors* [2017] EWHC 2220

<https://www.fca.org.uk/news/press-releases/fca-secures-high-court-judgment-awarding-injunction-and-over-%C2%A37-million>

### Banks' ring-fencing transfer scheme court dates published

A number of banks subject to ring-fencing requirements are in the process of restructuring their businesses to comply

with the requirements of the ring-fencing legislation. An important restructuring tool that these banks will use is a 'ring-fencing transfer scheme' (RFTS). To use an RFTS, a bank must make an application to the High Court. On Friday 15 September, the PRA published details of banks' ring-fencing transfer scheme court dates.

<http://www.bankofengland.co.uk/pr/ Documents/supervision/rftscourtdates.pdf>

### FCA warnings

Name of firm	Date of warning	Details
Beaufort Securities	14 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/beaufort-securities-clone">https://www.fca.org.uk/news/warnings/beaufort-securities-clone</a>
FCA Market - Financial Contract Authority	14 September 2017	Not authorised <a href="https://www.fca.org.uk/news/warnings/fca-market-financial-contract-authority">https://www.fca.org.uk/news/warnings/fca-market-financial-contract-authority</a>
Genworth Consultant Group	11 September 2017	Not authorised <a href="https://www.fca.org.uk/news/warnings/genworth-consultant-group">https://www.fca.org.uk/news/warnings/genworth-consultant-group</a>
Financial Point	11 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/financial-point-clone">https://www.fca.org.uk/news/warnings/financial-point-clone</a>
Positive Lending	11 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/positive-lending-clone">https://www.fca.org.uk/news/warnings/positive-lending-clone</a>
Fisher Investments Institutional Funds PLC	11 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/fisher-investments-institutional-funds-plc-clone">https://www.fca.org.uk/news/warnings/fisher-investments-institutional-funds-plc-clone</a>

## Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
<b>Consultation papers</b>			12 October 2017
			<p>The PRA has (on 12 September) published a consultation paper (CP17/17) setting out the PRA's proposal to correct the fee rates for the PRA's Annual Funding Requirement for 2017/18 published in Policy Statement 17/17 'Regulated fees and levies: rates for 2017/18'.</p> <p><a href="http://www.bankofengland.co.uk/p-ra/Pages/publications/cp/2017/cp1717.aspx">http://www.bankofengland.co.uk/p-ra/Pages/publications/cp/2017/cp1717.aspx</a></p>

## Further Afield

### Asia Pacific regulators sign Fintech cooperation agreements

On 14 September, the Hong Kong Securities and Futures Commission ("SFC") entered into a cooperation agreement with the Securities Commission Malaysia ("SCM") to establish a framework for cooperation on financial technology. The SFC and SCM agreed to cooperate on information sharing and referrals of innovative firms seeking to enter one another's markets. This was followed on 15 September by a similar agreement between the Monetary Authority of Singapore and the SCM.

[http://www.sfc.hk/web/EN/files/ER/MOU/MOU\\_Securities%20Commission%20Malaysia\\_14.9.2017.pdf](http://www.sfc.hk/web/EN/files/ER/MOU/MOU_Securities%20Commission%20Malaysia_14.9.2017.pdf)

<http://www.mas.gov.sg/News-and-Publications/Media-Releases/2017/The-Monetary-Authority-of-Singapore-and-the-Securities-Commission-Malaysia.aspx>

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