

# This week at the UK regulators

## Thirty second guide: The week in overview

In another week without publicised major enforcement cases, the most eye-catching development was the arrival of the second of the FCA's advertisements for the approaching PPI deadline featuring Arnold Schwarzenegger and the release of details of the FCA's brief for the advertisements. More prosaically, there were a number of policy developments including the publication of a third Consultation Paper on the Insurance Distribution Directive and finalised guidance on "streamlined advice and consolidated guidance" following the Financial Advice Market Review's report. The FCA also issued a statement on European Securities and Markets Authority's updated work plan on pre-trade transparency waivers and position limits and responded to the CMA's work on digital comparison tools. In addition, the FCA and the Pensions Regulator published a joint guide on providing support with financial matters without needing to be subject to regulation. The PRA, meanwhile, has published a supervisory statement on compliance with the European Banking Authority's guidelines on disclosure.

Further afield, the US Securities and Exchange Commission also announced the creation of a dedicated Cyber Unit, whilst the Hong Kong Monetary Authority provided guidance on how banks need to observe the FX Global Code and the Australian Securities and Investments Commission issued guidance for investors and issuers in relation to initial coin offerings.

## Enforcement Notices

The FCA has, on 25 September 2017, published Final Notices cancelling the Part 4A permissions of Gears of Speed Limited, Rollin Stock (Hair & Beauty) Ltd and Shane Kirsten Roper. In each case, the FCA concluded that there had been a breach of Principle 11 related to failing to be open and co-operative in the consumer credit sector.

<https://www.fca.org.uk/publication/final-notices/gears-of-speed-limited-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/rollin-stock-hair-beauty-ltd-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/shane-kirsten-roper-2017.pdf>

## FCA releases second PPI deadline advertisement

In *This week at the UK regulators* (4 September 2017), we commented on the recruitment by the FCA of a disembodied talking Arnold Schwarzenegger attached to tank tracks, who has now spent a month forcefully encouraging consumers to decide whether or not to file a PPI complaint before the deadline on 29 August 2019. We speculated about whether "He'd be back".

Our question has now been answered as the FCA has

released a second advertisement featuring Arnie patrolling a library instructing equivocal consumers to "do it now".

Meanwhile, press reports based on a request made under the Freedom of Information Act have revealed some details of the FCA's brief to its advertising consultants when designing the advertisements. It is reported that the brief required that the character used should be "*the epitome of directness*", "*a doer, not a talker*" and "*likeable enough to get away with being blunt*".

## FCA issues statement in response to ESMA updated work plan on pre-trade transparency waivers and position limits

On 28 September 2017, the European Securities and Markets Authority (ESMA) published an updated work plan for the opinions on pre-trade transparency waivers and position limits that must be issued under the Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR), and explained that it is unlikely to be in a position to issue opinions on a majority of non-equity waiver notifications before 3 January 2018. In light of ESMA's clarification of its process, the FCA issued a statement setting out that the FCA will now communicate responses on complete non-equity waiver applications before the finalisation of ESMA opinions. All FCA waivers will take effect from 3 January 2018 and applicants should prepare

on that basis, but the waivers may be subject to review once an ESMA opinion is provided. The FCA statement also provided that the FCA intends to start publishing in October position limits that will come into effect on 3 January 2018 on commodity derivatives contracts traded on UK trading venues.

<https://www.esma.europa.eu/press-news/esma-news/esma-and-ncas-agree-work-plan-mifid-ii-pre-trade-transparency-waivers-and>

<https://www.fca.org.uk/news/statements/fca-statement-work-plan-esma-opinions-pre-trade-transparency-waivers-and-commodity-position-limits>

### FCA and Pensions Regulator issues guide on providing support with financial matters without needing to be subject to regulation

On 28 September 2017, the FCA and the Pensions Regulator published a guide for employers and pensions trustees setting out information about providing support with financial matters to employees without needing to be authorised by the FCA.

<https://www.fca.org.uk/publication/documents/famr-guide-employers-trustees.pdf>

### FCA publishes response to the CMA's final report on its digital comparison tools market study

On 26 September 2017, the FCA issued a statement welcoming the Competition and Markets Authority's (CMA's) work on digital comparison tools (DCTs). The FCA commented that it was encouraged by the positive views and experiences of DCTs but was concerned that some DCTs appear not to be doing all they could, or should, to make their sites user-friendly for some vulnerable people.

<https://www.fca.org.uk/news/statements/response-cmas-final-report-dct-market-study>

### FCA warnings

Name of firm	Date of warning	Details
Adexec Worldwide Financial Services	25 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/adexec-worldwide-financial-services-clone">https://www.fca.org.uk/news/warnings/adexec-worldwide-financial-services-clone</a>
Instant Lolly	25 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/instant-lolly-clone-authorized-firm">https://www.fca.org.uk/news/warnings/instant-lolly-clone-authorized-firm</a>
National Debt Help	25 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/national-debt-help-clone">https://www.fca.org.uk/news/warnings/national-debt-help-clone</a>

Speed Finance UK	25 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/speed-finance-uk-clone">https://www.fca.org.uk/news/warnings/speed-finance-uk-clone</a>
Pascal Grande Capital Partners	26 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/pascal-grande-capital-partners-clone">https://www.fca.org.uk/news/warnings/pascal-grande-capital-partners-clone</a>
AMAC Mortgages & Loan Ltd	27 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/amac-mortgages-loan-ltd-clone">https://www.fca.org.uk/news/warnings/amac-mortgages-loan-ltd-clone</a>
CAL Investments Ltd	27 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/cal-investments-ltd-clone">https://www.fca.org.uk/news/warnings/cal-investments-ltd-clone</a>
Atom8 Markets	27 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/atom8-markets-clone">https://www.fca.org.uk/news/warnings/atom8-markets-clone</a>
Lucky Travel Money	28 September 2017	Unauthorised firm <a href="https://www.fca.org.uk/news/warnings/lucky-travel-money">https://www.fca.org.uk/news/warnings/lucky-travel-money</a>
Myfinance	28 September 2017	Unauthorised firm <a href="https://www.fca.org.uk/news/warnings/myfinance">https://www.fca.org.uk/news/warnings/myfinance</a>
Loan Choice / Loan Watch	29 September 2017	Clone firm <a href="https://www.fca.org.uk/news/warnings/loan-choice-loan-watch-clone-authorized-firm">https://www.fca.org.uk/news/warnings/loan-choice-loan-watch-clone-authorized-firm</a>

## Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
<b>Consultation papers</b>	<p><b>CP17/33: Insurance Distribution Directive (IDD) implementation – Consultation Paper 3</b></p> <p>The FCA has published a third Consultation Paper (following CP17/7 and CP17/23) setting out further proposals on how the FCA plans to implement the IDD in the UK. The IDD, which replaces the Insurance Mediation Directive, aims to enhance consumer protection when buying insurance (including general insurance, life insurance and insurance-based investment products) and support competition between insurance distributors by creating a level playing field. The consultation will be of interest to firms (including insurance and reinsurance companies, and insurance intermediaries), customers in the insurance market, and bodies representing these groups, as well as designated professional bodies whose members conduct insurance distribution activities.</p> <p><a href="https://www.fca.org.uk/publication/consultation/cp17-33.pdf">https://www.fca.org.uk/publication/consultation/cp17-33.pdf</a></p>	25 November 2017	

Finalised Policy and guidance				
		Implementation/effective date		
<b>Policy statements</b>			27 September 2017	<p><b>PRA publishes a supervisory statement on compliance with the EBA's guidelines on disclosure</b></p> <p>On 27 September 2017, the PRA published a supervisory statement setting out a waiver for the requirement to disclose template 'EU CCR5-B – Composition of Collateral for exposures to CCR' in the European Banking Authority's (EBA's) Guidelines on disclosure requirements under Part Eight of the EBA Guidelines (Regulation (EU) No 575/2013). The PRA explained that the purpose of the supervisory statement is to help the PRA meet its primary objective of promoting the safety and soundness of firms by reducing the risk that firms' compliance with the EBA Guidelines could enable the use, or non-use, of liquidity assistance to be deducted.</p> <p><a href="http://www.bankofengland.co.uk/pra/Documents/publications/ss/2017/ss617.pdf">http://www.bankofengland.co.uk/pra/Documents/publications/ss/2017/ss617.pdf</a></p>
<b>Finalised guidance</b>	<p><b>FG17/8: Streamlined advice and consolidated guidance</b></p> <p>The FCA has published finalised guidance on streamlined advice and consolidated guidance. This guidance follows the Financial Advice Market Review (FAMR) which was established by the FCA and HM Treasury to explore ways in which government, industry and regulators could take steps to stimulate the development of a market that delivers affordable</p>	28 September 2017		

	<p>and accessible financial advice and guidance to everyone, particularly those without significant wealth or income.</p> <p>Specifically the guidance aims to address two recommendations set out in the FAMR March 2016 report:</p> <ul style="list-style-type: none"> <li>• supporting firms offering 'streamlined advice' on a limited range of consumer needs (recommendation 4); and</li> <li>• clarifying the fact find process (recommendation 10).</li> </ul> <p><a href="https://www.fca.org.uk/publication/finalised-guidance/fg-17-08.pdf">https://www.fca.org.uk/publication/finalised-guidance/fg-17-08.pdf</a></p> <p><a href="https://www.fca.org.uk/publication/corporate/famr-final-report.pdf">https://www.fca.org.uk/publication/corporate/famr-final-report.pdf</a></p>			
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## Further afield

### SEC sets up new specialist units

On 25 September 2017, the SEC announced the creation of a new unit whose task it will be to will focus on targeting cyber-related misconduct. The SEC also announced the establishment of a retail strategy task force that will implement initiatives that directly affect retail investors.

For further details, see our [Clifford Chance briefing](#).

<https://www.sec.gov/news/press-release/2017-176>

### Hong Kong banks reminded of the need to observe FX Global Code

The Hong Kong Monetary Authority has said that Banks should review their internal procedures to ensure they observe the FX Global Code and maintain strong enough systems and controls to support it. It added that Banks should also be required to report their readiness to observe the code to the Treasury Markets Association (TMA) by issuing a "Statement of Commitment". The HKMA said both it and the TMA had contributed to the development of the FX Global Code. The TMA has also endorsed the FX Global Code by revising the TMA Code of Conduct and

Practice, replacing the FX part in the TMA code with the FX Global Code.

<http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2017/20170928e1.pdf>

### ASIC issues guidance on initial coin offerings

The Australian Securities and Investments Commission (ASIC) has issued guidance for investors and issuers of initial coin offerings (ICOs), laying out some of the legal obligations that must be taken into account when offering coins or tokens. In its guidance, the regulator said the Corporations Act 2001 may apply to businesses that are considering raising funds through an ICO. It said the legal status of an ICO was dependent of the circumstances of the ICO, such as how the ICO was structured and operated, and the rights attached to the coin or token offered through the ICO.

<http://asic.gov.au/regulatory-resources/digital-transformation/initial-coin-offerings/>

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