

This week at the UK regulators

Thirty second guide: The week in overview

The main enforcement development during the week was the conclusion of the FCA's prosecution of an individual acting as a self-proclaimed "lender of last resort" without authorisation or licence. In updates to legislation not yet in force, the FCA confirmed the UK government's approach to the European Commission's proposed delay to the Insurance Distribution Directive and published a joint update with the ICO on the General Data Protection Regulation. The Chief Executive of the FCA reinforced in a speech to the City that the FCA is treating Brexit as a high priority and will do its utmost to preserve the interests of the UK markets during the transition period and post-Brexit.

Further afield, ESMA set out its final Implementing Technical Standards regarding the application of the Market Abuse Regulation, the SEC Office of Compliance Inspections and Examinations announced its 2018 examination priorities and the SFC issued a repeat warning about risks associated with cryptocurrencies.

Dharam Prakash Gopee guilty of illegal money lending

On 8 February, Dharam Prakash Gopee was found guilty of charges brought by the FCA for offences under the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000. The offences related to Mr Gopee's operation of money-lending businesses from August 2012 to December 2016, despite having neither a consumer credit licence from the OFT nor any authorisation from the FCA. Mr Gopee described himself as a "lender of last resort" and entered into 147 new consumer credit agreements for sums totalling over £1 million, often involving charges over borrowers' homes following their purported sale to Mr Gopee for the value of the small loans.

<https://www.fca.org.uk/news/press-releases/dharam-prakash-gopee-guilty-acting-illegal-money-lender>

FCA provides update on proposed delay to IDD implementation

On 5 February, the FCA confirmed that HM Treasury has announced that the government will delay transposing the Insurance Distribution Directive (IDD), following the European Commission's proposal to delay the IDD's application date to 1 October 2018. The proposal is under consideration by the European Parliament and European Council and is expected to be confirmed after the original application date of the IDD on 23 February 2018.

When the IDD eventually is transposed into UK law, the

FCA will publish its final rules, which were published in near-final form on 19 January 2018 and are expected to become effective from the revised application date of the IDD.

<https://www.fca.org.uk/news/news-stories/update-proposed-delay-insurance-distribution-directive-idd>

https://ec.europa.eu/info/law/insurance-distribution-directive-2016-97-eu/upcoming_en

FCA sets out efforts to make Brexit work

On 5 February, Andrew Bailey, Chief Executive of the FCA, stated in a speech at the Future of the City dinner that the FCA is treating Brexit as a high priority and that it will do its utmost to make it work in the UK's interests. Mr Bailey set out the FCA's efforts across two phases: the first dealing with the transition to Brexit and the broad range of operational issues (such as contract continuity, cross-border clearing services and data protection) that could create financial stability risks for the UK and the EU if not addressed; and the second planning mutual recognition of regulatory standards post-Brexit.

<https://www.fca.org.uk/news/speeches/future-city>

PRA publishes letter about Actuarial Function Reports

On 5 February, the PRA published an open letter to the chief actuaries of general insurers, following its review of Actuarial Function Reports (AFRs). The letter: (i) sets out

the PRA's comments on the AFRs: (ii) identifies areas where it considers that Solvency II requirements are not always being met; (iii) shares its findings on emerging good practice in AFRs; and (iv) shares observations on how a firm's actuarial functions can be more engaged with its board of directors and overall risk management.

<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/letter/2018/review-of-actuarial-function-reports-in-general-insurance-firms.pdf>

FCA and ICO publish joint update on GDPR

On 8 February, the FCA and the Information Commissioner's Office (ICO) published an update on the EU General Data Protection Regulation (GDPR), which will apply in the UK from 25 May 2018 and be regulated and enforced by the ICO. The update confirmed that

compliance is a board-level responsibility and that firms will need to consider how the GDPR will apply to them, ensure compliance from May 2018 and be able to evidence steps taken to comply.

The FCA also confirmed that, while it considers that the GDPR provisions and Handbook rules are not incompatible discussions continue to ensure that specific requirements of the GDPR can be implemented consistently within the wider regulatory landscape. The FCA and ICO are reviewing their 2014 Memorandum of Understanding to ensure that its terms will address expected future collaborations between the agencies.

<https://www.fca.org.uk/news/statements/fca-and-ico-publishes-joint-update-gdpr>

FCA warnings

Name of firm	Date of warning	Details
Prime CFDs	9 February 2018	Not authorised https://www.fca.org.uk/news/warnings/prime-cfds
Energy Advice Group	9 February 2018	Not authorised https://www.fca.org.uk/news/warnings/energy-advice-group
Charles Ross Associates	9 February 2018	Not authorised https://www.fca.org.uk/news/warnings/charles-ross-associates
Mayford Capital Partners	8 February 2018	Not authorised https://www.fca.org.uk/news/warnings/mayford-capital-partners
Sunshine Credit	7 February 2018	Clone firm https://www.fca.org.uk/news/warnings/sunshine-credit-clone
Blackthorn Wealth Advisory	5 February 2018	Not authorised https://www.fca.org.uk/news/warnings/blackthorn-wealth-

		advisory
Nordhill Capital	5 February 2018	Clone firm https://www.fca.org.uk/news/warnings/nordhill-capital-clone
GoldTech Media Services OU trading as S2Trade	5 February 2018	Not authorised https://www.fca.org.uk/news/warnings/goldtech-media-services-ou-trading-s2trade

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers	<p>EU Benchmarks Regulation Implementation (DEPP and EG) (CP18/5)</p> <p>On 5 February, the FCA published its proposed changes to the Decision Procedure and Penalties manual (DEPP) and Enforcement Guide (EG), which include applying existing policies and procedures to the exercise of its enforcement powers under the Benchmarks Regulation and a bespoke decision-making procedure for authorisation, registration, recognition and endorsement through amendments to DEPP.</p> <p>https://www.fca.org.uk/publication/consultation/cp18-05.pdf</p>	5 March 2018	12 February 2018	<p>Insurance Distribution Directive: change to commencement date (CP 4/18, PS 31/17, CP 18/17)</p> <p>On 5 February, the PRA published a consultation paper in which it proposes to amend the effective dates of PRA rules related to the IDD from 23 February 2018 to 1 October 2018, following a proposal by the European Commission to postpone the application date of the IDD.</p> <p>https://www.bankofengland.co.uk/prudential-regulation/publication/2017/occasional-consultation-paper-18-2017</p>

Finalised Policy and guidance			
		Implementation/effective date	
Policy statements			<p>9 April 2018, 10 December 2018</p> <p>Strengthening accountability in banking and insurance: optimisations to the SIMR, and changes to SMR forms (PS 1/18, PS24/17, CP 8/17)</p> <p>On 7 February, the PRA published a policy statement providing feedback to responses from a consultation paper (CP 8/17), final rules amending the Senior Insurance Managers Regime (SIMR) and an updated supervisory statement on strengthening individual accountability in insurance (SS 35/15) (see below). The rule requiring insurers to have a diversity policy for their boards will have effect from 9 April 2018; the rule to implement the optimisations to the SIMR will have effect from 10 December 2018; and firms must submit approval forms for those performing the Chief Operations or the Head of Large Business Area functions from 10 December 2018.</p> <p>https://www.bankofengland.co.uk/prudential-regulation/publication/2017/strengthening-accountability-in-banking-and-insurance</p>
			<p>10 December 2018</p> <p>Strengthening individual accountability in insurance (SS35/15)</p> <p>On 7 February, the PRA published an updated supervisory statement regarding its approach to strengthening individual accountability in insurance. The statement has been updated</p>

				<p>alongside the publication of policy statement 1/18 (see above).</p> <p>https://www.bankofengland.co.uk/prudential-regulation/publication/2015/strengthening-individual-accountability-in-insurance-ss</p>
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Further Afield

ESMA sets out information sharing rules for market abuse probes

On 6 February, the European Securities and Markets Authority (ESMA) issued its final Implementing Technical Standards (ITS) for the application of the Market Abuse Regulation (MAR). These clarify how national competent authorities and other regulatory bodies in EU member states should cooperate with each other. ESMA has submitted the ITS for endorsement by the European Commission within three months.

<https://www.esma.europa.eu/press-news/esma-news/esma-provides-standards-supervisory-cooperation-market-abuse-investigations>

SEC announces 2018 examination priorities

On 7 February, the US Securities and Exchange Commission's Office of Compliance Inspections and Examinations (OCIE) announced its 2018 priorities, which fall into five categories: (i) compliance and risks in critical market infrastructure; (ii) matters of importance to retail investors, including seniors and those saving for retirement; (iii) the Financial Industry Regulatory Authority and Municipal Securities Rulemaking Board; (iv) cybersecurity; and (v) anti-money laundering programmes.

<https://www.sec.gov/news/press-release/2018-12>

SFC warns of cryptocurrency risks

On 9 February, the Hong Kong Securities and Futures Commission again alerted investors to the potential risks of dealing with cryptocurrency exchanges and investing in initial coin offerings (ICOs). Since issuing a similar statement on ICOs on 5 September 2017, the SFC has

taken regulatory action against a number of cryptocurrency exchanges and ICO issuers.

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR13>

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