

Regulatory Update

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UK Edition

INDEX

SEPTEMBER 2019

1.0 FCA UPDATES & DEVELOPMENTS	2
1.1 SM&CR FCA Updates Preparation Checklist	2
1.2 FCA on Guidance for the Fair Treatment of Vulnerable Customers	2
1.3 FCA on the National Private Placement Regime	2
1.4 SM&CR Directory Persons	2
1.5 UK Finance SM&CR Report	2
1.6 FCA Steps Up Effort to Prepare Firms for No-Deal Brexit	3
1.7 FCA Review on MiFID II Implementation – Research Unbundling Reforms	3
2.0 PRA UPDATES & DEVELOPMENTS	3
2.1 PRA Dear CEO Letter on Money Laundering	3
2.2 Strengthening Individual Accountability –SM&CR	4
3.0 EU REGULATORY UPDATES	4
3.1 European Commission FAQ on PSD2	4
4.0 FINANCIAL CRIME	4
4.1 MEPs Call for Implementation of AML Rules	4
4.2 JMLSG Receives Treasury Approval	4
5.0 ENFORCEMENT ACTION	4
5.1 FCA Fines The Prudential Assurance Company Limited for Failures related to Non-advised Sales of Annuities	4
ABOUT CCL	6

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1.0 FCA UPDATES & DEVELOPMENTS

1.1 SM&CR FCA Updates Preparation Checklist

The FCA has [updated its webpage regarding its checklist](#) for implementing the Senior Managers and Certification Regime (SM&CR) for solo regulated firms.

Additional details have been added on the provision of Form K (notifying the FCA of which currently approved individuals should be converted to a mapped senior management function) and a new section on sole traders has been added.

For advice and guidance with your SM&CR project, or whether you would like to utilise our detailed SM&CR project plan to guide yourself to compliance, you can contact us [here](#).

1.2 FCA on Guidance for the Fair Treatment of Vulnerable Customers

The FCA is [consulting on guidance for firms on the fair treatment of vulnerable customers](#) in relation to products or services to retail customers. The draft guidance is intended to help firms understand the needs of vulnerable customers, ensure employees have the necessary skills, and translate that understanding into practical operations.

The guidance does not intend to set out a checklist of actions but is intended to provide viable options for firms to comply with the principles. How the document will apply to firms will depend on context, such as the nature and size of the firm, the market it operates in and the characteristics of the customers.

The FCA is currently seeking feedback on three areas:

- Whether the draft guidance covers relevant issues and would provide firms the clarity needed on how to improve outcomes for vulnerable customers
- The effect on firm's costs and the extent of benefits to vulnerable consumers
- Views from stakeholders on whether the guidance is sufficient to ensure firms take appropriate actions to treat consumers fairly

Comments to the FCA are due by 4th October 2019.

1.3 FCA on the National Private Placement Regime

The FCA has [published an update on the National Private Placement Regime](#) (NPPR) which allows the marketing of non-EEA Alternative Investment Funds (AIFs) into the UK.

The change in the regime is in relation to the submission of notifications by Alternative Investment Fund Managers (AIFMs) marketing AIFs under regulation 57, 58 and 59. The notifications will be submitted via Connect.

The change is applicable from 9th September 2019.

To discuss how the regime impacts you and your business, please [contact us](#).

1.4 SM&CR Directory Persons

The FCA has introduced a [new public register](#) for checking the details of key people working in financial services. The directory comes under the extension of the SM&CR and will provide, amongst other things, a range of information to enable customers to verify the identity of those selling and to provide advice on financial products.

Firms are required to submit their data from 9 September 2019 using the new Directory Persons Connect form.

For advice and guidance with your SM&CR project, or whether you would like to utilise our detailed SM&CR project plan to guide yourself to compliance, you can contact us [here](#).

1.5 UK Finance SM&CR Report

UK Finance has issued a [report studying the impact of the SM&CR on banking institutions](#). The aim of the report is to discover whether any changes have occurred as a result of the regime.

The report is compiled from a year's worth of data from speaking to 60 senior managers and control functions from over 25 banking institutions about personal experiences and opinions of the impact the regime has had on their firms.

For advice and guidance with your SM&CR project, or whether you would like to utilise our detailed SM&CR project plan to guide yourself to compliance, you can contact us [here](#).

1.6 FCA Steps Up Effort to Prepare Firms for No-Deal Brexit

The FCA has stepped up its effort to ensure firms are aware of [what they need to do in the event of a potential no-deal Brexit](#). Firms which have not prepared may risk an impact on their business.

The FCA will be running a series of digital adverts signposting its [Brexit webpages](#) as well as a dedicated telephone line (0800 048 4255). The regulator urges all firms to consider the implications of a no-deal Brexit and finalise their preparations.

The FCA's article will be particularly relevant to firms that:

- are a UK business which does any business in the EEA
- passport into the UK and have not notified the FCA for entry into the Temporary Permissions Regime
- have consumers in the EEA
- transfer personal data from the EEA

1.7 FCA Review on MiFID II Implementation – Research Unbundling Reforms

The FCA has [published its findings](#) from a review into how firms have implemented the third-party research rules under MiFID II. The MiFID II research rules required asset managers to explicitly pay for third-party research and for brokers to price and provide research separately.

Below is a list of the summary of findings from the review:

- Most buy side firms have implemented the new rules and increase accountability and scrutiny over research and execution costs.
- Most firms have absorbed research costs themselves
- No evidence has been found that there was a reduction in research coverage
- Asset managers have different levels of sophistication in terms of research valuation models. The FCA expects firms to continually refine these models to ensure they are acting in the best interests of the customers

The review provides more information on the FCA's findings into the research rules and execution.

To discuss the review findings and what this could mean for your business, please [contact us](#).

2.0 PRA UPDATES & DEVELOPMENTS

2.1 PRA Dear CEO Letter on Money Laundering

The PRA has published a [Dear CEO letter on money laundering and terrorist financing risks](#) in relation to prudential supervision. The PRA refers to a [recently published opinion](#) from the European Banking Authority (EBA) regarding the link between money laundering and terrorist financing concerns and prudential objectives.

The letter looks to draw firms' attention to the following:

- Firms are responsible for ensuring the management body and senior management are fit and proper
- Firms must have robust governance arrangements including a clear organisational structure and effective processes to identify, manage, monitor and report the risks of the firm in relation to money laundering and terrorist financing
- Firms must ensure the FCA-prescribed senior management responsibility for financial crime is allocated to an individual with sufficient seniority to perform the role

To discuss any AML and CTF matters facing your business, please [contact us](#).

2.2 Strengthening Individual Accountability –SM&CR

The PRA has [published a policy statement PS20/19](#) providing feedback to the consultation paper CP12/19. The policy statement contains the PRA’s final policy on:

- The prescribed responsibility for recovery plans and resolution packs contained in the allocation of responsibilities
- The Senior Managers Regime – Statement of Responsibilities form
- Supervisory Statement SS28/15

3.0 EU REGULATORY UPDATES

3.1 European Commission FAQ on PSD2

The European Commission has published a [FAQ on the Payment Service Directive 2](#) (PSD2) taking into account the application of strong customer authentication on 14 September 2019. The strong customer authentication requirement makes it easier and safer for consumers to pay for goods and services online as well as combat against fraud.

4.0 FINANCIAL CRIME

4.1 MEPs Call for Implementation of AML Rules

The Members of the European Parliament (MEPs) have [published a press release](#) calling for the proper implementation of anti-money laundering rules and urges member states to implement the agreed 5AMLD into national law, transposition date being January 2020.

The MEPs see the lack of cooperation and poor information sharing between national authorities to be the main obstacle in combating money laundering, terrorist financing and criminal financing in all member states.

4.2 JMLSG Receives Treasury Approval

The Joint Money Laundering Steering Group (JMLSG) has [received Treasury Ministerial approval](#) of its guidance on:

- Sector 4 (Credit Unions)
- Section 12 (Asset finance)
- Section 20 (Brokerage services to funds)

5.0 ENFORCEMENT ACTION

5.1 FCA Fines The Prudential Assurance Company Limited for Failures related to Non-advised Sales of Annuities

The FCA has fined [The Prudential Assurance Company Limited \(Prudential\)](#) for failures related to non-advised sales of annuities. The firm’s non-advised annuity business focused on selling annuities directly to its existing pension holders. It had failed to consistently inform the customers there were better deals available if they looked around the market and failed to take reasonable care to organise and control its breach of its obligation to ensure fair treatment of customers.

Prudential voluntarily agreed to conduct a past business review to identify any customers who may be entitled to redress as a result of its failures. They accepted the FCA's findings and qualified for a 30% discount which amounted to £23,875,000. If not for the discount, Prudential would have been fined £34,107,20.

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:

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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.