

June 2018

RETAIL REGULATORY RISK AND COMPLIANCE UPDATE

INDEX

UK	1
1. NEW CONSULTATIONS	
2. REGULATORY DEVELOPMENTS	
3. KEY FCA MESSAGES AND ANNOUNCEMENTS	
EU	4
4. NEW CONSULTATIONS	
5. REGULATORY DEVELOPMENTS	
OTHER	4
6. OTHER COMPLIANCE AND RISK UPDATES	

1. New Consultations

HM Treasury publishes summary of responses to consultation on a problem debt breathing space scheme

HM Treasury has published a [summary](#) of the submissions received to its call for evidence on how to design, implement, administer and monitor a six-week breathing space scheme for those struggling with debt. HM Treasury was also consulting on a statutory debt management plan. The next stage of the implementation of the scheme will be to consult on a single policy proposal later in the summer of 2018. *HM Treasury, 18 June 2018*

FCA publishes quarterly consultation paper

The FCA has published its [quarterly consultation](#) on miscellaneous amendments to the FCA Handbook. The FCA is proposing changes to:

- ▶ disapply some Handbook rules for authorised professional firms who carry out non-mainstream regulated activities;
- ▶ the appointed representatives appointment form;
- ▶ the COBS rules for insurance distribution;
- ▶ FEES 4.2 relating to the tariff data used to calculate fees for newly authorised firms;
- ▶ FEES 4.4, FEES 4 Annex 1AR and FEES 5.4 relating to the tariff data used to calculate insurers' periodic fees and levies from 2018/19;
- ▶ BCBS 7 as a result of detailed technical discussions with firms preparing to implement the requirements,
- ▶ DEPP and EG following the transfer of the Northern Ireland mutual societies registration function to the FCA;
- ▶ DEPP and EG following the implementation of the Money Market Funds Regulation and amendments to EuSEF and EuVECA Regulations *FCA*,

The deadline for responses is 31 July 2018 for proposed changes to the FEES manual, and 30 June 2018 for all other proposals. *FCA, 1 June 2018*

FCA consults on the complaint handling of APP fraud

The FCA has launched a [consultation](#) on authorised push payment (APP) fraud, and whether to require firms to handle related complaints in line with the complaints handling rules in the FCA Handbook. The FCA also proposes providing victims with access to the Financial Ombudsman Service (FOS) if they are unhappy with the outcome reached by the receiving payment services provider (PSP), or if they have not received a response to the complaint at all. The consultation closes on the 26 September 2018. *FCA, 26 June 2018*

BoE launches global messaging standard consultation to modernise UK payments

The Bank of England (BoE), in conjunction with the New Payments System Operator (NPSO) and the Payment System Regulator (PSR), has launched a [six-week consultation](#) on the adoption of a common global 'language' or messaging standard, known as 'ISO 20022', for payments in the UK. The standard will be adopted across CHAPS, Faster Payments and Bacs, which together process over 8 billion payments per year. The consultation closes on the 18 July 2018. *BoE, 6 June 2018*

BoE responds to Treasury's call for evidence on cash and digital payments in the new economy

The BoE has published a [response](#) to HM Treasury's call for evidence on cash and digital payments in the new economy, which was launched on 13 March 2018. The BoE acknowledges that the usage of cash is evolving, but it says that there is, and is likely to remain for the foreseeable future, a significant public demand for banknotes. *BoE, 1 June 2018*

PSR issues policy statement on regulatory fees

The PSR has published a [policy statement](#) on the PSR's regulatory fees, setting out the new regime that will be in place from 2018/19. Publication of the policy statement marks the end of the PSR's review of its fee regime, begun in 2017. *PSR, 29 June 2018*

2. Regulatory Developments

Corporate governance: new reporting regulations

The government has [confirmed](#) its intention to drive greater transparency in reporting by introducing secondary legislation to, amongst other things, (i) require companies of a "significant" size to explain how their directors comply with the requirements of section 172 of the Companies Act 2006 (2006 Act) to have regard to stakeholders; and (ii) to require quoted companies to report annually the ratio of CEO pay to the average pay of their UK workforce. *HM Treasury, 12 June 2018*

Draft Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) (Amendment) Order 2018 published

A [draft](#) of the Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) (Amendment) Order 2018 has been published. The order aligns the requirements between the UK's ring-fencing legislation and the financial sanctions regimes, which would otherwise conflict. This will ensure that banking groups can maintain accounts held by sanctioned account holders in their existing locations whilst still complying with ring-fencing legislation. The Order will come into force on 31 October 2018. *Legislation.gov, 26 June 2018*

HM Treasury publishes Banking Act 2009 (Fees) Regulations 2018

HM Treasury have published the [Banking Act 2009 \(Fees\) Regulations 2018](#), which provide a scale of fees which the BoE may charge to the operators of recognised payment systems and specified service providers in relation to those recognised payment systems. The payment of these fees will reimburse the BoE for its costs incurred in connection with overseeing recognised payment systems and specified service providers to recognised payment systems. The Regulations will come into force on 10 July 2018. *Legislation.gov, 19 June 2018*

FCA publishes regulation round-up for June 2018

The FCA has published its [June 2018 regulation round-up](#). This issue discusses the FCA's Financial Lives Survey, the large-scale survey of UK adults, saying the results add a substantial new source of evidence to its understanding of consumers in the retail financial markets it regulates. *FCA, 21 June 2018*

PRA publishes regulatory digest for May 2018

The PRA has published its [regulatory digest](#) for May 2018. This issue includes the PRA's consultation on the new EU securitisation framework and its policy statement on financial management and planning by insurers. *PRA, 1 June 2018*

3. Key FCA Messages and Announcements

FCA publishes update on wide-ranging review of retail banking sector

The FCA has published an [update](#) on its Strategic Review of Retail Banking Business Models. The Review is an in-depth and wide-ranging piece of work to give the FCA a greater understanding of retail banks' business models, and how these may change in the future. This includes looking at how personal current accounts are paid for, the possible impact of technological and regulatory developments such as Open Banking and changes to payment services due to the PSD2.

FCA, 27 June 2018

APPG response to FCA consultation on SME access to the FOS

The FCA has published the [response](#) it received from the all-party parliamentary group (APPG) to the consultation on SME access to the FOS. The response notes that SMEs are not on a level playing field in terms of size and negotiating power when it comes to their dealings with the big banks. *FCA, 12 June 2018*

FCA publishes policy development update

The FCA has published the latest version of its [policy development update](#) for June 2018, which provides information on their recent and upcoming publications. *FCA, 1 June 2018*

Speech: Director of Enforcement - Has the industry improved ten years on?

The FCA has published a [speech](#) given by its director of enforcement and market oversight, Mark Steward, on whether the banking industry has improved in the 10 years since the financial crisis. Mr Steward noted that while better conduct and regulation can reduce the incidence of misconduct, things will continue to go wrong, so enforcement and supervision are crucial. *FCA, 15 June 2018*

FCA sends Dear CEO letter on crypto-asset risks

The FCA has sent a [Dear CEO letter](#) to banks, setting out good practice on how to handle the financial crime risks posed by crypto-assets. The FCA says crypto-assets are open to abuse as they offer potential anonymity and the ability to move money between countries. *FCA, 11 June 2018*

FCA publishes basic guide to network security

The FCA has published a [guide to cyber security](#), setting out the basics of developing and implementing policies and responses. Based around a series of questions, the guide asks firms to consider who has access to their networks, whether and where malware and antivirus protection is installed, and how vulnerabilities are monitored. *FCA, 15 June 2018*

FCA publishes statement on draft PSD2 guidelines and opinion for banks and others involved in open banking

The FCA has said it [supports](#) the opinion and draft guidelines published by the European Banking Authority (EBA) on 13 June 2018 on the regulatory technical standards on strong customer authentication and common and secure communication under the revised Payment Services Directive (PSD2). It encourages firms and API initiatives to consider the views contained in the opinion, and says that if the final version of the guidelines is the same as the published draft, and subject to its own consultation process, it would expect to comply with the guidelines. *FCA, 22 June 2018*

BoE and FCA mortgage statistics show reduced lending activity

The BoE and the FCA have published [mortgage lenders and administrators statistics](#) for the first quarter of 2018. The figures show a decrease in mortgage lending activity when compared with the previous quarter. New commitments (new lending that lenders have agreed to advance in coming months) are at their lowest level since 2016 Q3, and there has been a decrease in the amount of lending to first time buyers. *BoE and FCA, 12 June 2018*

FCA fines and imposes a restriction on Canara Bank for anti-money laundering systems failings

The FCA has [fined](#) Canara Bank £896,100 and imposed a restriction, preventing it from accepting deposits from new customers for 147 days. *FCA, 6 June 2018*

FCA secures increased confiscation order against Benjamin Wilson

His Honour Judge Grieve QC sitting at the Central Criminal Court [increased](#) the value of a confiscation order made against Benjamin Wilson, a convicted fraudster, from £1 to £31,905.33. Mr Wilson has 28 days to pay the increased order or face a further 14 months in prison. *FCA, 11 June 2018*

FCA sets out rules on visually impaired customers' access to financial information

The Treasury Committee has published [correspondence](#) with the FCA on access to financial services for consumers with visual impairments. The Committee was concerned that details on how customers can access financial information in firm literature are often contained in the small print. *FCA, 14 June 2018*

FCA publishes data bulletin on retail intermediary sector

The FCA has published its latest [data bulletin](#), focusing on new analysis of the retail intermediary sector, based on the data firms have submitted to the FCA via the retail mediation activities return. *FCA, 7 June 2018*

PPI publishes campaign response update

The FCA have published [PPI campaign response data](#) during months when it had live advertising. This data shows the numbers visiting the FCA's PPI website, calling the helpline and contacting the FCA on social media. *FCA, 6 June 2018*

EU

4. New Consultations

No EU consultations this month.

5. Regulatory Developments

Danièle Nouy on the importance of governance

The European Central Bank (ECB) has published a [speech](#) by the chair of its supervisory board, Danièle Nouy, setting out the ECB's approach to supervising good governance and risk management. Ms Nouy discussed fit and proper assessments, the supervisory review and evaluation process (SREP), and the need for further harmonisation of aspects of the governance rules. *ECB, 21 June 2018*

MLD5 published in the OJEU

The Fifth Money Laundering Directive (MLD5) has been published in the Official Journal of the European Union (OJEU). It amends the Fourth Money Laundering Directive and Directives 2009/138/EC and 2013/36/EU. *OJEU, 19 June 2018*

OTHER

6. Other Compliance and Risk Updates

FCA sets out plans for regulation of CMCs

The FCA has a [published](#) consultation, outlining how it will regulate claims management companies (CMCs) when regulation passes to the FCA on 1 April 2019. The consultation sets out the draft rules and guidance the FCA proposes to make in relation to claims management activities. It explains how the FCA proposes to authorise and supervise firms and the steps it will take if CMCs breach FCA rules. The consultation closes on 3 August 2018, with a policy statement expected in Q4 2018. *FCA, 5 June 2018*

Ex-NatWest employee sentenced to two and a half years in prison for fraud

An ex-NatWest employee has [pleaded guilty](#) to fraud worth a total of £122,000, by abuse of position and possession of articles used to commit fraud. The ex-employee, Mathew Borisade, has been sentenced to two years and six months in prison at Southwark Crown Court. *Financial Fraud Action, 22 June 2018*

PRA provides update on Co-operative Bank investigation

The PRA has published an [update](#) on the independent investigation into the supervision of the Co-operative Bank plc which Norval Bryson, the senior responsible officer for the investigation on behalf of the PRA, has provided to the Treasury. *PRA, 12 June 2018*

PSR sets out its work on APP scams

The PSR has published a [document](#) setting out its work on APP scams. The document summarises the range of measures the PSR is working on to protect people from this type of fraud. *PSR, 21 June 2018*

PSR extends the date for compliance with PSR Specific Direction 3 for Faster Payments

In May 2018, the operator of Faster Payments [applied](#) to the PSR under section 4 of Specific Direction 3 to extend the date for compliance. Specific Direction 3 requires the operator of Faster Payments to ensure that any central infrastructure contract in place after 1 July 2020 has been competitively procured. *PSR, 21 June 2018*

Industry champions appointed to expand dormant asset scheme

The government has [appointed](#) four 'industry champions' to work with the banking, securities, pensions, insurance, wealth management and investment sectors to increase the amount of dormant funds that can be released for good causes. They will also bolster efforts to reunite customers with assets from bank accounts that have been untouched for more than 15 years. *Department for Digital, Culture, Media & Sport, HM Treasury, Office for Civil Society, Tracey Crouch MP, and John Glen MP, 3 June 2018*

PSR begins open discussion on how data is used in payment systems

The PSR has published a [discussion paper](#) about data in the payments industry. Payments-related data is becoming increasingly important, and its use is growing fast. As a result, the PSR is examining how this can affect the payments industry and consumers. The deadline for providing a response is the 3 September 2018. *BBC, 18 June 2018*

Chair of Treasury Committee seeks answers on Visa's system failure

The chair of the Treasury Committee, Nicky Morgan MP, sent a [letter](#) to Visa CEO (Europe), Charlotte Hogg, to find out why Visa's system failed on 1 June 2018. Following [correspondence](#) from Visa, the Treasury Committee said it was satisfied with Visa's answers and that the problems have been fully resolved. *Treasury Committee, 5 June and 19 2018*

Chancellor Hammond spells out his vision for financial services post-Brexit

The Chancellor of the Exchequer, Philip Hammond, has used his [annual Mansion House speech](#) to spell out his strategy for safeguarding the future of the UK financial services industry post-Brexit. In the speech, Mr Hammond reiterated his call for a free trade agreement with the EU on financial services. He also announced new initiatives to meet the skills needs of the sector, to promote green finance and to partner with other countries. *HM Treasury and Rt Hon Philip Hammond MP, 22 June 2018*

One year review of the standards of lending practices for businesses

The Lending Standards Board (LSB) chief executive, Dave Pickering, has [reviewed](#) the standards of lending practices for businesses a year down the line since its launch. *LSB, 22 June 2018*

BoE and PRA publish annual reports and accounts 2018

The BoE and the PRA have published their [annual reports and accounts 2018](#), providing information on their activities and finances for the preceding year. *BoE and FCA, 14 June 2018*

Contacts

Sarah Herbert

Compliance Director

+44 (0)20 7160 3429



Kira Ward

Compliance Manager

+44 (0)20 7160 3208



Adrian Dixon

Compliance Manager

+44 (0)20 7160 3049



Nikesh Shah

Senior Compliance Manager

+44 (0)20 7160 3372



addleshawgoddard.com

Aberdeen, Doha, Dubai, Edinburgh, Glasgow, Hong Kong, Leeds, London, Manchester, Muscat, Singapore and Tokyo*

*a formal alliance with Hashidate Law Office

© 2018 Addleshaw Goddard LLP. All rights reserved. Extracts may be copied with prior permission and provided their source is acknowledged. This document is for general information only. It is not legal advice and should not be acted or relied on as being so, accordingly Addleshaw Goddard disclaims any responsibility. It does not create a solicitor-client relationship between Addleshaw Goddard and any other person. Legal advice should be taken before applying any information in this document to any facts and circumstances. Addleshaw Goddard is an international legal practice carried on by Addleshaw Goddard LLP (a limited liability partnership registered in England & Wales and authorised and regulated by the Solicitors Regulation Authority and the Law Society of Scotland) and its affiliated undertakings. Addleshaw Goddard operates in the Dubai International Financial Centre through Addleshaw Goddard (Middle East) LLP (registered with and regulated by the DFSA), in the Qatar Financial Centre through Addleshaw Goddard (GCC) LLP (licensed by the QFCA), in Oman through Addleshaw Goddard (Middle East) LLP in association with Nasser Al Habsi & Saif Al Mamari Law Firm (licensed by the Oman Ministry of Justice) and in Hong Kong through Addleshaw Goddard (Hong Kong) LLP, a Hong Kong limited liability partnership pursuant to the Legal Practitioners Ordinance and regulated by the Law Society of Hong Kong. In Tokyo, legal services are offered through Addleshaw Goddard's formal alliance with Hashidate Law Office. A list of members/principals for each firm will be provided upon request. The term partner refers to any individual who is a member of any Addleshaw Goddard entity or association or an employee or consultant with equivalent standing and qualifications. If you prefer not to receive promotional material from us, please email us at unsubscribe@addleshawgoddard.com. For further information please consult our website www.addleshawgoddard.com or www.aglaw.com.