

November 2018

# RETAIL REGULATORY RISK & COMPLIANCE UPDATE

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## 1. New Consultations

### FCA proposes introduction of price cap on rent-to-own firms

The Financial Conduct Authority (FCA) has published a [consultation](#) on the proposed introduction of a price cap on rent-to-own firms to protect vulnerable consumers from high costs. Subject to the consultation, the cap will come into force on 1 April 2019 and is expected to save consumers up to £22.7m per year. The consultation closes on the 17 January 2019. *FCA, 22 November 2018*

### FCA publishes final PPI guidance and consults on mailing requirements

The FCA has issued final guidance that clarifies its expectations regarding the handling of certain regular premium payment protection insurance (PPI) complaints. The FCA has also published a consultation on new rules which would require firms to write to around 150,000 consumers who had previously complained unsuccessfully, to tell them they can make a new complaint and remind them of the deadline. The consultation closes on 7 December 2018. *FCA, 7 November 2018*

### FCA launches further consultation ahead of the UK's exit from the EU

The FCA has launched a [further consultation](#) on its approach to the UK's exit from the EU. The consultation sets out additional proposals on how the FCA will amend its Handbook and EU derived binding technical standards if the UK leaves the EU without an implementation period. The FCA also consults on its proposed approach to non-Handbook guidance and to forms which appear in the FCA Handbook. The consultation closes on the 21 December 2018. *FCA, 23 November 2018*

### FCA publishes consultation on regulatory fees for 2019/20

The FCA has published a consultation on regulatory fees and levies for 2019/20. The consultation sets out the FCA's proposed policy changes to the way that the regulator will raise FCA fees and is part of the FCA's annual cycle of consultation on fees. The consultation closes on the 14 January 2019. *FCA, 15 November 2018*

### PSR publishes consultation on confirmation of payee implementation

The Payment Systems Regulator (PSR) has launched a [consultation](#) on general directions for the implementation of confirmation of payee, which being is rolled out in order to protect people from Authorised Push Payment scams. The consultation closes on the 4 January 2019. *PSR, 23 November 2018*

### PRA updates consultation on changes to PRA Rulebook and onshored BTS post-Brexit

The Prudential Regulation Authority (PRA) has updated a [consultation](#), which proposes changes to the PRA Rulebook and onshored binding technical standards following Brexit. The consultation closes on the 2 January 2018. *Bank of England, 2 November 2018*

### PRA consults on periodic and transaction fees for DIFs, life insurers and general insurers

The PRA has launched consultation paper (CP) [28/18](#), PRA fees and levies: Changes to periodic and transaction fees. It contains proposals aiming to ensure that the methodologies for determining PRA fees for designated investment firms, life insurers and general insurers are proportionate to the risks these firms pose to the PRA's objectives. Other changes set out in the CP are intended to ensure that fees relating to Solvency II models are applied consistently. Feedback is sought by 7 January 2019. *PRA, 14 November 2018*

## 2. Regulatory Developments

### Banking industry to fund new alternative dispute resolution (ADR) scheme for larger SMEs

UK Finance has outlined a [series of voluntary proposals](#) that have been agreed by the banking and finance industry in response to the recommendations of Simon Walker's independent review of alternative dispute resolution (ADR) for small and medium size enterprises (SMEs). The proposals include supporting the extension of the mandate and scope of the Financial Ombudsman Service (FOS) to include most SMEs and funding an interim scheme for larger SMEs. *UK Finance, 30 November 2018*

### PRA publishes final rules and policy statement on extension of SM&CR to insurers

The PRA has published a [policy statement](#) on extending the SM&CR to insurers. The policy statement provides the final set of rules for the implementation of the regime. *BoE, 9 November 2018*

### PRA directs EEA firms to make temporary permissions notifications

The PRA has issued a [direction](#) which sets out the detail of one of two routes which EEA firms may take to inform the PRA before exit day of their intention to enter into the temporary permissions regime. *PRA, 8 November 2018*

### FCA publishes form of modification by consent of DISP 1.10.1

The FCA has published the form of [modification by consent of DISP 1.10.1](#) in the FCA Handbook. The modification allows a firm to provide the FCA with a complete report concerning complaints received from eligible complainants once a year, instead of twice, if the firm has permission to carry on only credit-related regulated activities or operating an electronic system in relation to lending and has revenue arising from those activities that is less than, or equal to, £5m a year. *FCA, 26 November 2018*

### Draft Payment Accounts (Amendment) (EU Exit) Regulations 2018 laid before Parliament

A [draft enactment](#) of the Payment Accounts (Amendment) (EU Exit) Regulations 2018 has been laid before Parliament. The draft proposes to amend UK subordinate legislation and revoke EU legislation in relation to payment accounts regulation arising from the withdrawal of the UK from the EU, ensuring the legislation continues to operate effectively at the point at which the UK leaves the EU. *Legislation.gov, 7 November 2018*

### EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 laid before Parliament

The [EEA Passport Rights \(Amendment, etc., and Transitional Provisions\) \(EU Exit\) Regulations 2018](#) have been laid before Parliament. The Regulations make repeals and amendments to UK primary and subordinate legislation to address deficiencies in retained EU law in relation to the European Economic Area's (EEA) 'financial service passport' which allows firms in EEA states to offer services in any other EEA state on the basis of their home state authorisation which arise from the withdrawal of the UK from the EU. It comes into force partly on 7 November 2018 and fully on exit day. The FCA has updated its [notification process](#) for the temporary permissions regime given under regulation 14(2). *Legislation.gov and FCA, 7 and 9 November 2018*

### FCA publishes Handbook Notice No. 60

The FCA has published [Handbook Notice No. 60](#), which includes changes to the FCA Handbook made by the FCA board on 25 October and 15 November 2018, together with feedback on consultation that will not have a separate policy statement. The changes include guidance on whether firms should consider the non-disclosure of commission when assessing regular premium PPI complaints. *FCA, 16 November 2018*

### FCA publishes policy update for November 2018

The FCA has published the latest version of its [policy development update](#), which provides information on its recent and upcoming publications. Future publications include a policy statement on its proposed general standards and communication rules for the payment services and e-money sectors, which is expected in January 2019. *FCA, 2 November 2018*

### FCA's publishes regulation round up for November 2018

The FCA has published its [regulation round up](#) for November 2018. Hot topics include the Treasury-led Crypto-assets Taskforce report and fairer treatment of regular premium PPI complaints and proposals for new rules requiring firms to write to consumers who had previously complained unsuccessfully to tell them they can make a new complaint. *FCA, 15 November 2018*

### PRA publishes regulatory digest for October 2018

The PRA has published its [October Regulatory Digest](#), which covers the speech by the PRA CEO, Sam Woods, 'Good cop/bad cop', setting out the two different roles the regulator often finds itself playing. *PRA, 1 November 2018*

## 3. Key Regulatory Messages and Announcements

### Enforcement Cases

#### [PRA fines Mr Akira Kamiya and Mr Takami Onodera for failure to disclose information](#)

The PRA has fined Mr Akira Kamiya and Mr Takami Onodera £22,700 and £14,945 respectively for failing to disclose information to the PRA in breach of the PRA's Statement of Principle 4 for approved persons. These fines follow on from the PRA's Final Notice of 9 February 2017, in which the PRA fined The Bank of Tokyo-Mitsubishi UFJ Limited £17.85m and MUFG Securities EMEA plc (formerly Mitsubishi UFJ Securities International plc) £8.925m for failing to be open and co-operative with the PRA in relation to an enforcement action into BTMU by the New York Department of Financial Services (DFS). *PRA, 7 November 2018*

#### [FCA issues final notice on Jonathan Mathew](#)

FCA has issued a [final notice](#) prohibiting the ex-Barclays trader Jonathan Mathew from performing any function in relation to any regulated activity. The prohibition follows Mr. Mathew's 2016 conviction and sentencing for LIBOR manipulation. *FCA, 2 November 2018*

#### [Upper Tribunal upholds the FCA decision to fine and ban former Keydata executives](#)

The FCA has issued a [press release](#) stating that the Upper Tribunal has upheld the FCA's decision to fine and ban Stewart Ford and Mark Owen, the former CEO and sales director respectively of Keydata Investment Services Ltd (Keydata). *FCA, 6 December 2018*

#### [FCA issues prohibition orders against two insider dealers](#)

The FCA has issued prohibition orders against two convicted insider dealers. In separate final notices, the FCA said that Martyn Dodgson and Andrew Hind were not fit and proper to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm, as their conduct demonstrated a clear and serious lack of honesty, integrity and reputation. *FCA, 16 November 2018*

### Reports

#### [FCA announces outcome of retail and wholesale banking review of firms' whistleblowing arrangements](#)

The FCA has [reviewed](#) how firms have implemented the new whistleblowing rules and published the findings on its website. The findings set out areas of good practice observed and areas for improvement, alongside an explanation of the FCA's expectations for firms' whistleblowing arrangements. *FCA, 14 November 2018*

#### [FCA publishes letter to Level 1 firms on 2018/2019 remuneration policies and practices](#)

The FCA has published a [letter](#) written to the chairs of remuneration committees of Level 1 firms, to explain how it plans to assess remuneration policies and practices throughout 2018/19 and what this means for chairs in their role of Senior Management Function 12. *FCA, 1 November 2018*

#### [FCA Cyber and Technology Resilience - themes from cross-sector survey 2017-18](#)

The FCA has published a [report](#) setting out the key themes from a cross-sector survey carried out during 2017 and 2018 to assess firms' technology and cyber capabilities. *FCA, 27 November 2018*

#### [FCA survey highlights generational shift in attitudes towards consumer complaining](#)

The FCA has published the [results of a survey](#) of UK consumers' attitudes towards complaining, as part of its campaign to encourage people to check if they were mis-sold payment protection insurance (PPI) and make a complaint before the 29 August 2019 deadline. *FCA, 8 November 2018*

#### [FCA publishes research on current account prompts](#)

The FCA has published a [report](#) on personal and business current account prompt pilot findings, prepared for the FCA by Critical Research and Accent Research. Prompts are used by banks and building societies to increase consumers' engagement with their current account, raise awareness of the current account switching service, and highlight developments in the retail banking market. The aim of the report is to help firms to design effective prompts that work in practice. *FCA, 20 November 2018*

## [PRA update on letter to specialist general insurers regarding market conditions](#)

The PRA has summarised the responses it received from firms with respect to its May 2018 letter to the CEOs of specialist general insurers regarding market conditions and recent PRA work. The PRA says there was almost universal agreement from respondents that the issues raised in the letter presented clear risks to market participants. However, some firms did not believe that the issues applied to them. *PRA, 9 November 2018*

## [FCA publishes skilled persons reports figures for Q2 2018/19](#)

The FCA commissioned 16 skilled persons reports in Q2 2018/19, half of which involved financial crime. Details of the different skilled person report categories can be found on the [FCA website](#). *FCA, 01 November 2018*

## [FCA publishes first annual financial crime survey results](#)

The FCA has published a [report](#) analysing the results of its first annual financial crime data return. In 2016, the FCA required over 2,000 firms, including all UK-based banks and building societies, to complete the return, allowing for a collective industry view of the risks that criminals pose to society and how firms are responding. *FCA, 14 November 2018*

## [Speeches and Announcements](#)

### [FCA publishes speech on its vision for the mortgage market](#)

The FCA has published details of a [speech](#) given by its executive director of strategy and competition, Christopher Woolard, at the UK Finance annual mortgage conference in London on its vision for the mortgage market through the long-term, consistent, fair treatment of customers. *FCA, 6 November 2018*

### [FCA publishes speech by its CEO on the role of regulation in encouraging good culture](#)

The FCA has published a [speech](#) by its CEO, Andrew Bailey, on the role of regulation in encouraging good culture. In the speech, Mr Bailey argues that an industry which enables the support of patient capital and innovation, and of ethical investment and social responsibility, will be one where the trust will be stronger and deeper, and the culture will prosper. *FCA, 6 November 2018*

### [FCA director of supervision gives speech on realising the benefits of purposeful leadership](#)

The FCA's director of supervision - retail and authorisations, Jonathan Davidson, has given a [speech](#) on realising the benefits of purposeful leadership at the Consumer Credit Trade Association Conference 2018. In his speech, Mr Davidson addressed progress made in ensuring better outcomes for consumers. *FCA, 1 November 2018*

### [FCA publishes webpage on Brexit implications for consumers](#)

The FCA has published a [webpage](#) providing information for consumers on the implications of Brexit on their financial products and services. The webpage sets out different scenarios based on whether an implementation period goes ahead or not, and details how Brexit may affect consumers' financial protections. *FCA, 8 November 2018*

### [FCA Statement on EU Withdrawal Impact Assessment](#)

The FCA has published its [EU Withdrawal Impact Assessment](#), which was requested by the Treasury Select Committee and sets out the impact of the Withdrawal Agreement and future framework on the FCA's objectives. *FCA, 29 November 2018*

### [FCA publish speech on AI and financial crime](#)

The head of the FCA's Financial Crime Department, Rob Gruppetta, has delivered a [speech](#) explaining how the FCA takes measured approaches in keeping pace with innovation to combat financial crime. *FCA, 21 November 2018*

### [Government formally launches National Economic Crime Centre](#)

The government has [formally launched](#) the National Economic Crime Centre, a partnership across multiple government and private bodies, which aims to fight economic crime by ensuring criminals are effectively pursued and the UK's industries and government agencies have the correct knowledge and training to prevent economic crime. *National Crime Agency, 5 November 2018*

## 4. Regulatory Developments

### European Commission adopts RTS on electronic central register under PSD2

The European Commission has adopted a [delegated regulation supplementing Directive \(EU\) 2015/2366 \(PSD2\)](#) with regard to regulatory technical standards (RTS) setting technical requirements on the development, operation and maintenance of the electronic central register within the field of payment services and on access to the information contained therein. *European Commission, 30 November 2018*

## OTHER

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## 5. Other Compliance and Risk Updates

### CMA investigation opened into suspected anti-competitive practices in the financial services sector

The CMA has [announced](#) it is investigating suspected anti-competitive arrangements in the financial services sector, which may infringe Chapter I of the Competition Act 1998 and/or Article 101 TFEU. The investigation will look at suspected anti-competitive agreement(s) or concerted practice(s) which restrict the prices at which retailers may advertise or sell medical equipment online. Further information gathering and analysis by the CMA will take place between November 2018 and August 2019. *CMA, 16 November 2018*

### Treasury Committee launches inquiry into IT failures at banks

The House of Commons Treasury Committee has [launched](#) an inquiry into IT failures in the financial services sector. The inquiry will focus on the common causes of operational incidents in the sector, the ways in which consumers lose out as a result of such incidents and whether regulators have the relevant skills to adequately hold people to account. *HM Treasury, 23 November 2018*

### ASA rules that Lending Stream ad was misleading

The Advertising Standards Authority (ASA) has [ruled](#) that a February 2018 television advertisement for LendingStream.co.uk, a short-term loans company, was misleading because it presented the representative APR in an ambiguous way. The ASA told Lending Stream not to broadcast the ad again in its current form and to ensure that future ads are not misleading. *ASA, 23 November 2018*

## Contacts

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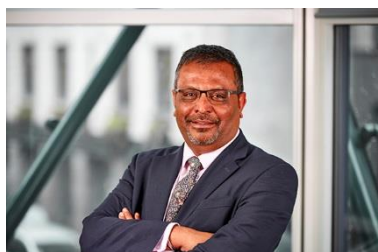
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