

October 2018

RETAIL REGULATORY RISK & COMPLIANCE UPDATE

Contents

UK

1. New Consultations
2. Regulatory Developments
3. Key FCA Messages and Announcements

EU

4. New Consultations
5. Regulatory Developments

OTHER

6. Other Compliance and Risk Updates

1. New Consultations

PRA publishes occasional consultation on proposed changes to PRA Rulebook

The Prudential Regulation Authority (PRA) has published an [occasional consultation](#), which sets out proposed changes to PRA Rulebook Parts, supervisory statements, statements of policy and forms. For chapter 2 the consultation closes on the 22 November 2018 and for chapters 3-7 the consultations closes on the 22 January 2019. *PRA, 22 October 2018*

FCA publishes consultation on Handbook changes to reflect EU Securitisation Regulation

The Financial Conduct Authority (FCA) has published a [consultation](#) on EU Securitisation Regulation Implementation. The FCA is consulting on a number of changes to ensure that its Handbook is consistent with the Regulation and related amendment to the Capital Requirements Regulation. The consultation closes on the 2 November 2018. *FCA, 12 October 2018*

PRA publishes consultation on changes to forms relating to applications or notifications for regulatory transactions

The PRA has published a [consultation](#) on changes to notification and application forms in regulatory transactions. The consultation is relevant to all PRA-authorized firms as well as firms that have a qualifying holding, or which intend to acquire a qualifying holding in a PRA-authorized firm. The consultation closes on the 1 November 2018. *PRA, 1 October 2018*

FCA publishes two consultations setting out proposals in the event the UK leaves the EU without an implementation period

The FCA has published two consultation papers setting out its proposals in the event the UK leaves the European Union in March without an implementation period. The consultation papers focus on [amendments to the FCA Handbook and Binding Technical Standards](#) and [temporary permissions regime](#). Both consultations close on the 7 December 2018. *FCA, 10 October 2018*

BoE publishes consultation on amending financial services legislation under the EU (Withdrawal) Act

The Bank of England (BoE) has [updated](#) firms on its regulatory and supervisory approach in relation to its work on EU withdrawal. The communications package, consisting of a consultation, Dear CEO letters and webpages, sets out changes to rules and binding technical standards arising out of the UK's withdrawal. *BoE, 25 October 2018*

HM Treasury publishes consultation on proposed 'breathing space' policy

HM Treasury have launched a [consultation](#) on a proposed policy for a breathing space and statutory debt repayment plan. The consultation closes on the 29 January 2019. *HM Treasury, 29 October 2018*

FCA publishes consultation on SM&CR proposed guidance

The FCA has published a [consultation](#) on draft guidance for FCA solo-regulated firms preparing for the Senior Managers and Certification Regime (SM&CR). The consultation closes on the 10 December 2018. *FCA, 11 October 2018*

PRA and FCA intensify focus on financial risks from climate change

The PRA has published a [consultation](#) on a draft supervisory statement on banks' and insurers' approaches to managing the financial risks from climate change. The consultation closes on the 15 January 2019. The FCA has also published a [discussion paper](#) on the impact of climate change and green finance on financial services. Feedback on the discussion paper is sought by 31 January 2019. *PRA and FCA, 15 October 2018*

FCA publishes consultation on recovery of the costs of establishing OPBAS

The FCA has published a [consultation](#) on recovering the costs of the Office for Professional Body Anti-Money-laundering Supervision (OPBAS). The consultation closes on the 14 December 2018. *FCA, 18 October 2018*

2. Regulatory Developments

Draft enactments laid before Parliament in preparation for Brexit

A number of draft enactments have been laid in exercise of legislative powers under the European Union (Withdrawal) Act 2018 in preparation for Brexit. These include:

- [Financial Regulators' Powers \(Technical Standards etc.\) \(Amendment etc.\) \(EU Exit\) Regulations 2018](#)
- [Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018](#)
- [Deposit Guarantee Scheme and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018](#)
- [Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018](#)
- [Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018](#)
- [Consumer Credit \(Amendment\) \(EU Exit\) Regulations 2018](#)

Legislation.gov, October 2018

UK Finance issues guidance on strong customer authentication under PSD2

UK Finance has published [guidance](#) on implementing the requirements under the regulatory technical standards supplementing the revised Payment Services Directive (PSD2) with regard to strong customer authentication and common and secure open standards of communication. *UK Finance, 19 October 2018*

Building Societies Association publishes guidance on revised UK Corporate Governance Code

The Building Societies Association has published [guidance](#) for building societies on the revised UK Corporate Governance Code, which was issued in July 2018 and applies to reporting years starting on or after 1 January 2019. *BSA, 5 October 2018*

HM Treasury issues proposal for temporary transitional power to be exercised by UK financial regulators in the event of a no-deal Brexit

HM Treasury has set out its [proposal](#) for a temporary transition tool to be exercised by the UK financial regulators in the event of a no-deal Brexit scenario. The regulators will have the power to phase in requirements for UK regulated firms that will change under onshoring legislation. *HM Treasury, 1 October 2018*

FCA publishes regulation round up for October 2018

The FCA has published its [regulation round up](#) for October 2018. Hot topics include Brexit consultations, new resolution data reporting requirements not applicable to FCA firms, a firm feedback survey, and the FCA's discussion paper on the impact of climate change and green finance on financial services. *FCA, 18 October 2018*

PRA publishes regulatory digest for September 2018

The PRA has published its [regulatory digest](#) for September 2018. The issue discusses the impact of climate change on the UK banking sector and the change-over to 'statements of responsibilities' by insurers. *PRA, 1 October 2018*

3. Key FCA Messages and Announcements

Liberty Mutual Insurance Europe fined £5.2m for not handling insurance claims and complaints

The FCA has [fined](#) Liberty Mutual Insurance Europe SE (Liberty) a total of £5,280,800 for failing to oversee mobile phone insurance claims and complaints administered through a third party between 5 July 2010 and 7 June 2015. The third party undertook all administrative roles but Liberty retained regulatory responsibility to ensure claims and complaints were handled fairly, which it failed to do. *FCA, 30 October 2018*

FCA publishes Dear CEO letter on due diligence requirements for SIPP investments following SIPP failures

The FCA has sent a [Dear CEO letter](#) to self-invested pension plan (SIPP) providers about pending civil claims in the High Court regarding SIPP due diligence obligations and the judgment handed down on 30 October 2018 in the case of R (Berkeley Burke SIPP Administration Limited) v Financial Ombudsman Service Limited. *FCA, 30 October 2018*

FCA tests overdraft alerts

The FCA has published an [occasional paper](#), which describes a field test on automatically enrolling bank customers into additional overdraft alerts. *FCA, 29 October 2018*

FCA confirms extension of FOS access to SMEs

The FCA has [confirmed plans](#) to extend access to the Financial Ombudsman Service (FOS) to more small and medium-sized enterprises (SMEs). The changes will mean that SMEs with an annual turnover below £6.5m and fewer than 50 employees, or an annual balance sheet below £5m will now be able to refer unresolved complaints to the FOS. *FCA, 16 October 2018*

FCA publishes feedback statement on digital regulatory reporting

The FCA has published a [feedback statement](#) which summarises responses it received to its February 2018 call for input on how technology could achieve smarter regulatory reporting. *FCA, 17 October 2018*

FCA says HCSTS lenders should tackle affordability problems proactively

The FCA has published a [Dear CEO letter](#) regarding the issues surrounding the increase in complaints about unaffordable lending and to set out how it expects high-cost short-term credit (HCSTC) firms to manage the impact. *FCA, 15 October 2018*

FCA sets out its competition objectives

The FCA has published [FCA Mission: Approach to Competition](#), which sets out how the regulator promotes competition in UK financial markets. *FCA, 15 October 2018*

FCA publishes thematic review of money laundering and terrorist financing risks in the e-money sector

The FCA has published the [findings](#) of its thematic review into money laundering and terrorist financing risks in the e-money sector. *FCA, 3 October 2018*

FCA publishes Dear CEO letter on debt packager firms providing debt advice and counselling

The FCA has published a [Dear CEO letter](#) setting out its expectations of debt packager firms providing debt advice and counselling services. The FCA says that it has undertaken a review of a small sample of debt advice provided by these firms and is 'very concerned' about poor standards, which could result in enforcement action. *FCA, 5 October 2018*

Andrew Bailey gives speech on trust and ethics from a regulator's perspective

The CEO of the FCA, Andrew Bailey, has given a [speech](#) on trust and ethics from a regulator's perspective at the launch of the St Mary's University School of Business and Society in London. *FCA, 16 October 2018*

FCA publishes policy development update for October 2018

The FCA has published the latest version of its [policy development update](#), which provides information on its recent and upcoming publications. *FCA, 5 October 2018*

EU

4. New Consultations

No new EU consultations for this month.

5. Regulatory Developments

No new EU regulatory developments for this month.

OTHER

6. Other Compliance and Risk Updates

PSR publishes specific direction to ensure LINK ATM operator meets commitments

The PSR has published a [specific direction](#) to LINK Scheme Holdings Ltd (LINK), the operator of the LINK ATM system. The direction is designed to make sure LINK does all it can to fulfil the public commitments it made at the beginning of 2018 regarding the ongoing availability of access to free-to-use ATMs for UK consumers. *PSR, 19 October 2018*

PSR responds to second LINK ATM footprint report

The PSR has published its [response](#) to the second 'footprint report' of the UK's largest cash machine network, LINK, on access to cash points. The PSR is concerned about closures of free-to-use ATMs and is working closely with, and receiving regular

updates from, LINK's senior team to ensure it delivers on its commitments to protect the broad spread of the free to use ATMs.

PSR, 11 October 2018

[FCA publishes PPI complaints deadline progress report](#)

The FCA has published an [update](#) on the progress of its payment protection insurance (PPI) consumer communications campaign and supporting supervisory work. The report provides an update on the progress of the FCA's consumer communications campaign and supervisory work in support of the 29 August 2019 deadline for PPI complaints. *FCA, 24 October 2018*

[FCA data shows increase in complaints](#)

The FCA has published the [complaints figures](#) for regulated firms for the first half of 2018. Excluding PPI, complaints increased by 9% (193,360) from the previous six months. The FCA says several high-profile cases of disruption to retail banking services in the first half of the year have contributed to the increase in complaints to certain firms. *FCA, 29 October 2018*

[PRA postpones equity release mortgage changes to SS3/17](#)

The PRA has [announced](#) that it is postponing the date of implementation of the changes to SS3/17 Solvency II: matching adjustment, illiquid unrated assets and equity release mortgages. In view of feedback received, the PRA has decided that the implementation date will not be before 31 December 2019 *PRA, 26 October 2018*

[ECB publishes opinion on proposal for regulation on cross-border payments and currency conversion charges](#)

The ECB has delivered its [opinion](#) on the proposal for a regulation of the European Parliament and of the Council of the EU as regards certain charges on cross-border payments in the EU and currency conversion charges. *ECB, 23 October 2018*

[Retail payments authority NPSO changes its name to Pay.UK](#)

The retail payments authority formerly known as the New Payment System Operator (NPSO) has [changed its name](#) and brand to Pay.UK. It said that changing its identity was a logical progression following the consolidation of the UK's three retail payment schemes (Bacs, Faster Payments and the Cheque and Credit Clearing Company) under the remit of the NPSO earlier in 2018.

PayUK, 19 October 2018

[Pay.UK announces new 'confirmation of payee' safeguard for payments](#)

Pay.UK has announced a [new 'confirmation of payee' service](#), which will be able to be rolled out by banks, building societies and payment providers in 2019 to reduce the risk of payments being sent to the wrong account. The preventative confirmation of payee safeguard is one of a package of measures being introduced across the payments industry, which also includes help for customers if they fall victim to authorised push payment fraud. *PayUK, 19 October 2018*

[CMA updates administrative timetable for roll over contracts investigation](#)

The Competition and Markets Authority (CMA) has updated the [administrative timetable](#) for its investigation into claims that consumers, typically those who stay with their provider on default or roll over contracts, are paying more than new customers, following a super-complaint from Citizens Advice. The statutory deadline for the CMA's response is 27 December 2018. *CMA, 19*

October 2018

[UK Finance chair outlines projects to tackle cybercrime and simplify KYC procedures](#)

UK Finance has published a [speech](#) by its chair, Bob Wigley, in which he said the UK's global reputation as amongst the most resilient to cyber threats means it will continue to attract and retain international businesses. He said UK Finance was working closely with its members, the Bank of England, GCHQ and the National Cyber Security Centre to address the risks. *UK Finance, 18*

October 2018

[PRA changes its approach to supervising remuneration compliance for Level One firms](#)

The PRA has [alerted](#) Level One UK deposit-takers and international banks that it is changing the way that it supervises compliance with the requirements of the Remuneration Part of the PRA Rulebook. The update affects remuneration proportionality Level One firms only. *PRA, 18 October 2018*

[Nicky Morgan expresses concerns over FOS case review](#)

The chair of the Treasury Committee, Nicky Morgan MP, has [written](#) to the chief ombudsman and chief executive of the Financial Ombudsman Service (FOS), Caroline Wayman, to express the Committee's concerns about the FOS's review of cases handled during the early stages of its reorganisation in 2016. *HM Treasury, 18 October 2018*

LSB publishes review of progress towards Vulnerability Taskforce Principles and recommendations

The Lending Standards Board (LSB) has published a [review](#) of the progress made in implementing the Vulnerability Taskforce's principles and recommendations set out in its February 2016 report on improving outcomes for customers in vulnerable circumstances. *LSB, 8 October 2018*

PSR publishes June and July 2018 board minutes

The PSR has released the minutes of its [June 2018](#) and [July 2018](#) board meetings. The June meeting discussed the PSR's annual report and accounts 2017/18, the annual review of cross authorities' memorandum of understanding, and membership of the Enforcement Decisions Committee and Competition Decisions Committee. The July meeting discussed the report of the managing director, stakeholder survey results, employee survey results, and the contingent reimbursement model. *PSR, 2 October 2018*

Contacts

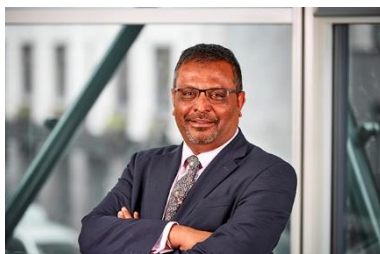
SARAH HERBERT
Compliance Director

020 7160 3429



NIKESH SHAH
Senior Compliance Manager

020 7160 3372



KIRA WARD
Compliance Manager

020 7160 3208



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.