

# Regulation round-up



January 2016

Banks & building societies // Investment managers & stockbrokers  
Financial advisers // Wealth managers & private banks  
Mortgage brokers // General insurance & insurers  
Consumer credit // Credit unions



Welcome to the January issue  
of *Regulation round-up*

Mark Steward, Director of Enforcement and Market Oversight

*'...an investigation is an open-minded inquiry into whether or not something has gone wrong or misconduct has occurred...'*

**Welcome to January's edition of Regulation round-up. Many people will have read about the recently published HBOS Report which was concerned with the reasons for the failure of HBOS and, in a separate section written by Andrew Green QC, the responses of the Financial Services Authority (FSA) to the failure, including the enforcement investigations that were carried out.**

He concluded that the FSA had made a number of mistakes, including that its investigations were not as wide-ranging as they should have been, which meant there was no investigation into the conduct of some of the most senior people in HBOS.

These findings throw light on our investigation practice. Many think that if we commence an investigation, then it is as if enforcement proceedings have started and a large sanction will be inevitable. This is not, nor should it be, true.

An investigation is an open-minded inquiry into whether or not something has gone wrong or misconduct has occurred. The purpose of an investigation is not to prosecute a point of view or opinion. It should be a common outcome for investigations to end with decisions to take no further action.

The HBOS Report is a good reminder of these important principles.



## Hot topic: Packaged Retail and Insurance-based Investment Products (PRIIPs)

The Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation is a major piece of European legislation that applies directly to a range of different business models. The aim of the Regulation is to encourage efficiency in the EU by helping investors to better understand and compare the key features, risks, rewards and costs of different PRIIPs.

It's important that all firms who manufacture, sell or advise on PRIIPs understand what the changes mean for them before the implementation date of 31 December 2016.

Manufacturers must prepare a Key Information Document (KID) and publish it on their website. A KID is a stand-alone, standardised document prepared for each investment.

Each KID will need to contain specific information under the following headings:

- what is this product?
- what are the risks and what could I get in return?
- what happens if [name of the PRIIP manufacturer] is unable to pay out?
- what are the costs?
- how long should I hold it and can I take money out early?
- how can I complain?
- other relevant information

Firms who sell or advise on a PRIIP must provide their client with a KID in good time before any transaction is concluded. If the client starts the transaction by distance communications (e.g. by phone), firms can provide the KID after the transaction has taken place, but only if it is not possible to provide the KID in advance and the client consents.

We will be consulting later this year on amendments to disclosure requirements in the Handbook to include the introduction of the PRIIP Regulation.

Find out more



### Hot topic:

### Online Dispute Resolution (ODR) platform

From 15 February 2016, the European Commission will make an online dispute resolution (ODR) platform available on their [website](#), which will allow consumers who have a complaint about a product or service bought online to submit the complaint using the platform. It will facilitate resolution of complaints rather than actually resolving them.

Complaints submitted to the platform will be dealt with by approved alternative dispute resolution (ADR) providers such as the Financial Ombudsman Service (the ombudsman service). The European ODR Regulation requires firms to provide certain information to consumers about the ODR platform.

The Department for Business, Innovation and Skills (BIS) has produced [detailed guidance](#) for businesses on the ODR requirements (see the ODR Annex).

Find out more

### Banks & building societies

#### **New Bank start-up unit**

Along with the Prudential Regulation Authority we have launched the New Bank Start-up Unit. The Unit is another example of our commitment to reduce barriers to entry for banks. Its aim is to help new, prospective banks enter the market and to support them through the early, post-authorisation, years. The Unit

### Investment managers & stockbrokers (retail & wholesale)

#### **EU Benchmarks regulation**

The EU is developing new legislation to introduce a common framework and consistent approach to providing benchmarks. The Regulation will apply across the EU, to regulate the running, contribution to and use of benchmarks used in financial instruments traded on trading venues, mortgage contracts and

has a new website with specific content for new banks. There is also a new dedicated telephone number (020 3461 8100) and [email address](#) for the Unit.

### **CP: Mortgage Credit Directive: Minor changes to our rules and guidance**

We have recommended a number of proposed changes to our Handbook, in particular to the Perimeter Guidance manual (PERG) and Glossary of terms. We are also proposing changes to rules and guidance in the Mortgage and Home Finance: Conduct of Business sourcebook (MCOB).

### **Mortgage Credit Directive (MCD)**

Following last month's article on preparing for the Mortgage Credit Directive, firms who carry out home finance business must complete the 'MCD Data Collection' form, which is now available for you to complete in [Connect](#). It has a maximum of three questions and should take less than 10 minutes to complete. You can find more information on this data collection exercise, as well as the MCD in general, on [our website](#).

### **Statement: EBA guidelines on remuneration policies**

The EBA has published its [final guidelines](#) on sound remuneration policies. The implementation date for the Guidelines is now 1 January 2017 and the rules will first apply to the 2017 performance year. Firms will not need to change their existing pay practices for the 2016 performance year.

### **Senior Managers Regime: Grandfathering notification**

There is now just 1 month to go until the deadline for submitting your grandfathering notification forms. Please submit your notification no later than 8 February. We are expecting high volumes of submissions in the next month so sending us your notifications as soon as you can will enable us to process them more quickly. The new Senior Managers Regime starts on 7 March 2016.

### **CP: Technical changes to the Senior Managers Regime**

We are consulting on a number of technical rule changes to the Senior Managers & Certification Regime (SM&CR). The proposals cover removing the requirement on firms to

consumer credit contracts, or used to measure the performance of investment funds.

The Regulation could impact you and your firm if you:

- provide a benchmark
- contribute input data to a benchmark in the EU
- use a benchmark provided in the EU or in a third country

To keep up to date on our work to implement the Regulation, please complete our [short form](#).

### **MiFID II: Implementation roundtable**

On 6 January we held another MiFID II roundtable with trade associations. We discussed a number of topics, including the MiFID II effective date, implementing measures, our recent markets consultation paper and ESMA's level 3 work. [Minutes](#) from this meeting are available on our website.

### **Recovery and Resolution Directive (RRD)**

[GABRIEL](#) is now live to receive RRD submissions. Please check your [schedule](#) to know when your submission is due. We require firms to notify us without delay if they either decide to take an action referred to in their recovery, or group recovery, plan or if they decide not to take action (IFPRU rule [11.2.15](#) for firms or [11.3.17](#) for Groups/ article 9 (1) of RRD).

### **CP: Loan-based crowdfunding platforms and segregation of client money**

Our paper summarises the feedback received in response to [DP15/6](#), and consults on our proposal to allow firms that hold money in relation to both regulated and unregulated business to elect to hold all lenders' monies under CASS 7. Our consultation closes on 11 February 2016.

report to us known and suspected breaches of our Rules of Conduct. As part of these changes, we are amending the associated forms to remove references to notifications of known and suspected rule breaches.

### **The Single Euro Payments Area (SEPA) compliance**

From 31 October, payment services providers providing credit transfers or direct debits in Euro must meet new obligations under the SEPA Regulation. We will be the competent authority for supervising the compliance of firms in this area.

### **EU Benchmarks regulation**

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## Financial advisers

### **New homepage for advisers**

We have updated and simplified our webpages for financial advisers to make it easier for you to find the information you need. Don't forget to bookmark this link for future reference, and please let us know what you think about these changes by filling out [our short survey](#).

## Wealth managers & private banks

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Our paper summarises the feedback received in response to [DP15/6](#), and consults on our proposal to allow firms that hold money in relation to both regulated and unregulated business to elect to hold all lenders' monies under CASS 7. Our consultation closes on 11 February 2016. Submit your views using our [online form](#).

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## Mortgage brokers

### **Mortgage Credit Directive (MCD)**

Following last month's article on preparing for the Mortgage Credit Directive, firms who carry out home

## General insurance & insurers

### **Retirement income market data**

We have published our Retirement Income Market report, based on data collected from retirement income providers. The report covers July to

finance business must complete the 'MCD Data Collection' form, which is now available for you to complete in [Connect](#). It has a maximum of three questions and should take less than 10 minutes to complete. You can find more information on this data collection exercise, as well as the MCD in general, on [our website](#).

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September 2015 and allows us to track and monitor changes in the market. This is the first publication of this data. From now on, we'll include updated data in our quarterly Data Bulletin.

## Consumer credit

### **New consumer credit authorisation webpages**

We have published more information on our website on how we assess consumer credit firms applying for full permissions. The webpages outline the steps taken when assessing applications from firms applying for full

## Credit unions

### **Senior Mangers Regime: Grandfathering notification**

There is now 1 month to go until the deadline for submitting your grandfathering notification forms. Please submit your notification **no later than 8 February**. We recommend that Credit Unions use [Connect](#) to submit their

permissions.

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Grandfathering notification as it will make the process much easier. See [our guidance notes](#) for completion of Form K. We are expecting high volumes of submissions during January and February 2016. Submitting your notifications as soon as you are ready will enable us to process these forms more quickly. The new Senior Managers Regime starts on 7 March 2016.

### **Credit unions' services and products**

A number of credit unions and interested parties have recently asked us about the potential of expanding the services or products credit unions offer. We need to remind both the sector and interested parties that credit union's activities are restricted to those permitted by the Credit Unions Act 1979 ("the Act").

Under the Act, credit unions can, for example, accept deposits and make loans. However, credit unions may not carry on activities unless the Act gives them the power to do so. Section 9A of the Act allows credit unions to provide any service related to the activity of accepting a deposit or making a loan (because it provides a power to charge for providing such services). Credit unions must also exercise their powers in a way that achieves the objects set out in s1(3) of the Act.

The objects of a credit union are:

- the promotion of thrift among the society's members by accumulating their savings
- the creation of sources of credit for the benefit of the society's members at a fair and reasonable rate of interest
- the use and control of the members' savings for their mutual benefit
- the training and education of the members in the wise use of money and in the management of their financial affairs

This therefore limits the services that credit unions can provide.





## January news round-up

### **Statement regarding Tracey McDermott**

We have confirmed that Acting Chief Executive Tracey McDermott decided in early December to withdraw from the process to appoint the permanent Chief Executive of the FCA.

### **Update to our unfair contract terms library**

We have updated our statement on our website regarding unfair terms in consumer contracts. We encourage firms to read our updated statement.

## Publications

### **GC: Proposed guidance on voluntary redress schemes under the Competition Act 1998**

This guidance is in relation to our new powers under the Competition Act 1998 to approve voluntary redress schemes in connection with breaches of UK and EU competition law. It is aimed at firms looking to provide compensation under a CA98 redress scheme and will be useful to those who set up or recommend redress schemes to us under CA98. It does not alter or affect any other mechanism available to us for providing redress. The consultation closes on 15 February 2016.

### **CP: FSCS Management Expenses Levy Limit**

### **Policy Development Update**

### **Handbook Notice 28**



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