

This week at the UK regulators

Thirty second guide: The week in overview

The main enforcement development last week was the imposition of a fine and ban on the Chief Executive of a financial advisory firm for breaches of conflict of interest rules. The FCA also took urgent action to prevent a consumer credit firm entering into any more contracts with customers and published a statement confirming that it will not be taking enforcement action against individuals in connection with well publicised allegations relating to the treatment of SME customers by a bank.

The PRA released details of long awaited changes to its enforcement procedures, announcing the appointment of a heavyweight committee set up in response to recommendations by HM Treasury.

In other developments, the FCA issued separate statements supporting the action taken by the European Securities and Markets Authority to impose a temporary restriction on the sale, marketing and distribution of contracts for difference to retail investors and giving a cautious welcome to proposals put forward by representatives of mortgage lenders aimed at helping customers move to better value deals. It also launched a consultation exercise on the widening of conduct and communication standards already applicable to most firms to providers of payment and e-money services a policy statement on assessing creditworthiness in the consumer credit sector and published a discussion paper confirming its views that various parts of consumer credit legislation serve a useful consumer protection function and should remain in force.

Upper Tribunal imposes fine and ban on Chief Executive for conflict of interest failings

On 31 July, the Upper Tribunal decided to impose a financial penalty of £60,000 on Mr Alistair Burns, the Chief Executive of TailorMade Independent Limited (TMI). It also imposed a prohibition order preventing him from occupying any FCA significant influence or senior management function. The Tribunal agreed with the FCA that between January 2010 and January 2013 Mr Burns breached Principle 7 of the Statements of Principle for Approved Persons by failing to ensure that TMI managed conflicts of interest, leading to customers being given unsuitable advice, from which Mr Burns benefited.

The FCA issued its Decision Notice on 22 July 2016. It had originally sought to impose a much more substantial financial penalty, but revised the figure downwards based on issues relating to the application of the three year limitation period applicable to conduct during the period with which this case is concerned.

https://assets.publishing.service.gov.uk/media/5b61add9e5274a5f5a33a3ec/Alistair_Rae_Burns_v_FCA.pdf

Other regulatory and enforcement notices

- On 31 July, the FCA issued a first supervisory notice notifying P.F. (International) Limited that it had varied its permission to prevent it from lawfully entering into any new regulated credit agreements and credit broking. The FCA based its actions on findings that the firm had sold and brokered regulated credit agreements during cold call visits in breach of a requirement in its permissions preventing it from doing so, failed to carry out adequate affordability checks on customers' ability to pay back credit, misled the FCA and had close links with a firm whose consumer credit licence was previously revoked by the Office of Fair Trading.

The firm now has the right to refer the matter to the Upper Tribunal. The FCA has issued a statement giving advice to customers of the firm.

<https://www.fca.org.uk/publication/supervisory-notices/first-supervisory-notice-p-f-international-limited-2018.pdf>

<https://www.fca.org.uk/news/news-stories/news-customers-pf-international-limited-distributor-kirby-vacuum-cleaners>

- On 31 July, the FCA published a final notice in respect of Big Brother Systems Ltd. The FCA has imposed a cancellation following findings that the firm does not satisfy the suitability threshold condition and has failed to be open and cooperative with the FCA.

<https://www.fca.org.uk/publication/final-notice/big-brother-systems-ltd-2018.pdf>

PRA unveils new enforcement procedures

On 3 August, the PRA issued a policy statement (PS/EDMC2018) setting out details of its Enforcement Decision Making Committee (EDMC). The committee will decide contested cases in relation to prudential regulation, financial market infrastructure, resolution and notes issuance matters. It has been set up in response to a recommendation made by HM Treasury in the report published in December 2014 arising from its review of enforcement decision making at the financial services regulators.

The new committee, which the PRA expects will sit relatively infrequently, is to be chaired by former Judge in Charge of the Commercial Court Sir William Blair. The Vice Chair will be Philip Marsden, a Senior Director at the Competition and Markets Authority, who also sits on the FCA's Regulatory Decisions Committee. The other members are Baroness Kishwer Falkner (whose other responsibilities include chairing the House of Lords EU Sub-Committee on Financial Affairs) Anne Heal (an experienced non-executive director), Mark Hoban (former Financial Secretary to the Treasury) and Edward Sparrow (a former partner at a City law firm).

The PRA has also updated relevant statements of policy and procedure and issued a separate document summarising the EDMC's procedures.

<https://www.bankofengland.co.uk/-/media/boe/files/paper/2018/enforcement-decision-making-committee-policy-statement.pdf?la=en&hash=2F1E211F8BDB9B23A054DD770CBE342EB381020E>

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389063/enforcement_review_response_final.pdf

<https://www.bankofengland.co.uk/statement/2014/statutory->

[statements-of-procedure-in-respect-of-the-boe-supervision-of-fmi-policy-statement](#)

<https://www.bankofengland.co.uk/-/media/boe/files/paper/2018/procedures-the-enforcement-decision-making-committee.pdf?la=en&hash=CC93A7C1C6252F9D3B1E37AA617BA17D8B5BDA52>

FCA reports on further steps in bank SME investigation

On 31 July, the FCA published a statement confirming that, after detailed investigations, it has decided not to bring a prohibition case against any member of the Global Restructuring Group of the Royal Bank of Scotland in connection with allegations made about the treatment of small and medium sized enterprise customers. The FCA has stated that it has found no evidence of dishonesty or lack of integrity and that it does not consider that a case based on individuals' competence and capability would have a reasonable prospect of success.

<https://www.fca.org.uk/publication/corporate/statement-on-fcas-further-investigative-steps-in-relation-to-rbs-grg.pdf>

FCA issues statement on selling high risk speculative investments to retail clients

On 1 August, the FCA issued a statement supporting the move by the European Securities and Markets Authority (ESMA) in June 2018 to impose temporary measures to restrict the sale, marketing and distribution of contract for difference products to retail investors. These measures came into force on 1 August. The FCA has committed itself to monitoring whether firms attempt to circumvent the restrictions by offering other similarly complex product to retail investors and has stated that it will continue to work closely with ESMA and take action itself as necessary in support of the measures imposed.

<https://www.fca.org.uk/news/statements/fca-statement-selling-high-risk-speculative-investments-retail-clients-following-esmas-action-cfd>

FCA responds to mortgage lenders' commitment to help longstanding borrowers

In a statement issued on 1 August, the FCA has welcomed a response by UK Finance, the Building Societies Association and the Mortgage Intermediaries Lenders Association to its invitation in its Mortgages Market Study Interim Report to devise a voluntary agreement to enable borrowers on active lenders' reversion rates to switch to a better deal in certain circumstances. The FCA has indicated that it will work closely with industry to discuss the detail of the proposed agreement and will continue to consider how best to assist borrowers whose lenders are not signed up to the proposed agreement.

<https://www.fca.org.uk/news/statements/fca-response-mortgage-lenders-commitment-help-longstanding-borrowers>

<https://www.fca.org.uk/publication/market-studies/ms16-2-2-interim-report.pdf>

FCA warnings

Name of firm	Date of warning	Details
Purple Bridge Services Limited	31.07.2018	Clone of Authorised Firm https://www.fca.org.uk/news/warnings/purple-bridge-services-limited-clone-authorized-firm
Now Loans	31.07.2018	Clone of Authorised Firm https://www.fca.org.uk/news/warnings/now-loans-clone-fca-authorized-firm
Capricorn Finance	02.08.2018	Clone one Authorised Firm https://www.fca.org.uk/news/warnings/capricorn-finance-clone-fca-authorized-firm
GoldTech Media Servies OU t/a Glenmore Investments	03.08.2018	Unauthorised Firm https://www.fca.org.uk/news/warnings/goldtech-media-services-ou-t-glenmore-investments
Classic Brand Europe	03.08.2018	Clone of Authorised Firm

		https://www.fca.org.uk/news/warnings/classic-brand-europe-clone-authorized-firm
Chimera Investment Corporation	06.08.2018	Clone of Authorised Firm https://www.fca.org.uk/news/warnings/chimera-investment-corporation-clone
Bitcoin Loophole / Bitcoin News trader	06.08.2018	Unauthorised Firm https://www.fca.org.uk/news/warnings/bitcoin-loophole-bitcoin-news-trader
Yes Option / Yes Trading	06.08.2018	Unauthorised Firm https://www.fca.org.uk/news/warnings/yes-option-yes-trading
Legal Trade	06.08.2018	Unauthorised Firm https://www.fca.org.uk/news/warnings/legal-trade

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers	On 1 August, the FCA issued a consultation paper (CP 18/21) setting out proposals to apply existing rules and guidance clarifying its expectations on conduct and communication, which are set out in the Principles for Businesses and other rules for firms involved in retail banking, to the payment services and e-	1 November 2018	1 October 2018	On 31 July, the PRA published a consultation paper (CP 18/18 ¹) on the implementation of the extension of the Senior Managers and Certification Regime to insurers. The paper sets out proposed rules for a technical correction of rules relating to Solvency II firms

	<p>money sectors. It has also set out proposed new standards for the communication of details in relation to particular payment and e-money services involving currency conversions.</p> <p>https://www.fca.org.uk/publication/consultation/cp18-21.pdf</p>			<p>and some consequential and minor administrative amendments to rules applying the regime to insurers.</p> <p>https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2018/cp1818.pdf?la=en&hash=146B514AB06F3D7D528865CAB94CAC4C2BF95F0C</p>
	<p>On 1 August, the FCA issued a consultation paper (CP 18/22²) on proposed new application and periodic fees for Third Party Verification agents under the Securitisation Regulation. The proposals are based on the draft European Regulatory Technical Standards and the FCA's existing framework for setting fees.</p> <p>https://www.fca.org.uk/publication/consultation/cp18-22.pdf</p>	1 October 2018		
Discussion papers	<p>On 2 August, in discussion paper DP 18/7, the FCA published an interim report on the review of the retained provisions of the Consumer Credit Act 1974. The FCA has a statutory obligation to complete this review by 1 April 2019. The report sets out the FCA's initial views that the various rights and protections, information requirements and sanctions contained within these retained provisions continue to serve a useful function.</p> <p>The FCA has invited views from all interested stakeholders.</p>	2 November 2018		

² <https://www.fca.org.uk/publication/consultation/cp18-22.pdf>

Finalised Policy and guidance				
		Implementation/effective date		
Policy statements	<p>On 30 July, the FCA issued a policy statement (PS 18/19) containing finalised rules and guidance on assessing creditworthiness in the consumer credit sector. The paper follows consultation through CP 17/27 in July 2017. There are various changes to chapters 5 (responsible lending) and 6 (post contractual requirements) sections of the Consumer Credit sourcebook. The FCA has indicated that it does not anticipate that the impact will be significant for firms which are already complying with existing consumer credit rules, but has committed to monitoring the effect of the rule changes and has stated that it is aiming to encourage firms to take a more proportionate and less prescriptive approach to assessing affordability.</p> <p>https://www.fca.org.uk/publication/policy/ps18-19.pdf</p> <p>https://www.fca.org.uk/publication/consultation/cp17-27.pdf</p>	1 November 2018	3 August 2018	<p>On 3 August, the PRA issued a policy statement (PS/EDMC2018) setting out details of its Enforcement Decision Making Committee (EDMC).</p> <p>See further details above.</p> <p>https://www.bankofengland.co.uk/-/media/boe/files/paper/2018/enforcement-decision-making-committee-policy-statement.pdf?la=en&hash=2F1E211F8BDB9B23A054DD770CBE342EB381020E</p>

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