

# Regulatory Update

ISSUED 13<sup>th</sup> February 2020

## UK Edition

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## CONTACTS

### CARWYN EVANS

Managing Director, Consultancy Services  
CEvans@cclcompliance.com

### STUART HOLMAN

Managing Director, Consultancy Services  
SHolman@cclcompliance.com

## 1.0 FCA UPDATES & DEVELOPMENTS

### 1.1 FCA Dear CEO Letter to Asset Managers

The FCA has published a [Dear CEO Letter to asset managers](#) setting out the regulator's view of the key risks of harm posed to the customers or markets in which they operate.

The key causes of harm the regulator has identified are:

- A firm's governance
- Product governance
- Operational resilience
- EU withdrawal

For support with any of the elements outlined in the Dear CEO letter, please [contact us](#) to see how we can help you.

### 1.2 FCA Dear CEO Letter to Financial Advisers

The FCA has [published a Dear CEO Letter to financial advisers](#) in the industry to highlight ways in which consumers may be harmed, as well as setting out steps firms are expected to take. The letter identifies four keyways in which consumers of financial advice may be harmed:

- Receiving unsuitable advice for their needs and objectives
- Falling victim to pension and investment scams
- Not receiving redress as a result of the non-payment of Financial Ombudsman Service (FOS) awards and/or failing firms being unable to compensate consumers
- Paying excessive fees or charges for products and services

Firms are expected to:

- Ensure advice provided is suitable and that costs and charges are disclosed clearly and in the best interests of the clients
- Identify conflicts of interests and where they cannot be prevented, they should be disclosed and managed
- Maintain professional indemnity insurance and ensure there is no break in cover
- Ensure steps taken in the past in approving financial promotions are sufficient to ensure they satisfy the current requirements
- Identify and manage risks associated with the pension transfer business
- Ensure senior managers are aware and understand clearly their roles and responsibilities and that all staff have appropriate skills and capabilities to deliver good customer outcomes
- Consider how the end of the implementation period to Brexit will affect the firm and its customers and what actions are needed to be ready for 1 January 2021

The FCA concludes the letter by setting out its expectations of firms to discuss the contents of the letter with the firm's directors and/or board and agree, if any, further actions to be taken.

### 1.3 FCA Updates Funds-Related Forms

The FCA has made amendments to certain funds-related forms as published in its [handbook notice 72](#). The changes to the forms came into effect on 1 January 2020 and are as follows:

- Alternative Investment Management Directive (AIFMD) new fund under management notification (SUP 15 Annex 6A)
- AIFMD material change notification (SUP 15 Annex 6C)
- Notice of sub-threshold AIFM exceeding AUM limit (SUP 15 Annex 6D)

- Small registered AIFM change form (SUP 15 Annex 16E)

#### **1.4 FCA Information for Firms During Brexit Implementation Period**

The FCA has [published a webpage providing information for firms](#) during the Brexit implementation period. There will be no changes to the reporting obligations for firms including those for MiFIR transaction reporting or EMIR which will continue to apply with existing EU regulatory requirements.

The windows of opportunity for EEA firms to notify the FCA on the use of the temporary permissions regime or, for fund managers, the notification to continue to market in the UK, closed as of 30 January.

The FCA will continue to keep firms and consumers updated on any changes that will impact them. Firms should consider how Brexit will impact on their business and the actions needed to minimise the risks to customers.

For support with your Brexit planning, please [contact us](#) to see how we can help you.

## **2.0 PRA UPDATES & DEVELOPMENTS**

### **2.1 Bank of England and FCA Encourages Switch from LIBOR to SONIA**

The Bank of England has [published an article](#) with the FCA encouraging firms to switch from LIBOR to SONIA for sterling interest rate swaps from Spring 2020. The change is intended to reduce the risks from creating new LIBOR exposures.

Following discussions between the FCA and market makers, 2 March 2020 has been identified as an appropriate date for this change to happen.

## **3.0 EU REGULATORY UPDATES**

### **3.1 ESMA Update on Governance and Reporting Obligations for Brexit**

The European Securities and Markets Authority (ESMA) has [published a statement](#) to clarify the issues relating to governance and reporting obligation for UK entities from 1 February 2020 following the UK's withdrawal from the European Union.

EU law will continue to apply to the UK, as if it were a Member State, during the transposition period from 1 February 2020 to 31 December 2020. All rights and obligations to UK entities will continue to apply under relevant directives and regulations and ESMA will continue to directly supervise registered credit rating agencies, trade repositories and securitisation repositories established in the UK during this period.

## **4.0 FINANCIAL CRIME**

### **4.1 FCA Becomes AML/CTF Supervisor of UK Cryptoasset Activities**

The FCA has become the [anti-money laundering and counter-terrorist financing supervisor](#) for businesses carrying out cryptoasset activities under the new Money Laundering Regulations 2019.

The regulator has published a new webpage for cryptoasset businesses setting out its supervision and actions if firms do not comply and meet the relevant standards.

The FCA requires businesses to:

- Identify and assess the business' money laundering and terrorist financing risks
- Have in place appropriate policies, systems and controls
- Appoint an individual within the firm to be responsible for compliance with the regulations
- Undertake relevant customer due diligence
- Undertake ongoing of all customers according to their risk profile

For expert advice and support in relation to AML/CTF in relation to cryptoasset business, please [contact us](#).

#### **4.2 HM Treasury Responds to MLD 5**

HM Treasury has [published its response to the consultation](#) on the fifth money laundering directive into UK law. The directive has been transposed into UK law through The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 which came into force on 10 January 2020.

To discuss how the updated money laundering regulations impact your business, please [contact us](#).

### **5.0 ENFORCEMENT ACTION**

#### **5.1 FCA Fines Claims Management Company for Misleading and Unfair Treatment to Consumers**

The FCA has [published a final notice to Hall and Hanley Limited](#) (HHL) for a financial penalty of £91,000. HHL is a claims management company which, prior to 1 April 2019, came under a different regulatory regime - the Conduct of Authorised Persons Rules 2014 (CAPR).

Under the CAPR, the firm was found to be in breach by negligently failing to take all reasonable measures to avoid purchasing marketing leads which were generated in breach of regulations and negligently failing to prevent one of its employees from copying customers' signatures without their prior consent.

## ABOUT CCL

Established in the UK in 1988, 2006 in the UAE and 2012 in India, CCL provides specialist compliance services to firms regulated by the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA).

### Consultancy Services & Support

- Regulatory Technology – CCL C.O.R.E
- Compliance Advisory
  - Assurance Reviews
  - Compliance Remediation
  - Compliance Support Services
  - Documentation
  - Financial Crime Prevention
  - Corporate Governance
  - Risk Management
- FCA Authorisation
- Prudential Rules & Regulatory Reporting
- Hot Topics
  - Senior Managers & Certification Regime (SM&CR)
  - Fifth Anti-money Laundering Directive (5MLD)

### Training (through CCL Academy)

- Compliance Skills
- AML & Financial Crime Prevention
- FCA Regulations
- Senior Managers & Certification Regime (SM&CR)
- Risk Management
- CISI Qualifications

If you wish to discuss how CCL can assist you with any of the issues raised in this Regulatory Update, please contact one of the directors using the details below:

Tel: +44 20 7638 9830

Email: [info@cclcompliance.co.uk](mailto:info@cclcompliance.co.uk)

Web: [www.cclcompliance.co.uk](http://www.cclcompliance.co.uk)

or write to us at:

CCL Compliance Limited

Birchin Court

20 Birchin Lane

London

EC3V 9DU

This Regulatory Update provides information about the consultative documents and publications issued by the FCA/PRA which are still current, proposed changes to the Rules and Guidance set out in the FCA and PRA Handbooks, actual changes to Rules and Guidance that have occurred in the months leading up to the update and other matters of relevance to FCA/PRA-regulated firms. This Regulatory Update is intended to provide general summarised guidance only, and no action should be taken in reliance on it without specific reference to the particular FCA/PRA document referred to.