



**Welcome** to the latest edition of Gem Compliance's monthly regulation newsletter. The aim of the newsletter is to tailor industry news in an easily digestible format. As such, not all sources of industry information and FCA publications (and no PRA publications unless specified) will be covered. Therefore clients and associates of Gem Compliance should periodically check the FCA's website for other developments.

Following a couple of busy months in terms of regulatory developments, April has been fairly quiet. Several cases of enforcement action have been published, two of which have attracted record fines, even after a 30% early settlement discount was applied, due to the firms' conduct during investigative processes. Principle 11 states that firms must deal with its regulators in an open and co-operative way. This extends to a firm's dealings with other entities such as the Financial Ombudsman Service and the Courts.

Other events/publications in April indicate that client money and financial crime remain high on the FCA's agenda, with a multi-million pound fine levied against two firms within the BNY Mellon Group for CASS failings and the publication of Market Watch 47.

The FCA's monthly Regulation Round-up was issued, which you can access [here](#). This issue comments on its progress in implementing the changes to its structure and supervisory approach, which were detailed in its 2015/16 Business Plan. The FCA's latest Policy Development Update (Issue 21), which provides a list of recent and upcoming publications, was also released and can be accessed [here](#).

We hope you find this newsletter useful and should you have any compliance queries or require advice on any of these topics, please do not hesitate to contact us.

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## Main features

- \* Market Watch 47
- \* FG 15/7: Guidance on Financial Crime Systems and Controls
- \* Complaints Data for July to December 2014
- \* Other FCA News, Publications and Speeches
- \* Industry News
- \* Enforcement Actions and Prosecutions

## Industry News

BoE publishes updated "Global Preamble: Codes of Best Market Practice and Shared Principles". The 8 global FX committees have agreed the guidance and FX market participants are expected to incorporate the guidance into their controls frameworks without undue delay.

[Click here for paper.](#)

The first draft of the Finance Bill 2015 has been published, which includes proposals concerning disguised fee income for investment managers, which applies to sums arising on or after 6/4/15.

[Click here to access draft Bill.](#)

IMF issues latest global stability report and calls for tighter regulation of the asset management sector.

[Click here to access report.](#)

Following introduction of the pensions freedoms at the beginning the month, 70% of a large number of calls to one insurance firm triggered personalised risk warnings

[Click here for article.](#)

The need to seek specialist tax advice for lump sum/partial withdrawals from investments has been highlighted after an investor triggered a 779% tax rate, which could have left him bankrupt. The Upper Tribunal of the tax regulator has ruled the investor is able to appeal the regulator's decision that he is liable for the tax charge because the investor didn't understand the impact of his actions, as he didn't seek appropriate advice.

[Click here for article.](#)

100% FSCS coverage confirmed for annuities.

[Click here for article.](#)

FCA and FOS confirm that advisers need to keep clear records of both recommendations and the client's decision to ignore advice if they process transactions for insistent clients seeking to access or transfer their pensions.

[Click here for article.](#)

ECB publishes its annual report.

[Click here to access report.](#)

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## Market Watch 47

The FCA's Market Watch newsletters cover market conduct and transaction reporting issues.

In this issue the FCA comments on how the recent structural changes impact the Market Monitoring Department. The FCA has created a Market Oversight Division made up of the FCA's monitoring functions for primary and secondary markets and its UKLA responsibilities. This new division sits alongside Enforcement to further the FCA's credible deterrence agenda in combatting market abuse and to further educate stakeholders on the rules in relation to market conduct.

This issue also announces the publication of Suspicious Transaction Report data on its website in response to numerous requests, and takes the opportunity to remind Multilateral Trading Facility trading platform operators of their duties under the FCA rules.

[Click here to access the newsletter.](#)

## FG15/7: Guidance on Financial Crime Systems and Controls

Following two thematic reviews published last year (concerning small banks' anti-money laundering and financial sanctions, and small commercial insurance brokers' anti-bribery and corruption, systems and controls) the FCA proposed amendments to its Financial Crime Guide in November to include examples of good practice.

All respondents to the consultation thought the examples were useful, however some respondents raised concerns in relation to, inter alia, the prescriptive nature of some examples and whether the updates should be delayed until the 4<sup>th</sup> Money Laundering Directive has been transposed into UK legislation.

The FCA met with 4 respondents to discuss their specific concerns and as a result has made further changes to the guidance to clarify expectations in areas such as source of funds. However, the FCA does not believe it is appropriate to delay the updates, therefore amendments to the Financial Crime Guide were effective from 27/04/15.

The FCA has also produced two webcasts for each thematic review. Summaries of these webcasts are available from Gem Compliance on request.

[Click here to access FG15/7.](#)

## Industry News Continued.....

FCA admits to failing certain service level standards in the minutes of its Feb board meeting. Areas highlighted in the meeting included the Firm Contact Centre and its supervision division.

[Click here for article.](#)

Following the u-turn by FOS in the case that left some SIPP operators believing they would need to undertake adviser style due diligence, Pensions Ombudsmen, Tony King, has concluded that the firm, Berkley Burke, complied with its obligations and therefore refutes the complaint. Whether a new FOS decision will be binding after the claimant accepted the original decision is not yet clear.

[Click here for article.](#)

Following a review into the conflicts of interest risk to firms from taking on free/low cost secondees from consultancy and professional firms, the FCA reports to the House of Commons that this issues is not widespread and there is no evidence of consumer detriment, therefore it will not be conducting any further supervision activity in this area.

[Click here for article.](#)

The FCA announces the report into the failure of HBOS will not be published until after the general election.

[Click here for article.](#)

## Enforcement Actions and Prosecutions

Ryan Willmott, former group reporting and financial planning manager for Logica PLC, sentenced to 10 months in prison for insider dealing relating to the takeover of Logica PLC by CGI Group. Willmott was also ordered to pay £6k towards prosecution costs and a Confiscation Order of £23k was imposed.

[Click here for press release.](#)

The Serious Fraud Office has been fined £180k after sending a witness, in its fraud, bribery and corruption case against BAE Systems, evidence relating to 64 other people involved in the case, following its conclusion. The evidence contained various personal information/documents such as bank statements, passport details and DVLA documents.

[Click here for article.](#)

FCA fines Clydesdale Bank over £20m (with early settlement discount) for failings in its PPI complaint handling practices, which breached Principle 6 (Customers' Interests). A record fine (in relation to PPI) was imposed for misleading the Financial Ombudsman Service regarding relevant information it held and for poor handling of complaints, which has brought the resolutions of 126,600 complaints into question.

[Click here for press release.](#)

## Complaints Data for July to December 2014

Latest complaints data for the second half of 2014 shows total complaints decreased 7% compared to the previous 6 months, and 12% compared to the same period the previous year. However, excluding PPI complaints, the total number has increased by 1% and 2% for the same periods, respectively. PPI is still the most complained about product and Barclays Bank is the most complained about firm.

Key stats regarding the latest complaints figures for the second half of 2014 are as follows:

- \* Over 2m complaints were received against regulated firms during the period;
- \* There was 7% decrease in complaints compared to the previous 6 months;
- \* Over a million PPI complaints received but this was a 14% decrease in PPI complaints compared to the previous 6 months.
- \* Almost £2.5bn paid in redress during the period;
- \* The largest increase in complaints by product was in relation to current accounts (+23%); and
- \* The largest decrease in complaints by product was in respect of endowments (-20%).

[Click here to access the FCA's complaints webpages.](#)

## Other FCA News, Publications and Speeches

### News

- \* FCA updates its webpage regarding the AIFMD national private placement regime - [click here to access webpage.](#)

### Publications

- \* CP15/15: Changes to the Approved Persons Regime for insurers not subject to Solvency II - [Click here to access consultation paper.](#)
- \* PS15/8: Solvency II - final rules in relation to the transposing of the Solvency II Directive into UK regulation — [Click here to access policy statement.](#)
- \* CP15/16: Changes to the Approved Persons Regime for Solvency II firms - [Click here to access consultation paper.](#)
- \* PS15/9: Implementation of the Mortgage Credit Directive and the new regime for second charge mortgages, feedback to CP14/20 and final rules - [Click here to access policy statement.](#)
- \* FG15/5 - Primary Market Bulletin Nos. 8 - [Click here to access finalised guidance.](#)
- \* FG15/5 - Primary Market Bulletin Nos. 9 - [Click here to access finalised guidance.](#)
- \* GC15/3 Primary Market Bulletin No. 11 – includes the addition of 6 new technical notes relating to, inter alia: IMAs; closed-ended investment funds; and the definition of "investment manager". [Click here to access guidance consultation.](#)
- \* FG15/6 – Multilateral Trading Facilities (MTFs) - [Click here to access finalised guidance.](#)

### Speeches

- \* "Journey to a Sustainable Credit Market" - speech by Christopher Woolard, FCA's Director of Strategy and Competition - [Click here to access speech.](#)

## Enforcement Actions and Prosecutions Continued.....

FCA fines two firms in the BNY Mellon Group a total of £126m (with early settlement discount) for failing to comply with CASS rules, particularly in relation to record keeping, reconciliations, co-mingling of client funds and protection of safe custody assets.

[Click here for press release.](#)

Upper Tribunal upholds FCA decision to ban former insurance broker, Stephen Allen, for not being fit and proper. Mr Allen submitted a forged document as evidence and gave untrue evidence to the High Court in another matter.

[Click here for press release.](#)

Nationwide branch manager, Hugo Mbaeri, in court accused of defrauding elderly customers out of their life savings by setting up bogus standing orders.

[Click here for article.](#)

FCA fines Merrill Lynch International £13.2m (with early settlement discount) for incorrectly reporting over 35m transactions and failing to report a further 121k between November '07 and November '14. The fine was based on a penalty of £1.50 per line of incorrect or non-reported data, which has increased from £1.00 in the previous three enforcement cases of this type.

[Click here for press release.](#)

Moorhouse Group Ltd fined £159k (with early settlement discount) for failings in relation to the oversight and control of its telephone insurance sales. Moorhouse failed to ensure its customers were given the right information and therefore failed to treat them fairly.

[Click here for press release.](#)

FCA fines Deutsche Bank AG £227m (with early settlement discount) for LIBOR and EURIBOR misconduct. The fine is so large because the behaviour was more than just a few individuals - on certain desks it was engrained – and the bank took far too long to produce vital documents as part of the investigation and fix relevant systems and controls. The firm also provided the FCA with misleading information and therefore failed to act in an open and cooperative way.

[Click here for press release.](#)

Kenneth Carver, a retired accountant who purchased shares in Logica PLC based on information provided to him by Ryan Willmott, has been fined £35k (with early settlement/financial hardship discount) by the FCA for insider dealing.

[Click here for press release.](#)

