

This week at the UK regulators

Thirty second guide: The week in overview

The main enforcement development last week was the Upper Tribunal's decision to uphold a prohibition order made against a derivatives trader in respect of alleged LIBOR manipulation.

In other developments, the FCA announced future consultations on rules concerning Independent Governance Committees, the "permitted links" rules and the approach to exempting account servicing payment service providers from a requirement to build a contingency access mechanism. The FCA also published a comprehensive report and a significant amount of data concerning its research on the financial situation of consumers of financial services in different parts of the UK.

Further afield, the Australian Securities and Investments Commission announced that it has signed a memorandum of understanding aimed at enhancing the standards for cross-border enforcement cooperation.

Former trader banned for LIBOR misconduct

On 20 June 2018, the Upper Tribunal released a judgment in a case concerning alleged LIBOR manipulation by a derivatives trader in a major bank.

The FCA had decided to make an order prohibiting the trader, Mr Arif Hussein, from performing any function in relation to any regulated activity. The FCA's decision making body found that Mr Hussein (acting recklessly, but not dishonestly) closed his mind to the risk that the preferences for Sterling LIBOR rates which he communicated to persons responsible for LIBOR submissions would be used to influence those submissions. Before the FCA, Mr Hussein argued that, from his perspective, the relevant communications concerned internal hedging opportunities. Before the Tribunal, he advanced a new argument, namely that he believed it to be an acceptable practice for trading positions to be taken into account in determining LIBOR submissions and that this was regarded as good practice at the bank at that time.

Although the Tribunal accepted Mr Hussein's explanation as to his interpretation of the relevant communications and consequently concluded that he acted neither dishonestly nor recklessly in relation to those communications, it agreed with the FCA that Mr Hussein does not meet the relevant fitness and propriety requirements and dismissed his reference.

Case reference: *Arif Hussein v The Financial Conduct Authority*; [2018] UKUT 0186 (TCC)

https://assets.publishing.service.gov.uk/media/5b2a3dd5e5274a18f42a8c6c/Arif_Hussein_v_FCA.pdf

Enforcement Notices

In separate cases, the FCA has cancelled the permissions granted to the following firms and individuals. In all cases, the cancellations followed failures to be open and cooperative.

- [J.V Motors Limited \(22 June\)](#)
- [PG Motors Sales and Servicing Limited \(22 June\)](#)
- [Barbers Box Ltd \(21 June\)](#)
- [Mr David James Young \(21 June\)](#)

FCA responds to Law Commission recommendations on Pension Funds and Social Investment

On 18 June 2018, the Government and the FCA published the final joint response to the Law Commission's recommendations regarding Independent Governance Committees ("IGCs") and the "permitted links" rules.

As to IGCs, in the first quarter of 2019 the FCA intends to consult on:

- rule changes requiring IGCs to report on their firm's policies on (i) evaluating environmental, social and governance considerations, including climate change; (ii) taking account of members' ethical concerns; and (iii) stewardship; and
- introducing related guidance for providers of workplace personal pension schemes on considering factors such as those described above when making investment decisions.

This consultation will concern a single package of rule changes, including other possible extensions to the remit of IGCs.

The FCA is also actively considering the potential for rule changes and/or guidance in relation to the "permitted links" rules and will progress its work in the second half of 2018.

<https://www.fca.org.uk/news/news-stories/our-response-law-commission-recommendations-pension-funds-and-social-investment>

FCA reports on urban-rural differences in how consumers experience financial services

On 20 June 2018, the FCA published a report analysing the financial situation of people across the UK and highlighting where in the UK people may be more financially vulnerable.

The report found that people living in urban areas are less likely (than people living in rural areas) to be satisfied with their overall financial position, are more likely to use high-cost loans and, on average, have higher levels of unsecured debt. It also found that in rural areas more people have difficulty getting to a bank and tend not to be able to use online and mobile banking and that retired people in rural areas rely mainly on the State Pension.

Alongside its report, the FCA has released weighted data tables which provide details of the survey findings.

<https://www.fca.org.uk/news/press-releases/fca-reveals-urban-rural-differences-how-consumers-experience-financial-services>

FCA expresses approval of European Banking Authority's draft PSD2 Guidelines and Opinion

In a statement published on 22 June 2018, the FCA expressed its support of an Opinion and draft Guidelines on the Regulatory Technical Standards on Strong Customer Authentication and Common and Secure Communication published earlier by the European Banking Authority. The FCA expects to comply with the Guidelines if the final version is the same as the published draft. This is subject to the FCA's own consultation process, which is expected to take place this summer.

The draft Guidelines clarify how the FCA should approach exempting account servicing payment service providers from a requirement to build a contingency access mechanism.

<https://www.fca.org.uk/news/statements/eba-draft-psd2-guidelines-opinion-banks-others-involved-open-banking>

FCA warnings

Name of firm	Date of warning	Details
Cardiff Savings and Loans Ltd	18 June 2018	Clone https://www.fca.org.uk/news/warnings/cardiff-savings-and-loans-ltd-clone-clone-fca-authorized-firm
Prive Global Management Services Ltd	18 June 2018	Clone https://www.fca.org.uk/news/warnings/prive-global-management-services-ltd-clone-fca-authorized-firm
Publiczny Kapital Oszczednosci	18 June 2018	Clone https://www.fca.org.uk/news/warnings/publiczny-kapital-oszczednosci-clone-fca-authorized-firm
Fto Capital Financial Trading Online	18 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/fto-capital-financial-trading-online
Storm Finance Limited	18 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/storm-finance-limited
Virtuous Wealth Ltd	18 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/virtuous-wealth-ltd
Coin Boost Inc	18 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/coin-boost-inc
EU Capital	18 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/eu-capital
Capstan Properties NHS care Home Property Bond	19 June 2018	Clone https://www.fca.org.uk/news/warnings/capstan-properties-nhs-care-home-property-bond-clone-uk-registered-company
Smart Spend Limited Clone	19 June 2018	Clone

		https://www.fca.org.uk/news/warnings/smart-spend-limited-clone-fca-authorized-firm
Apex Tradex	19 June 2018	Clone https://www.fca.org.uk/news/warnings/apex-tradex-clone-fca-authorized-firm
PGM Patrimoine	20 June 2018	Clone https://www.fca.org.uk/news/warnings/pgm-patrimoine-clone-fca-authorized-firm
Apex Financial Group Ltd	20 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/apex-financial-group-ltd-apex-f-g-ltd
FGM Technology Ltd	20 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/fgm-technology-ltd-trading-10-brokers
Totally Money	20 June 2018	Clone https://www.fca.org.uk/news/warnings/totallymoney-totally-money-clone
Crypto Robot 365	20 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/cryptorobot365
Tradex 1	20 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/tradex1
CT Trade	21 June 2018	Clone https://www.fca.org.uk/news/warnings/ct-trade-clone-fca-authorized-firm
Alpha Algorithms	21 June 2018	Unauthorised https://www.fca.org.uk/news/warnings/alpha-algorithms-t-fomax-capital-ltd

Wallace Braxton Credit Union Limited	22 June 2018	Clone https://www.fca.org.uk/news/warnings/wallace-braxton-credit-union-limited-clone-fca-authorized-firm
Arden Partners	22 June 2018	Clone https://www.fca.org.uk/news/warnings/arden-partners-clone

Further Afield

Australian regulator signs a memorandum of understanding aimed at enhancing the standards for cross-border enforcement cooperation

On 22 June, the Australian Securities and Investments Commission (ASIC) issued a press release indicating that it has become one of the first signatories to the IOSCO Enhanced Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the [Exchange of Information](#) ("EMMoU") (although in fact it signed up to EMMOU on 4 May 2018). The FCA is the only other signatory to the relevant part of EMMOU.

EMMoU builds upon the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the [Exchange of Information](#) (MMoU), which represents a common understanding among its signatories (of which there are 118) of how they should consult, cooperate, and exchange information for the purpose of regulatory enforcement. EMMoU identifies additional powers that that ASIC may use to assist foreign regulators, including compelling physical attendance for testimony, obtaining and sharing audit work papers, communications and other information relating to the audit and review of financial statements, providing guidance on freezing of assets, and obtaining and sharing certain internet and telephone records.

<https://asic.gov.au/about-asic/media-centre/find-a-media-release/2018-releases/18-182mr-asic-enhances-its-enforcement-toolkit-beyond-australia-s-borders/>

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