



NEWGATE NEWS

NEWGATE
COMPLIANCE

UP TO DATE COMPLIANCE NEWS FOR
FIRMS IN THE FINANCIAL SERVICES SECTOR

Newgate Compliance Limited
56 Buckingham Gate
London, SW1E 6AE
Phone: +44 (0)203 696 8750
Email: info@newgatecompliance.com

November 2016 - Issue Highlights

- FCA publishes third MiFID II consultation paper
- **The European Commission extends the application date of the PRIIPs Regulation by one year**
- FCA finds weak price competition in some areas of the asset management sector
- **Senior Managers and Certification Regime update**
- Policy Development update



Important for all firms: The FCA publish third MiFID II consultation paper

In our previous newsletter, we reported on the publishing of the second consultation paper of MiFID II which is due to take effect on the 3rd January 2018. A third paper has now been published covering a range of conduct of business issues as well as product governance and additional perimeter guidance. Key proposals of the consultation paper include:

- strengthening inducement and research rules in order to ensure research always adds value to investment decisions;
- implementing requirements of full disclosure of costs and charges;
- guidance on the responsibilities of providers for the fair treatment of customers; and
- extending the requirement of telephone taping to financial advisers.

The third consultation is open for comments until 4th January 2017 and a fourth consultation paper is likely to be published towards the end of this year.

<https://www.fca.org.uk/news/press-releases/fca-publishes-third-mifid-ii-consultation-paper>

Important for Retail Investment Managers: The European Commission extends the application date of the PRIIPs Regulation by one year

As reported in our August Newsletter, the PRIIPs Regulation was originally due to apply from December 2016 but has now been delayed until January 2018 due to a number of concerns raised by the EU Parliament in regards to the lack of technical guidance.

The PRIIPs Regulation applies to both manufacturers and distributors of PRIIPs. Most importantly, it requires that where a PRIIP is to be made available to retail investors, a Key Information Document (KID) will need to be provided to those investors outlining the main features of such products in a clear and understandable manner. Although UCITS are PRIIPs, the requirement to produce a KID will not apply until 31 December 2019

http://europa.eu/rapid/press-release_IP-16-3632_en.htm

Important for all firms: The FCA launch a consultation on its 'Mission'

The FCA Mission is designed to provide a guiding set of principles around the strategic choices that the FCA make and will play a role in their day-to-day work over the coming years. The intention of the Mission is to provide clarity over its statutory objectives, the methods to allow it to focus its efforts in the right places and the reasoning behind the work the FCA does.

The FCA are consulting with stakeholders on a number of key themes including the protection of customers, intervention, consumer redress, competition and a proposed review of the FCA handbook.

Andrew Bailey, FCA Chief Executive commented "Our Mission will set out a framework within which we prioritise our work, ensuring we focus our resources in the right places. This will improve accountability and transparency of how and why we make the choices that we do".

The consultation closes on 26th January 2017.

<https://www.fca.org.uk/news/press-releases/fca-mission-consultation>

Important for Investment Management Firms: FCA finds weak price competition in some areas of the asset management sector

The FCA have published findings on a recent study of the asset management industry, looking at whether institutional and retail investors receive good value for money when purchasing asset management services.

The FCA want asset managers to provide greater transparency so that investors understand what they are paying and the impact charges have on their returns. Amongst some positives, the FCA found that:

- there is limited price competition for actively managed funds, meaning that investors often pay high charges without receiving higher returns;
- fund objectives are not always clear, and performance is not always reported against an appropriate benchmark; and
- investment consultants are not effective at identifying outperforming fund managers.

In response to this, the FCA has proposed a significant package of remedies in order to improve competition and protect consumer interests. These include:

- a strengthened duty on asset managers to act in the best interests of investors, including reforms to hold asset managers to account for how they deliver value for money;
- various disclosure requirements to help retail investors identify which fund is right for them;
- an all-in fee so that investors in funds can easily see what is being taken from the fund; and
- requirements for the clearer communication of fund charges and their impact at the point of sale.

Also, the FCA has recommended that HM Treasury considers bringing the provision of institutional investment advice within the FCA's regulatory perimeter.

<https://www.fca.org.uk/news/press-releases/fca-finds-weak-price-competition-some-areas-asset-management-sector>

Important for Investment Management Firms and Traders: UK equity trading costs continue to decline

New FCA analysis show that trading costs on the UK's equity markets appear to be trending downwards - alongside those in the US and European markets.

Focusing particularly on the FTSE 100, it was found that the execution quality has improved since 2012 on the major UK equity trading venues. Scrutiny of five different metrics – volume, quoted spreads, effective spreads, price impact and quoted depth – revealed rising volumes, lower spreads and improved execution quality on the UK's equity markets over the given period.

<https://www.fca.org.uk/insight/uk-equity-trading-costs-continue-decline>

Important for all firms: Senior Managers and Certification Regime update

Back in May, we reported on the implementation of the Senior Managers and Certification Regime in banks, building societies and credit unions. The FCA have marked six months since the implementation by providing feedback and proposing measures to further strengthen the regime.

The new measures are part of the FCA's continued focus on culture and build on initiatives which further help the FCA identify and assess key senior individuals. The FCA has confirmed the final rules on regulatory references in Policy Statement PS16/22, which clarify the information that firms are required to share with one another as part of recruiting to key roles.

The FCA have issued Consultation Papers and a Discussion Paper concerning:

- Guidance for Senior Managers on the 'Duty of Responsibility'
- A new requirement for UK branches of overseas banks to tell their UK based employees about the whistleblowing services offered by the FCA and the PRA
- Extending the conduct rules to all non-executive directors of banks and insurers
- How and why the legal function is caught under the Regime and whether it should continue to do so
- Remuneration policy proposals for firms that are within CRD IV (e.g. IFPRU firms)

The Senior Managers' and Certification Regime will be extended to all regulated financial services firms from 2018. **Newgate will soon be issuing a follow up newsletter with more detail about the new regime in partnership with Trevor Rawlings, Global Practice Head at Firth Ross Martin.**

<https://www.fca.org.uk/news/press-releases/fca-proposes-new-measures-maintain-firms-focus-culture>

Important for all firms: The total number of complaints against financial services firms continues to fall

The FCA have reported that financial services firms recorded a 2.6% reduction in new complaints between January and June 2016 compared to the previous six months.

- The total number of complaints was 2.05 million.
- Payment protection insurance (PPI) is the most complained about product with 0.93 million complaints.
- The top five most complained about firms were Barclays, Lloyds Bank, Bank of Scotland, HSBC and National Westminster Bank.

<https://www.fca.org.uk/news/press-releases/total-number-complaints-continues-fall>

Important for Investment Management Firms: EU Benchmarks Regulation reminder

New EU Benchmarks Regulation, which comes into effect in January 2018, will introduce a common framework and consistent approach to benchmarks regulation across the EU and aims to minimise conflicts of interest in the benchmark-setting process.

The Regulation will introduce new regulatory requirements for index providers located in the EU that provide benchmarks used within the EU. Once their benchmarks are used, these providers will become benchmark administrators and will be expected to apply to their home state regulator for registration or authorisation. Firms other than benchmark administrators affected by these regulations will include authorised persons who:

- use a benchmark to determine the amount payable under a financial instrument or a mortgage or consumer credit contract by referencing an index;
- measure the performance of an investment fund through an index either to track the return of the fund or to define its asset allocation;
- issue a financial instrument which references an index; or
- contribute input data not readily available to the administrator and provide the input data for the purpose of a benchmark.

<https://www.fca.org.uk/markets/benchmarks/eu-regulation>

Important for all firms: Policy Development Update

Each month the FCA issues a Policy Development Update (PDU) which provides information on:

- publications issued since the last edition;
- information about recent Handbook-related and other developments;
- other publications – consumer publications, guidance consultations and finalised guidance; and
- an updated timetable for forthcoming publications.

A link to the latest PDU is here: <https://www.fca.org.uk/news/policy-development-update>