Bulletin No 148 December 2015

Butterworths Financial Regulation Service

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RECENT DEVELOPMENTS UK

HM Treasury News

Government publishes a Bank of England and Financial Services Bill

The Bill has been introduced into the House of Lords and will ensure the Bank of England is well equipped to fulfil its vital role of overseeing monetary policy and financial stability, a key part in the government's long term plan to build a resilient economy.

The reforms in the Bill will strengthen the governance and accountability of the Bank of England, update resolution planning and crisis management arrangements between the Bank and the Treasury, and extend the principle of personal responsibility to all sectors of the financial services industry.

As part of its commitment to deliver a new settlement for financial services, the government has made far reaching reforms to financial regulation. The Bank of England has been put at the centre of a new regulatory system and been given significant new powers and responsibilities. The government is implementing significant new measures, including ring-fencing, to end 'too big to fail', and has established a tough new conduct regulator, the Financial Conduct Authority ('FCA'). The Bank of England and Financial Services Bill builds on these reforms with a series of evolutionary changes.

The measures to strengthen the Bank of England's governance and the framework for managing resolution of firms in difficulty were set out in July this year. Following a public consultation, the government is confirming (on 15 October 2015) that these changes will be made in the Bill.

The Chancellor is also announcing the extension of the Senior Managers and Certification Regime ('SM&CR') across the entire financial services industry, replacing the discredited Approved Persons Regime.

The changes being brought forward represent the furthest reaching reforms the government has made on the personal responsibility of senior managers

in the financial services industry, ensuring that they face the same 'duty of responsibility' in whatever type of firm they work in.

The government is also revolutionising the pension system to allow people to access their pension pots flexibly without being hit with punitive tax rates. Following decisions to extend pensions freedoms to those who already hold an annuity in 2017, the Bill will extend the scope of the Pension Wise guidance service, so that pensioners can access a free, impartial service to discuss their new options.

HM Treasury 15.10.15

Senior Managers and Certification Regime: extension to all Financial Services and Markets Act 2000 authorised persons

The government is proposing to extend the Senior Managers and Certification Regime ('SM&CR') to all sectors of the financial services industry, replacing the discredited Approved Persons Regime. The key features of the extended SM&CR are:

- an approval regime focused on senior management, with requirements on firms to submit robust documentation on the scope of these individuals' responsibilities;
- a statutory requirement for senior managers to take reasonable steps to prevent regulatory breaches in their areas of responsibility;
- a requirement on firms to certify as fit and proper any individual who performs a function that could cause significant harm to the firm or its customers, both on recruitment and annually thereafter; and
- a power for the regulators to apply enforceable Rules of Conduct to any individual who can impact their respective statutory objectives.

This expansion of the SM&CR to all financial services firms will enhance personal responsibility for senior managers as well as providing a more effective and proportionate means to raise standards of conduct of key staff more broadly, supported by robust enforcement powers for the regulators.

The application of the SM&CR to the whole financial services industry also brings in a stronger, comprehensive regime across banking and other financial services. It enables the effective and efficient regulation of groups with a variety of financial services firms within them. It supports a level playing field for competition. It removes opportunities for regulatory arbitrage; for instance, by ensuring that the same high standards apply in both the banking and the so-called 'shadow banking' sectors.

HM Treasury 15.10.15

North East joins the unstoppable momentum of Northern Powerhouse

Chancellor George Osborne hailed the 'unstoppable momentum' in the drive to strike devolution deals with cities and regions, as the North East (on

23 October 2015) became the latest area to make a historic agreement with the government to take on new powers.

The agreement delivers another significant boost to the Northern Powerhouse as the Chancellor signed a deal with the North East Combined Authority.

Voters in the North East will now choose a directly elected Mayor in 2017, who will take on a raft of new powers as part of plans to take power out of Whitehall and hand it back to local people.

The deal presents a significant financial boost for the North East which will receive £30m a year over the next 30 years, enabling the region to compete in international markets with a new Investment Fund being set up thanks to a guaranteed £900m from the government.

The new Mayor in the North East will oversee a range of powers devolved from government and the Chancellor announced recently that Mayors will also have the power, if they have the support of the local business community, to raise business rates to help fund new infrastructure, enabling them to build for their city's future.

The North East deal provides for the transfer of significant powers over transport, strategic planning, employment and skills from central government to the region and it paves the way for further devolution over time, and for the reform of public services, including potentially health and social care, to be led by the North East.

This announcement, alongside a similar deal also being announced in Tees Valley, brings the number of city regions across the north signing up to game-changing mayoral devolution deals to four, with Greater Manchester and Sheffield also creating powerful new metro Mayors.

The deal requires support from each of the local councils within the region, as was the case with previous deals to Sheffield and Greater Manchester.

Devolution deals underline the government's commitment to building a Northern Powerhouse to help rebalance the economy and ending the old model of running everything out of London.

HM Treasury 23.10.15

Boost for small businesses as government launches research and development plan

In a major boost for pioneering small businesses, the Financial Secretary to the Treasury, David Gauke, (on Wednesday 28 October) launched a new plan outlining how government will make it easier for small businesses investing in research and development to claim tax relief.

The two-year plan, which is a response to an HMRC consultation, aims to increase take-up of research and development ('R&D') tax relief through raising awareness of the relief amongst small businesses and making it easier for them to apply.

The tax relief, which encourages companies to invest in costly new product development, helps companies reduce the amount of corporation tax they pay on profits by offsetting them against any investment in research and development.

Latest statistics for 2013 to 2014 show more than 15,000 small and medium enterprises ('SMEs') claimed the relief in 2013, an increase of around 19% from the previous year, but the government wants to go further.

The plan, 'Making R&D Easier: HMRC's plan for small business R&D tax relief', was published today and sets out that:

- from November, small companies – with a turnover under £2m and fewer than 50 employees – will be able to seek advance assurance on R&D tax relief. This will give them greater certainty and enable them to plan their finances effectively;
- HMRC will explore ways to improve its communication around R&D tax relief, including looking at ways to use data and work with other government agencies to identify companies that have carried out R&D but have not claimed relief; and
- interactive guidance will be developed with stakeholder involvement.

HMRC evaluation shows that each £1 of tax foregone by R&D tax relief stimulates between £1.53 and £2.35 of additional R&D investment.

SME R&D relief works by way of super deduction, allowing companies to reduce profits liable to corporation tax by 230% of their qualifying R&D expenditure.

In 2013/14, businesses received £1.75bn in R&D tax relief, an increase of almost £750m since 2009/10.

HM Treasury 28.10.15

Consultation on Social Investment Tax Relief for 'Spot Purchase' Social Impact Bonds

Social Impact Bonds ('SIBs') are a new tool that unlock private finance and public investment so that organisations which are best placed to tackle social problems can do so on a payment-by-results basis.

Companies set up to deliver a SIB contract ('Social Impact Contractors') are currently eligible for investment attracting Social Investment Tax Relief ('SITR'), where they have been accredited by a Cabinet Office-run accreditation process. In order to qualify, the Social Impact Contractor must be a special purpose vehicle ('SPV') set up solely for the purpose of delivering the SIB contract.

The accreditation process is governed by:

- the Income Tax Act 2007, ss 257JE and 257JF;

- the Tax Relief for Social Investments (Accreditation of Social Impact Contractor) Regulations 2014, SI 2014/3066; and
- Cabinet Office guidance concerning the accreditation of Social Impact Contractors.

In a spot purchase SIB, a Social Impact Contractor will, over time, enter into any number of SIB contracts in substantially the same form with different contracting authorities. All the contracts will commit the Social Impact Contractor to deliver the same outcome(s) for a set price. This means that contracting authorities are able to 'buy' outcomes for as few as one beneficiary. The government has already committed to ensure that spot purchase SIB structures are eligible for SITR. Annex A and Annex B of this consultation paper set out draft changes to the SIB accreditation process that are intended to make it easier for social impact contractors to gain and maintain accreditation where they adopt spot purchase structures. The government is interested to hear views on whether the proposed changes will be effective and achieve this outcome.

As they are currently written, the 2014 Regulations and the Cabinet Office guidance for the accreditation of Social Impact Contractors suggest that a Social Impact Contractor delivering a spot-purchase SIB would need to seek accreditation for each separate contract it enters into with different contracting authorities. This would place a significant burden on the Social Impact Contractor and may deter investors.

Cabinet Office and HMRC consider that, by making minor amendments to the 2014 Regulations and providing more specific information in the guidance, it is possible for a Social Impact Contractor to gain accreditation for the first spot purchase SIB called off from a particular framework, and then maintain accreditation (and hence eligibility for SITR) by entering into follow-on spot purchase contracts in essentially the same form, without the Social Impact Contractor having to apply for accreditation/reaccreditation in respect of each separate contract.

This is achieved by the Minister for the Cabinet Office looking at the first call-off contract under a particular framework agreement, to assess whether the relevant Social Impact Contractor can be accredited. If the Minister finds the criteria to be met for that particular contract then he may:

- set the duration of accreditation by reference to (or by specifying a date expected to coincide with) the end of the term of the last call off contract expected to be made under the relevant framework agreement; and
- specify, as a condition of accreditation, that the Social Impact Contractor must, throughout the period of accreditation, be party to one or more contracts with contracting authorities in materially identical terms (so far as relevant to the criteria for accreditation) to the first call off contract (the 'no gaps condition').

During the specified period of accreditation, as long as the no gaps condition and all other conditions of accreditation are met, then the Social Impact

Contractor will remain an accredited Social Impact Contractor. In other words, it will not be necessary for the Social Impact Contractor to re-apply for accreditation in respect of each new call off contract that it enters into.

In this way, the Social Impact Contractor would maintain its accreditation on a rolling basis: it would continue to be an accredited Social Impact Contractor as long as it had no gaps between any of its call off contracts (assuming all other conditions of accreditation remain met).

The consultation closed on 25 November 2015.

HM Treasury 09.11.15

Government creates new body to help manage and deliver major projects for UK economy

The government announced (on 11 November 2015) that Infrastructure UK ('IUK') and the Major Projects Authority ('MPA') are to merge, bringing the government's expertise, knowledge and skills at managing and delivering major economic projects under one roof for the first time.

The new organisation, which will be called the Infrastructure and Projects Authority, will bring together government expertise in the financing, delivery and assurance of these projects, which range from large scale infrastructure projects such as Crossrail and the Thames Tideway Tunnel to major transformation programmes such as Universal Credit.

It will come into formal existence on 1 January 2016, reporting jointly to the Chancellor and Minister for the Cabinet Office, and its Chief Executive will be Tony Meggs, who is the current Chief Executive of the MPA.

It has also been announced that Geoffrey Spence, the current Chief Executive of IUK, has decided to leave his current role and pursue a new challenge in the private sector.

Chancellor George Osborne said:

> 'By bringing together Infrastructure UK with the Major Projects Authority, and creating the new National Infrastructure Commission, we are moving to the next stage in our plan to ensure Britain's economy gets the transformational projects it needs.
>
> I'd like to thank Geoffrey Spence for the brilliant job he has done leading Infrastructure UK since July 2011. Under his leadership, IUK became a more effective organisation, successfully developing and implementing the UK's National Infrastructure Plan, the UK Guarantee Scheme for infrastructure and a new model for private sector delivery of public service, PF2.'

Minister for the Cabinet Office, Matt Hancock said:

> 'The new Infrastructure and Projects Authority is a further step forward in delivering what Britain needs to prosper in the twenty-first century. By combining projects expertise with funding authority we will

> improve the government's ability to deliver, and the economic security that comes with it. Tony Meggs has been a hugely respected chief executive of the MPA and has the leadership and capability to make the new organisation a great success.'

HM Treasury 11.11.15

Government agrees record-breaking £13bn sale of former Northern Rock mortgages

The Chancellor has (on 13 November 2015) authorised a record-breaking £13bn sale of mortgages acquired by the government during the financial crisis.

The mortgages, which were originally owned by Northern Rock are being sold by UK Asset Resolution ('UKAR') to Cerberus, in what is the largest ever financial asset sale by a government in Europe. UKAR is selling this portfolio of mortgages for £280m more than their book value, demonstrating the strength of global investors' interest in the UK.

It is now clear that taxpayers will get back more money from Northern Rock than they were forced to put in during the financial crisis, and this sale means that the government has exited over 85% of the assets of the former bank. All proceeds will be used to pay down the national debt.

Chancellor of the Exchequer, George Osborne, said:

> 'Today marks another major milestone in clearing up the mess left by the financial crisis, with the sale of former Northern Rock mortgages.
>
> The sale, which raises £13bn for the British taxpayer, is the largest ever sale of financial assets by a British government, and we are now clear that taxpayers will get back more money from Northern Rock than they were forced to put in during the financial crisis.
>
> The highly competitive process, unprecedented scale, and the fact that these mortgages have been sold for almost £300m more than their book value demonstrates the confidence investors have in the UK, which has only been made possible by the success of our long term plan.'

A key consideration for UKAR in selecting the successful bidder was the treatment of customers. There will be no changes to the terms and conditions of the mortgages sold. Customers do not need to take any action.

At the summer Budget, the government set out that planned sales for 2015–16 would deliver the biggest ever sale of publicly-owned corporate and financial assets in a financial year, exceeding £30bn in real terms for the first time. Following this announcement, sales to date since 1 April 2015 total over £24bn, which is already higher in real terms than the previous record year in 1987. The Treasury is also making a statement regarding the NRAM Euro Medium Term Notes, which are not part of the sale. This is included in the notes below.

HM Treasury 13.11.15

Bank of England News

Bank of England announces further proposals to strengthen the financial system through structural reform

The Bank of England published (on 15 October 2015) two consultation papers: one on ring-fencing and one on operational continuity. These proposals will ensure that ring-fenced banks are protected from shocks originating in other parts of their groups, as well as the broader financial system, and can be easily separated from their groups in the event of failure.

Well-capitalised, resilient firms mean that when problems occur, critical economic functions, including retail banking, can be maintained and economic growth can be supported through ongoing banking activity.

These proposals seek to ensure that ring-fenced banks have sufficient capital resources on a standalone basis, sheltering them from risks originating in other parts of their groups. The proposed rules also mean that a ring-fenced bank can be more easily detached from the wider group by ensuring intragroup arrangements operate on an arm's length basis – helping ensure important services remain available in the event of a failure of other parts of the group.

The publication of these two consultation papers means firms will be able to put in place detailed plans to ensure that they are prepared to ring-fence their core retail activities from 1 January 2019. These consultation papers also provide greater clarity on the operational continuity rules affecting other firms providing functions that are critical to the economy.

Andrew Bailey, Deputy Governor of the Bank of England and Chief Executive of the Prudential Regulation Authority ('PRA'), said:

> 'Making our firms more resilient has been at the forefront of our post-crisis reform agenda. Today represents an important step forward in achieving this aim. We have provided clarity for affected banks on how we will implement ring-fencing and this will enable firms to take substantial steps forward in their preparations for structural reform.'

Proposals for ring-fenced banks

The PRA is required under the Financial Services and Markets Act 2000 ('FSMA 2000'), as amended by the Financial Services (Banking Reform) Act 2013, to make policy to implement the ring-fencing of core UK financial services and activities.

From 1 January 2019, banks with core deposits greater than £25bn (broadly those from individuals and small businesses) will be required to ring-fence their core retail activities. To prepare for this, the PRA published near final rules on 27 May 2015 on governance, legal structure, and operational continuity and consulted on the approach to ring-fencing transfer schemes on 18 September 2015.

The proposals in this consultation papers look to ensure:

- a ring-fenced bank has sufficient financial resources and liquidity;
- intragroup exposures and arrangements between the ring-fenced bank and the rest of the group are managed in a prudent manner, at arm's length;
- the ring-fenced bank is clear on the PRA's expectations on the use of financial market infrastructures; and
- the ring-fenced bank can demonstrate the ability to continue to provide critical economic functions during resolution.

This consultation closes on 15 January 2016.

Operational continuity proposals

The PRA is also consulting on rules to ensure a broader range of banks, building societies and PRA-authorised investment firms structure their operations in a way that allows critical shared services to continue even in times of stress or failure.

Ensuring operational continuity is a necessary condition to make certain that firms can be resolved in an orderly fashion to support financial stability.

The PRA invites feedback on the proposals set out in this consultation paper, but respondents may wish to wait for the publication of the addendum, which will set a closing date for the consultation period.

Bank of England 15.10.15

Bank of England publishes approach to stress testing the UK banking system

The Bank of England has today published its approach to stress testing the UK banking system. This approach aims to provide clarity for firms and the wider public about its plans for stress testing for the next three years until 2018.

Stress testing is a core part of the capital framework which sits alongside risk-based capital and leverage requirements. Stress tests provide an integrated forward-looking assessment of resilience and aim to ensure that banks can continue to support the real economy even in difficult economic conditions.

This approach has been informed by the lessons learned during the concurrent stress tests conducted in 2014 and 2015, as well as by feedback to the Discussion Paper published by the Bank in 2013.

Key features of the Bank of England's approach are as follows:

- The introduction of an annual cyclical scenario that will link the severity of the test to the financial cycle systematically. This scenario will include domestic, global and markets elements. Its severity is likely to be greater in an upswing, for example when growth in credit is rapid or asset prices unsustainably high.

- A biennial exploratory scenario covering risks unrelated to the financial cycle that policymakers' judge to be emerging or latent threats to financial stability or individual banks.
- A systematic and transparent hurdle rate framework with clear hurdle rates for each firm reflecting minimum capital requirements and additional requirements for globally systemic banks.
- The stress test will include banks with total retail deposits greater than £50bn – at present this covers the same set of firms included in the 2015 stress test. Amongst this group of firms, coverage may vary for the exploratory scenario if that scenario is unlikely to impact some firms. UK subsidiaries of foreign-owned investment banks will not be brought into scope at this time, but this will be kept under review.
- The Bank of England will develop its own modelling capabilities further, to enhance its ability to challenge aspects of firms' own results and to include in the test results the impact of feedback mechanisms across the banking system. The approach will ensure there continues to be a range of modelling input into stress testing.

Mark Carney, Governor of the Bank of England, said:

> 'The United Kingdom needs banks that can weather shocks without cutting lending to the real economy. Our first concurrent stress tests run in 2014 – centred on the housing market – gave us assurance that the banking sector as a whole was well-placed to withstand such a severe scenario. We have also recognised however the need for our approach to evolve.
>
> The Bank of England is taking steps to ensure we can assess a range of future risks from a number of different sources to inform our micro- and macro-prudential policy decisions. Our approach embodies a comprehensive and detailed approach, a desire to deepen and strengthen our analysis, and the flexibility to respond to changing risks.'

The Bank of England will publish further information in due course on its approach to stress testing beyond 2018. The Bank of England's stress testing framework is likely to evolve.

Bank of England 21.10.15

Sterling money market data collection and the reform of SONIA

The Bank of England has published (on 6 November 2015) the revised arrangements for its new sterling money market data collection. This reflects feedback received on the Bank's July 2015 consultation, *A new sterling money market data collection and the reform of SONIA*.

Respondents to the consultation expressed broad support for the Bank's plans for the reform of the Sterling Overnight Index Average ('SONIA') benchmark interest rate. Many noted that the inclusion of deposit transactions negotiated bilaterally as well as those arranged via brokers was a logical step which should significantly increase the volume of transactions in the

calculation of the benchmark, thereby enhancing its robustness. The Bank has responded to feedback by allowing approximately three further months preparation time for reporting institutions to prepare for the start of the new data collection.

The Bank also confirms that the daily publication of the SONIA benchmark will be moved to 9 am on the business day following that to which the rate refers, as was proposed in the July consultation. This change will come into effect at the point the Bank commences the publication of reformed SONIA, anticipated to be in Q2 2017.

The Bank will consult on its detailed plans for the reform of SONIA in late summer 2016.

Bank of England 06.11.15

FCA News

FCA introduces new rules on whistleblowing

The FCA, alongside the PRA, has published (on 6 October 2015) new rules in relation to whistleblowing. These changes follow recommendations in 2013 by the Parliamentary Commission on Banking Standards ('PCBS') that banks put in place mechanisms to allow their employees to raise concerns internally (i e to 'blow the whistle') and that they appoint a senior person to take responsibility for the effectiveness of these arrangements.

This publication follows on from the publication of the FCA's and PRA's final rules on improving individual accountability in the UK banking sector on 7 July 2015.

Tracey McDermott, acting FCA chief executive, commented:

> 'Whistleblowers play an important role in exposing poor practice in firms and they have in the past few years contributed intelligence crucial to action taken against firms and individuals. It is in the interests of the industry and regulators alike that wrongdoing is identified and addressed promptly. For individuals to have the confidence to come forward, it is vital that firms have in place adequate policies on dealing with whistleblowers and that a senior manager takes responsibility for overseeing these policies.
>
> These rules are designed to build on and formalise examples of good practice already found in parts of the financial services industry and aim to encourage a culture in which individuals working in the industry feel comfortable raising concerns and challenge poor practice and behaviour.'

Individuals working for financial institutions may be reluctant to speak out about wrongdoing for fear of suffering personally as a consequence. Mechanisms within firms to encourage people to voice concerns – by, for example, offering confidentiality to those speaking up – can provide comfort to whistleblowers. It is, however, important that individuals also have the confidence to approach their employers.

The FCA has therefore published a package of rules designed to build on and formalise the good practice already widespread in the financial services industry. These rules aim to encourage a culture where individuals feel able to raise concerns and challenge poor practice and behaviour. The rules on whistleblowing, which take full effect in September 2016, apply to deposit-takers (banks, building societies, credit unions) with over £250m in assets, and to insurers subject to the Solvency II Directive; they are non-binding guidance for all other firms that the FCA supervises. The new key rules on whistleblowing require a firm to:

- appoint a Senior Manager as their whistleblowers' champion;
- put in place internal whistleblowing arrangements able to handle all types of disclosure from all types of person;
- put text in settlement agreements explaining that workers have a legal right to blow the whistle;
- tell UK-based employees about the FCA and PRA whistleblowing services;
- present a report on whistleblowing to the board at least annually;
- inform the FCA if it loses an employment tribunal with a whistle-blower; and
- require its appointed representatives and tied agents to tell their UK-based employees about the FCA whistleblowing service.

The FCA has in recent years taken a number of steps to encourage whistleblowers to come forward to the organisation, including conducting a detailed review of its whistleblowing procedures and increasing the resources dedicated to the area. The FCA has seen an increase in the number of reports it receives; for example, there were 1340 whistleblowing disclosures recorded for financial year 2014/15 against 1040 in 2013/14 (a 28% increase). In the financial year 2007/08 the then Financial Services Authority received only 138.

FCA 06.10.15

FCA launches Call for Inputs on competition in the mortgage sector

The FCA has launched (on 7 October 2015) a Call for Inputs on competition in the mortgage sector. The Call for Inputs provides an opportunity for interested parties to help the FCA identify potential areas where competition may not be working well and could be improved.

Christopher Woolard, Director of Strategy and Competition at the FCA, said:

> 'For millions of consumers a mortgage is one of the biggest, if not the biggest, financial transaction they will enter into in their lifetime.
>
> The mortgage sector also plays a vital role in the financial services industry and many areas of the economy.

> Competition can play a key role in ensuring that the sector works well, delivering consumer benefits through lower prices, better customer service, and more product choice.
>
> We are seeking stakeholders' views on competition in the mortgage sector. These views, together with evidence from the FCA's wider programme of work on mortgages, will help inform any future FCA work on this key sector of the economy, including any future competition market study.'

The FCA is interested in the range of factors that might affect competition in the provision of loans secured against a property, whether regulated or unregulated, including as a result of:

- the regulatory regime (including changes introduced following the Mortgage Market Review), and any other barriers to entry, expansion or innovation;
- consumers' ability to effectively access, assess and act on information about mortgage products and services; and
- firms' conduct and relationships.

These factors might be affected by changes in the economic environment and/or changes to the regulatory framework. The FCA welcomes comments on how this should inform the scope and timing of any future market study or further FCA work.

The Call for Inputs will close on 18 December 2015. An outline of responses received and a confirmation of whether the FCA intends to take any further action will be set out in a Feedback Statement, to be published in the first quarter of 2016.

FCA 07.10.15

FCA consultation papers

Consultation Paper 15/32: Smarter Consumer Communications: Removing certain ineffective requirements in our Handbook

The FCA is consulting to remove a number of disclosure requirements which it identified as not being effective in terms of informing consumers about a product or service and to reduce the regulatory burden on firms. This reflects the FCA's commitment to create a sustainable regulatory framework.

In the FCA's *Discussion Paper on Smarter Consumer Communications*, the FCA committed to improve the effectiveness of communications to consumers. The FCA also outlined its intention to remove disclosures which have not been as effective as initially envisaged in terms of providing appropriate information to consumers. This consultation paper delivers on this commitment.

It proposes to amend rules and guidance related to the following disclosures:

- the 'Consumer-Friendly Principles and Practices of Financial Management' ('CFPPFM');
- the short report;
- the Initial Disclosure Document ('IDD')/Combined Initial Disclosure Document ('CIDD'); and
- the Combined Initial Disclosure Document ('CIDD')/Services and Costs Disclosure Document ('SCDD').

The consultation period closes by 18 December 2015.

FCA 22.10.15

Consultation Paper 15/33: Consumer credit: proposals in response to the CMA's recommendations on high-cost short-term credit

This consultation paper is issued in response to the Competition and Markets Authority ('CMA') final report into payday lending, published in February 2015. It contains proposals for additional standards for price comparison websites ('PCWs') which compare high-cost short-term credit ('HCSTC') products and invites views on them. The consultation paper also addresses a number of other areas: the use of real-time data sharing to enable informed credit assessments and measures to improve shopping around.

The CMA completed its market investigation into payday lending in February 2015. Based on the findings, the CMA concluded that there are features of the UK payday lending market that prevent, restrict or distort competition, leading to an adverse effect on competition.

To address the adverse effect on competition the CMA published a package of remedies, some of which were to be implemented by the CMA and others which were recommendations to the FCA.

Since then the FCA has worked closely with the CMA in the course of its market investigation and has considered the recommendations. This paper sets out the FCA's response.

The FCA's proposals in this consultation paper for new rules relate to PCWs which compare HCSTC, which are:

- Rankings: to require credit brokers acting as PCWs to rank HCSTC products in ascending order of price according to the Total Amount Payable and to ensure that the rankings are competitively neutral and do not give products greater prominence as a result of commercial relationships.
- Advertising: to require any additional advertising on PCWs for HCSTC to be outside of the ranking tables and not interspersed within them.
- Input functionality: to require PCWs comparing HCSTC to enable consumers to search according to the amount and duration of loan that they require.

- Market coverage: to require PCWs to disclose on their website the extent of their market coverage by listing the number and names of the firms whose products they compare, and to introduce guidance reminding firms that financial promotions must be clear, fair and not misleading and that they should not make misleading claims regarding market coverage.

As the FCA is proposing to create new rules it carried out a cost-benefit analysis.

The consultation period closes by 28 January 2016.

FCA 28.10.15

Consultation Paper 15/38: Provisions to delay disclosure of inside information within the FCA's Disclosure and Transparency Rules

In this consultation paper the FCA addresses developments relating to the disclosure of inside information by issuers with securities admitted to trading on a regulated market.

The FCA has considered its guidance in the Disclosure Rules and Transparency Rules ('DTR') which applies to issuers with securities admitted to trading on a regulated market. The intention of these rules is to promote a properly functioning market by ensuring that investors have sufficient and timely information to make informed investment decisions.

This consultation paper proposes a change to some guidance dealing with the circumstances in which a listed company has a legitimate interest in delaying disclosure of inside information.

FCA 20.11.15

FCA bans and fines

Kweku Mawuli Adoboli

Following convictions on 20 November 2012 of two counts of fraud by abuse of position, the FCA has banned Kweku Mawuli Adoboli from performing any function in relation to any regulated financial activity. Mr Adoboli abused his position as a senior trader of UBS AG causing UBS AG losses amounting to $2.25bn.

Mr Adoboli's conviction and resulting sentencing to seven years' imprisonment, following an investigation by the City of London Police and prosecution by the Crown Prosecution Service, demonstrate a clear and serious lack of honesty and integrity. In reaching its decision, the FCA has considered all the relevant circumstances and the severity of the risk posed by Mr Adoboli to consumers and financial institutions, and to confidence in the market generally.

16.10.15

Magnus Michael Peterson

The FCA has banned Magnus Michael Peterson, the former head of the hedge fund Weavering Macro Fixed Income Fund Ltd, from performing any function related to any regulated activity. On 19 January 2015 Mr Peterson was convicted of a range of fraud offences through his hedge fund resulting in losses to clients of approximately $536m. Mr Peterson was sentenced on 23 January 2015 to a total of 13 years' imprisonment at Southwark Crown Court.

These crimes were committed when Mr Peterson was approved by the FCA to perform various controlled functions – between 31 July 2003 and 31 March 2009.

26.10.15

Mothahir Miah

The FCA has fined Mothahir Miah, a former Investment Analyst at Aviva Investors Global Services Ltd ('Aviva Investors'), £139,000 and banned him from performing any function in relation to any regulated activity in the financial services industry for failing to act with honesty and integrity.

At Aviva Investors Mr Miah had authority to trade on behalf of hedge and long-only funds. Between January 2010 and October 2012, Mr Miah exploited weaknesses in the trading systems and controls at Aviva Investors in order to delay the booking and allocation of trades.

This meant Mr Miah was able to assess the performance of a trade during the day and allocate trades which had benefitted from favourable price movements to hedge funds that paid performance fees and trades that had not benefited to certain long-only funds that paid lower or no performance fees. This abusive practice is known as 'cherry picking'.

The FCA found that Mr Miah deliberately delayed the booking and allocating of trades on a regular basis by several hours. This allowed him to cherry pick on numerous occasions.

Mr Miah knew that cherry picking was wrong, but was motivated by a desire to prove his trading ability to his colleagues and increase his prospects of being promoted. This is because the culture within the Fixed Income business was heavily focused on performance and promotions tended to be based on reported investment performance. However, neither Mr Miah's motivation nor the culture in the business, excuse his cherry picking in any way.

Mr Miah's actions contributed to Aviva Investors having to pay significant compensation to a number of long-only funds. The FCA fined Aviva Investors £17.6m in relation to its failings on 24 February 2015.

Mr Miah agreed to settle at an early stage of the FCA's investigation and therefore qualified for a 30% (Stage 1) discount. Were it not for this discount, the financial penalty would have been £198,600.

The financial penalty would have been higher had it not been for Mr Miah's very early admissions and level of co-operation. Mr Miah's early admissions and expression of remorse also mean that the FCA is minded to revoke Mr Miah's ban from performing any regulated activity after five years upon his application.

18.11.15

EU AND INTERNATIONAL

European Central Bank publishes two Guidelines relating to changes in the General Documentation

The European Central Bank ('ECB') has published (i) a new Guideline (ECB/2015/34) amending the General Documentation Guideline on the implementation of the Eurosystem's monetary policy and (ii) a new Guideline (ECB/2015/35) on the Eurosystem's valuation haircuts.

The new Guidelines introduce changes to the monetary policy implementation framework, including:

First, the provisions on the Eurosystem's valuation haircuts have been removed from the General Documentation and put into the new Guideline on the Eurosystem's valuation haircuts. This will provide information on valuation haircuts for counterparties in a standalone legal instrument.

Second, the new Guideline on valuation haircuts refines the provisions on additional haircuts applied to covered bonds that are own-used (i e submitted as collateral by the issuer of the covered bonds or an entity closely linked to the issuer). As a rule, the additional haircuts will be applied only to the share of the covered bond issue that is own-used and not to the entire issue.

Third, 'non-marketable debt instruments backed by eligible credit claims', an asset class introduced in the Eurosystem's collateral framework on 2 November 2015, will be eligible for cross-border use through the Eurosystem's standard correspondent central banking model ('CCBM') procedure.

ECB 20.11.15

Committee on Payments and Market Infrastructure/International Organization of Securities Commissions Consultative Paper 'Guidance on cyber resilience for financial market infrastructures'

The Committee on Payments and Market Infrastructures ('CPMI') and the Board of the International Organization of Securities Commissions ('IOSCO') released the consultative paper *Guidance on cyber resilience for financial market infrastructures* ('the Cyber Guidance').

Financial market infrastructures ('FMIs') play a critical role in promoting the stability of the financial system. Thus, the cyber risks faced by FMIs and their level of readiness to effectively deal with worst case scenarios have been considered top priorities by industry leaders and authorities alike. The Cyber

Guidance aims to add momentum to and instil international consistency in the industry's ongoing efforts to enhance FMIs' ability to pre-empt cyber attacks, respond rapidly and effectively to them, and achieve faster and safer target recovery objectives if they succeed.

Key concepts built into the Cyber Guidance include the following:

- board and senior management attention is critical to a successful cyber resilience strategy;
- the ability to resume operations quickly and safely after a successful cyber attack is paramount;
- FMIs should make use of good-quality threat intelligence and rigorous testing;
- cyber resilience requires a process of continuous improvements; and
- cyber resilience cannot be achieved by an FMI alone; it is a collective endeavour of the whole 'ecosystem'.

The Cyber Guidance builds on previous studies conducted in this area by both the CPMI and IOSCO. When finalised, the Cyber Guidance will not establish additional standards for FMIs beyond those already set out in the Principles for Financial Market Infrastructures ('PFMI'). Instead, the document is intended to be supplemental to the PFMI, primarily in the context of governance (Principle 2), the framework for the comprehensive management of risks (Principle 3), settlement finality (Principle 8), operational risk (Principle 17) and FMI links (Principle 20).

The proposed Cyber Guidance sets out the preparations and measures that FMIs should undertake to enhance their cyber resilience capabilities with the aim of limiting the escalating risks that cyber threats pose to individual FMIs and thereby to financial stability. It also provides authorities with a set of internationally agreed guidelines to support consistent and effective oversight and supervision of FMIs in the area of cyber risk.

The Cyber Guidance is primarily intended to create meaningful shifts in the FMI industry towards greater cyber resilience. In this regard, Mr Benoît Cœuré, Chairman of the CPMI, stated:

> 'This is an important report because cyber attacks in the financial sector have the potential to create widespread financial instability. Nobody should assume they will be able to prevent cyber attacks in all circumstances. Therefore, the Cyber Guidance addresses the need for an FMI to resume its operations quickly and safely after an attack has occurred. This is not an easy task and may require innovative thinking that goes beyond the traditional approaches to operational resilience.'

Mr Greg Medcraft, Chairman of IOSCO, added:

> 'The proposed Cyber Guidance is the culmination of extensive collaboration between IOSCO and the CPMI. It reflects an urgency to address the increasing risks that cyber threats pose to FMIs and financial

> stability, as well as the need for a coordinated approach. At the FMI level too, cyber resilience cannot be achieved by individual institutions alone in our highly interconnected financial sector. The broader 'ecosystem' needs to work in unison. The Guidance calls upon the ecosystem to do just that. We hope to collaborate with all stakeholders to meaningfully enhance the cyber resilience of our financial system as we refine these proposals and later implement them.'

The consultative report is available on the websites of the Bank for International Settlements and IOSCO. Comments on the report should be submitted by Tuesday 23 February 2016.

BIS 24.11.15

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Published by LexisNexis

ISBN 978-1-4057-9283-7