

This week at the UK regulators

Thirty second guide: The week in overview

In a relatively quiet week without significant concluded enforcement developments, the FCA wrote to CEOs expressing concern about corporates' ability to cancel or retire a class of irredeemable preference shares. Separately, the FCA published data showing a 13 percent increase in the number of complaints made to financial services firms during the second half of 2017, which was largely driven by an increase in the number of PPI related complaints. In a development welcomed by the Bank of England and the FCA as important in facilitating innovation and competition in the payments industry, TransferWise became the first non-bank payment service provider to join a UK payment system settling in central bank money.

The PRA published two Solvency II-related consultation papers on proposed changes to the reporting format of certain regular insurance reporting submissions, and updates to internal model output reporting.

Further afield, a High Court ruling has raised some questions about corporates' obligations of cooperation under deferred prosecution agreements.

Enforcement notices

On 20 April, the FCA published a Final Notice in respect of Gabor Nagy cancelling permissions following findings that threshold conditions were not met by a consumer credit provider.

<https://www.fca.org.uk/publication/final-notices/final-notice-2018-gabor-nagy.pdf>

FCA writes to CEOs regarding ability to cancel irredeemable preference shares and similar capital instruments

The Chief Executive of the FCA, Andrew Bailey, has written to CEOs regarding irredeemable preference shares. Mr Bailey reminded CEOs that an intention to cancel irredeemable shares at a price based on factors other than the prevailing market price constitutes inside information under Article 7 of the Market Abuse Regulation and that, absent grounds for delay, such information must be announced to the market as soon as possible. In addition, Mr Bailey set out certain information which companies may wish to ensure is available to holders and potential holders of irredeemable shares, including the existence of any ability to cancel the shares at a price that is less than the market price without consent of the affected holders.

<https://www.fca.org.uk/publication/correspondence/dear-ceo-letter-irredeemable-preference-shares.pdf>

FCA publishes data showing 13% increase in the number of complaints made to financial services firms during the second half of 2017

On 19 April 2018, the FCA published data showing a 13 percent increase in the number of complaints made to financial services firms during the second half of 2017. The increase was largely driven by a 40 percent rise in the number of complaints regarding payment protection insurance (PPI), the highest level of PPI complaints for more than four years. There was also a substantial increase in the number of PPI claims as the 29 August 2018 deadline for making a PPI claim draws near.

<https://www.fca.org.uk/news/press-releases/new-fca-data-show-3-76-million-complaints-about-financial-services-firms>

Bank of England and FCA welcome first non-payment service provider to directly access the UK's payment systems

On 18 April 2018, the Bank of England announced that TransferWise had become the first non-bank payment service provider (PSP) to join a UK payment system settling in central bank money. In order to enable access for non-bank PSPs while safeguarding resilience, the Bank worked closely with the FCA, HM Treasury, HMRC and the Payment Systems Regulator to devise a new framework

including supporting legislative change, and a strengthened supervisory regime. The development has been welcomed by the Bank of England and the FCA as a significant step forward in promoting innovation and competition in payments and financial services.

<https://www.bankofengland.co.uk/news/2018/april/non-bank-ppsp-access-to-the-payments-system-announcement>

FCA warnings

Name of firm	Date of warning	Details
Bluestone Asset Management	16 April 2018	Not Authorised
Premium Peak Ltd T/A Greenfields Capital	18 April 2018	Not Authorised
Pacific Sunrise UK Ltd T/A CFD Stocks	18 April 2018	Not Authorised
Sovereign Wealth Preservation	19 April 2018	Clone of Authorised Firm
AMP Capital Investors (UK) Limited	20 April 2018	Clone of Authorised Firm
Delta Capital Markets / ADT Group Ltd	20 April 2018	Not Authorised
Capzone Invest Ltd t/a HQ Broker	20 April 2018	Not Authorised
Reyker Securities	20 April 2018	Clone of Authorised Firm
Trade Korea	20 April 2018	Clone of Authorised Firm
New Power Gen Ltd t/a Strategy Markets	20 April 2018	Not Authorised

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
<p>Consultation papers</p>			<p>1 June 2018</p> <p>Solvency II: Changes to reporting format (CP11/18)</p> <p>The PRA sets out proposals to change the reporting format from Microsoft Excel workbooks to XBRL for the following regular insurance reporting submissions:</p> <ul style="list-style-type: none"> • National Specific Templates; • Internal model outputs; • Market risk sensitivities; and • Standard formula reporting for firms with an approved internal model (model drift). <p>The CP has been developed to align with Solvency II Quantitative Reporting Templates and international data standards.</p> <p>https://www.bankofengland.co.uk/prudential-regulation/publication/2018/solvency-ii-changes-to-reporting-format</p>
			<p>13 July 2018</p> <p>Solvency II: Updates to internal model output reporting (CP10/18)</p> <p>The PRA sets out proposals to update Supervisory Statement (SS) 25/15, 'Solvency II: regulatory reporting, internal model outputs', and SS26/15, 'Solvency II: ORSA and the ultimate time horizon – non-life firms'. The CP proposes changes to reporting of internal model</p>

				<p>outputs for the following templates and LOG files:</p> <ul style="list-style-type: none"> • Internal model risk outputs (life) (IM.01) (SS25/15); • Internal model counterparty risk (IM.02) (SS25/15 and SS26/15); and • Internal model outputs (non-life) (IM.03.01 to IM.03.11 and MO.03.01 to MO.03.11) (SS25/15 and SS26/15). <p>https://www.bankofengland.co.uk/prudential-regulation/publication/2018/solvency-ii-updates-to-internal-model-output-reporting</p>
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Further Afield

High Court ruling raises questions about corporates' obligations of cooperation under deferred prosecution agreements

On 19 April 2018, the High Court ruled in *R (on the application of AL) v Serious Fraud Office* that it did not have jurisdiction to hear a dispute between an individual being prosecuted in criminal proceedings linked to the Deferred Prosecution Agreement (DPA) agreed between a company (known only as XYZ pending the conclusion of linked proceedings) and the Serious Fraud Office (SFO). The dispute related to an application made in the Crown Court by the individual for disclosure of interview notes held by XYZ which the company withheld from the SFO on grounds that they were privileged. After the Crown Court refused the application on the basis that the notes were not in the SFO's "possession", the individual sought judicial review of the SFO's decision not to pursue XYZ for breach of its duty to cooperate under the DPA.

Although the Court refused the individual's claim because it considered that there were adequate alternatives available in the Crown Court to resolve the issue, the ruling is noteworthy as the Court went on to state that had it been the appropriate forum to hear the dispute, it would have

quashed the SFO's decision. The judgment includes extensive (non-binding) discussion regarding corporates' obligations of cooperation under a DPA, and the Court provisionally confirmed the ruling in *SFO v Eurasian Natural Resources Limited (ENRC)* regarding claims for legal privilege over interview notes. The Court of Appeal is due to hear the appeal in ENRC on 3 July 2018.

[http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2018/856.html&query=\(XYZ\)](http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2018/856.html&query=(XYZ))

Case reference: *R (on the application of AL v Serious Fraud Office* [2018] EWHC 856 (Admin)

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