

This week at the UK regulators

Thirty second guide: The week in overview

Although there were no major concluded enforcement cases, last week was a busy week for the FCA. It published its annual report and accounts, including statistics showing lower levels of fines but significant levels of enforcement activity over the past year. It also published a discussion paper and statement in relation to the need for a specific duty of care requirement for firms in financial services. In addition it published an interim report in relation to competition in the investment platform market and commented on a separate report issued by the Competition and Markets Authority in relation to investment consultants.

The PRA was also active on the policy development front, publishing voluminous further details of its expectations in respect of the Solvency II group provisions.

Further afield, the US Securities and Exchange Commission voted to adopt amendments to Regulation ATS to enhance operational transparency and regulatory oversight of Alternative Trading Systems.

Enforcement notices

On 19 July, in separate cases, the FCA issued Final Notices to the following firms. In all cases, cancellations of permission were imposed for failures to be open and cooperative.

- Switchtech Solutions Ltd
- IT Technical Solutions Ltd
- JEMM Motor Company Limited

<https://www.fca.org.uk/publication/final-notices/switchtech-solutions-ltd-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/it-technical-solutions-ltd-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/jemm-motor-company-limited-2018.pdf>

FCA publishes Annual Report and Accounts

On 19 July, the FCA published, its Annual Report and Accounts, looking back on the key pieces of work it has undertaken throughout 2017/18. In particular, the Annual Report summarises some of the work it has been doing in relation to:

- preparation for EU withdrawal;

- implementation of major changes to the information and services that consumers can benefit from when they make payments (PSD2) and to transparency and customer protections in the markets for shares, bonds and other financial instruments (MiFID II);
- extending the Senior Managers and Certification Regime to non-executive directors and preparing to extend it to all financial services firms;
- high cost credit and consumer debt; and
- alerting PPI customers to the deadline for complaints about mis-selling.

In addition, the FCA published its separate annual reports on competition, diversity, anti-money laundering and enforcement. Some of the headlines from the enforcement report are set out in the box below.

<https://www.fca.org.uk/news/press-releases/fca-publishes-annual-report-and-accounts-2017-18>

<https://www.fca.org.uk/publication/corporate/annual-report-2017-18-competition.pdf>

<https://www.fca.org.uk/publication/corporate/annual-report-2017-18-diversity.pdf>

<https://www.fca.org.uk/publication/corporate/annual-report-2017-18-anti-money-laundering.pdf>

<https://www.fca.org.uk/publication/corporate/annual-report-2017-18-enforcement-performance.pdf>

Enforcement 2017/18: The year in numbers

- Total financial penalties: £69.9m (down from £180.1m in 2016/17 and £884.6m in 2015/16)
Number of fines against firms: six (no change from 2016/17)
- Number and level of fines against individuals: 10 and £900,000 (no change from 2016/17)
- Number of open cases: 504 as at April 2018 (up from 410 in April 2017 and 247 in April 2016)
- The main subjects for open investigations continue to be market abuse, financial crime and retail conduct, but the number of financial crime cases is increasing at the highest rate.
 - Market abuse (103 open cases at April 2018 down slightly from 107 open cases at April 2017)
 - Financial crime (86 open cases at April 2018 up from 55 open cases at April 2017)
 - Retail conduct (78 open cases at April in 2018 up from 66 open cases at April 2017)
- Although the number of open market abuse cases has levelled off, cases are still being opened and closed at a high rate (75 cases opened, 78 cases closed)
- There have been significant increases in the number of cases opened relating to culture and governance:
 - 48 culture and governance cases opened in 2017/18 as compared to 9 in 2016/17
 - 61 culture and governance cases open as at April 2018 as compared to 15 as at April 2017
- Cases resulting in disciplinary action are taking much longer:
 - The average duration of settled cases has gone up by 40 percent to 32 months in 2017/18 compared to 23 months in 2016/17
 - The average duration of cases referred to the Regulatory Decisions Committee (RDC) has gone up by 75 percent to 60 months in 2017/18 compared to 34 months in 2016/17
- The average duration of all cases including those discontinued stays about the same (19 months in 2017/18 compared to 18 months in 2016/17)
- Number of partly contested cases considered by the RDC during 2017/18: one

FCA issues interim report in investment platform market study...

On 16 July, the FCA published its interim findings in relation to competition in the investment platform market. It found that competition is working well but did reveal concerns about how platforms competed for particular groups of consumers. Given the rapid growth of the investment platform market (it is doubled since 2013), the FCA has stressed that competition between platforms is vital. It has proposed a package of remedies and is seeking feedback on its initial findings and proposed remedies before publishing its final conclusions about the market in early 2019.

<https://www.fca.org.uk/publication/market-studies/ms17-1->

[2.pdf](#)

...and welcomes Competition and Markets Authority's findings on investment consultants

On 18 July 2018, the FCA welcomed the Competition and Markets Authority's (CMA's) provisional decision report on its investment consultants market investigation. The CMA interim report was produced as a result of the FCA's serious competition concerns in this sector.

<https://www.fca.org.uk/news/statements/fca-response-cmas-provisional-decision-report-investment-consultants-market-investigation>

FCA warnings

Name of firm	Date of warning	Details
General Asset Management	19 July 2018	Not authorised https://www.fca.org.uk/news/warnings/general-asset-management-clone-fca-authorized-firm
2dots Limited t/a 8infx	17 July 2018	Not authorised https://www.fca.org.uk/news/warnings/2dots-limited-t-8infx
Talbot Review Centre	16 July 2018	Not authorised https://www.fca.org.uk/news/warnings/talbot-review-centre

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Discussion papers	<p>In a discussion paper published on 17 July 2018 (DP 18/5), the FCA explored if there is a need for a specific duty of care requirement for firms in financial services. It explored if a new duty of care could enhance good conduct and culture and provide additional protections for consumers.</p> <p>The proposal was issued alongside a separate 'Approach to Consumers' document setting out when and how it expects to take action to protect consumers going forward.</p> <p>https://www.fca.org.uk/publication/</p>	2 November 2018	

	corporate/approach-to-consumers https://www.fca.org.uk/publication/discussion/dp-18-05.pdf https://www.fca.org.uk/publication/corporate/approach-to-consumers.pdf			
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Finalised Policy and guidance				
		Implementation/effective date		
Policy statements			13 July 2018	<p>On 13 July 2018, the PRA issued a Policy Statement (PS18/18) 'Solvency II: Matching adjustment' which provides feedback and responses to Consultation Paper 21/17, 'Solvency II: Matching Adjustment' and provides the final Supervisory Statement 7/18, 'Solvency II: Matching, which sets out the PRA's expectations in respect of firms seeking to apply the matching adjustment to an eligible portfolio of assets and liabilities.</p> <p>https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2018/ps1818.pdf?la=en&hash=4EEA2D100CD82C56C650097AAC754D3CF2E1A7EC</p>
			13 July 2018	<p>On 13 July 2018, the PRA issued a Policy Statement (PS19/18) 'Solvency II: Internal models - modelling of the matching adjustment' which provides feedback and responses to Consultation Paper 24/17 'Solvency II: Internal models - modelling of the matching adjustment'. It also provides the final Supervisory Statement 8/18 and an updated version of SS17/16 'Solvency II: internal</p>

				<p>models – assessment, model change and the role of non-executive directors’.</p> <p>It is relevant to UK Solvency II firms and to the Society of Lloyd’s and its managing agents.</p> <p>https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2018/ps1918.pdf?la=en&hash=6ED80EA6B4D3E6629728C25830FE1F11D4F7F125</p>
			13 July 2018	<p>On 13 July 2018, the PRA issued a Policy Statement (PS 20/18) ‘Solvency II: Internal models update’ which provides feedback and responses to Consultation Paper 27/17 ‘Solvency II: Internal models update’ and the final updated expectations of firms in respect of the model change process set out in Supervisory Statement 12/16 ‘Solvency II: Changes to internal models used by UK insurance firms’ and internal model change policies set out in SS17/16 ‘Solvency II: internal models – assessment, model change and the role of non-executive directors’.</p> <p>It is relevant to UK Solvency II firms and to the Society of Lloyd’s and its managing agents.</p> <p>https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2018/ps2018.pdf?la=en&hash=2942E3D1DD7C642065EBBAD83DFA2D7B2565C603</p>
			13 July 2018	<p>On 13 July 2018, the PRA issued Supervisory Statement 7/18 ‘Solvency II: Matching adjustment’ which sets out its expectations of firms in respect of application of the matching adjustment (MA).</p>

				<p>The MA allows firms to adjust the relevant risk-free interest rate term structure for the calculation of a best estimate of a portfolio of eligible insurance obligations.</p> <p>It is relevant to UK Solvency II firms and to the Society of Lloyd's and its managing agents.</p> <p>https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2018/ss718.pdf?la=en&hash=22A504591729AF307F1F1F2DEE9E4DB3CC0ACCB9</p>
			13 July 2018	<p>On 13 July 2018, the PRA issued Supervisory Statement 8/18 'Solvency II: Internal models - modelling of the matching adjustment' which sets out its expectations of firms regarding the application of the Solvency II matching adjustment within the calculation of the Solvency Capital Requirement.</p> <p>It is relevant to UK Solvency II firms and to the Society of Lloyd's and its managing agents.</p> <p>https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2018/ss818.pdf?la=en&hash=ADC272DDCB96F175CF31F677B1A8D70905DE604F</p>
			13 July 2018	<p>On 13 July 2018, the PRA issued a revised version of Supervisory Statement 12/16 'Solvency II: Changes to internal models used by UK insurance firms' which sets out its expectations in respect of firms applying (i) for approval for a major change to their approved internal models (either an individual major change or major change triggered by an accumulation of minor changes)</p>

				<p>or an extension of scope to an approved internal model (e.g. to cover new business units or risks) and (ii) to alter their approved internal model change policy.</p> <p>https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2018/ss1216update.pdf?la=en&hash=85E068772C4C0F07964506CADEEC60D68B8492A7</p>
			13 July 2018	<p>On 13 July 2018, the PRA issued a revised version of Supervisory Statement 17/16 'Solvency II: internal models – assessment, model change and the role of non-executive directors' which expands on the its general approach as set out in its insurance approach document. It sets out its expectations for firms in the following areas:</p> <ul style="list-style-type: none"> • internal model applications; • the assessment of credit risk; • dealing with variability in premium provisions; • the effect of stresses on the volatility adjustment; the role of non-executive directors; • model justification and validation and the role of boards; • the PRA's use of quantitative analysis in approving models; and • cope, identification and classification, governance and reporting of internal model changes.

				https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2018/ss1716update.pdf?la=en&hash=62C3A05B50674D5E904B0C3BB37D29E4029CE89
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Further Afield

US regulator adopts new rules relating to Alternative Trading Systems

On 18 July, the US Securities and Exchange Commission voted to adopt amendments to Regulation ATS to enhance operational transparency and regulatory oversight of Alternative Trading Systems (ATSs) that trade stocks listed on a national securities exchange. Certain ATSs will be required to file detailed public disclosures on new Form ATS-N.

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