INSURANCE REGULATORY EBULLETIN

MAY 2019

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WELCOME TO OUR INSURANCE REGULATORY EBULLETIN

Welcome to this edition of our Insurance Regulatory eBulletin, which aims to keep you updated with significant regulatory developments and their implications across the insurance sector.

The Brexit uncertainty continues, following the European elections and the other political upheavals of the last few weeks, but the UK regulators are beginning to contemplate the future. To cope with the uncertainty, the FCA has confirmed the extension of the Temporary Permissions Regime and, both the PRA and the FCA, have made speeches indicating their hopes for the future of regulation post Brexit in the past month. The PRA has issued a framework for assessing the financial impacts of physical climate change following on from its Policy Statement published in April, the FCA has released publications on its Approach to Supervision and Enforcement and the results of the thematic review of the with-profits sector.

I hope you enjoy reading this latest update. Please do not hesitate to contact me, or your normal BDO contact, if you have any concerns over any matter highlighted in this update.

ALEX BARNES
PARTNER

+44 (0)20 7651 1213
alex.barnes@bdo.co.uk

CONTENTS

INSURANCE REGULATORY EBULLETIN
EIOPA

- EIOPA's Insurance Stress Test 2018 Recommendations
- Report on EIOPA's Supervisory Activities in 2018
- EIOPA's Technical Advice on the integration of sustainability risks and factors into the Solvency II and IDD Delegated Acts
- Big Data Analytics in motor and health insurance: A thematic review
- Q&A on Regulation

Brexit

- FCA confirms extension of the Temporary Permission Regime deadline
- Technical Standards (Insurance Distribution Directive) (EU Exit) Instrument 2019

Prudential regulation

- Operational resilience – a progress report
- Model use and misuse - speech by David Rule
- Stylish regulation - speech by Sam Woods
- Solvency II: Maintenance of the transitional measure on technical provisions – CP11/19
- A framework for assessing the financial impacts of physical climate change
- Scanning the horizon - speech by Sam Woods

Conduct regulation

- Regulation round up
- FCA Approach to Supervision
- FCA Approach to Enforcement
- Review of the fair treatment of with-profits customers – TR19/3
- Number of FCA skilled person reports commissioned in Q4 2018/19
- Intergenerational differences – DP19/2
- FCA launch the Financial Services Regulatory Partners Phoenixing Group
- Weighing the value of data - trade-offs, transparency and competition in the digital marketplace
- Financial conduct regulation in a restless world
- Leading the Way on Regulation

Enforcement action

- FCA regulatory fines round-up
- FCA publishes Decision Notices against three firms and five individuals for acting without integrity in relation to their pension advice business and misleading the FCA
- ICO fines PPI claims company £120,000 for millions of nuisance texts

EIOPA

EIOPA'S INSURANCE STRESS TEST 2018 RECOMMENDATIONS

On 26 April, EIOPA issued Recommendations relating to the issues which were identified in its European-wide stress test for 2018. The results and findings of EIOPA's 2018 Insurance Stress Test are discussed in detail in EIOPA's "2018 Insurance Stress Test Report".

The recommendations noted in this document have been issued to advise National Competent Authorities (NCAs) within the EU as well as the EEA. The Recommendations can be summarised as follows:

<table>
<tr><td>Supervisory convergence and financial stability issues</td><td>

NCAs should strengthen supervision of the groups identified as facing greater exposure to Yield Curve Up and/or Yield Curve Down scenarios.
NCAs should carefully review and, where necessary, challenge the capital and risk management strategies of the affected groups. In particular:

NCAs should require Groups to clarify the impact of the stress test in terms of capital and risk management.
For the affected Groups, stress test scenarios similar to Yield Curve Up and Yield Curve Down should be properly considered in the risk management framework, including the ORSAs.
Review the risk appetite framework for the affected Groups.

NCAs should evaluate the potential management actions to be implemented by the affected Groups. In particular:

NCAs should require Groups to indicate the range of actions based on the results of the stress testing.
NCAs should assess if the actions identified are realistic in such stress scenarios.
NCAs should consider any eventual second-round effects.

</td></tr>
<tr><td>Efficiency and enhancing the Stress Test exercise process</td><td>

NCAs should further contribute to enhance the stress test process:

NCAs should check the adequacy of the systems and supporting technologies and the flexibility of the risk modelling used by Groups to run stress tests scenario/sensitivity analysis
Ensure availability of resources of National experts for future EIOPA Stress Test exercises

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<tr><td>Cross-sectoral coordination</td><td>

NCAs should enhance cooperation and information exchange with other relevant Authorities, such as the ECB/SSM or other national authorities, concerning the stress test results of the affected insurers which form part of a financial conglomerate.

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The EIOPA will discuss the actions that have been taken in regards to these Recommendations with NCAs during 2019.

REPORT ON EIOPA'S SUPERVISORY ACTIVITIES IN 2018

On 26 April, EIOPA published its report on supervisory activities in 2018. The report outlines EIOPA's main achievements in the area of supervisory convergence, provides information on the progress made and challenges faced in achieving supervisory convergence across Member States, such as supervision of cross-border businesses and internal models. Among other things, the report presents the results of the monitoring activity of EIOPA concerning Brexit, summarises EIOPA's work done on conducting its own independent assessments as well as peer-reviews on specific activities of national competent authorities (NCAs).

The report also sets out its 2019 priorities, where EIOPA plans to continue to focus on the practical implementation of the key characteristics of a common EU-wide supervisory culture, and the risks to the internal market and a level playing field which may lead to supervisory arbitrage. EIOPA will also pay attention to new issues and risks such as the supervision of run-off undertakings and the use of risk mitigation techniques.

EIOPA'S TECHNICAL ADVICE ON THE INTEGRATION OF SUSTAINABILITY RISKS AND FACTORS INTO THE SOLVENCY II AND IDD DELEGATED ACTS

On 30 April, EIOPA published Technical Advice on the integration of sustainability risks and factors and the resulting potential amendments to the Solvency II and the Insurance Distribution Directive (IDD).

The Technical Advice was drafted by EIOPA following a public consultation launched in November 2018, and is intended to help the European Commission (EC) increase transparency in the field of sustainability risks and build new sustainable investment opportunities. EIOPA is recommending integrating sustainability into the Solvency II Delegated Act and it includes proposals for changes to the Solvency II Delegated Acts on organisational requirements, operating conditions, and risk management. The Technical Advice on IDD includes proposals for changes to the conflict of interests/organisational requirements and product oversight and governance (target market assessment).

BIG DATA ANALYTICS IN MOTOR AND HEALTH INSURANCE: A THEMATIC REVIEW

On 8 May. EIOPA published a Report and a fact sheet on the use of big data analytics in motor and health insurance. It outlines the key findings from EIOPA's thematic review of the use of big data analytics by insurance firms, carried out in summer 2018, which included 222 participants across 28 jurisdictions.

Among the main findings of the review, EIOPA noted:

- traditional data sources, including demographic and exposure data, are increasingly combined with new sources, rather than being replaced;
- big data analytics tools like artificial intelligence (AI) and machine learning are actively used by 31% of companies, with a further 24% of firms at proof of concept stage;
- big data analytics tools are increasingly used across the value chain, from the pricing and underwriting stage to sales distribution and claims management;
- uptake of usage-based insurance products is anticipated to continue due to developments including connected cars, wearable health devices, and 5G mobile technology; and
- there is no evidence as yet that an increasing granularity of risk assessments is causing exclusion issues for high-risk consumers.

EIOPA concluded that there are many upcoming opportunities relating to big data analytics, but also cautioned there is a need to address ethical issues relating to fairness of use and the accuracy and transparency of AI and machine learning tools.

EIOPA's 'InsurTech Task Force' will continue work on these two areas in 2019. EIOPA will also examine third-party data vendor issues, develop guidelines on the use of cloud computing and continue its work on cyber insurance and security.

Q&A ON REGULATION

During May, EIOPA has issued the following in response to questions on regulations:

- Answers to (EU) No 2009-138 Solvency II Directive (Insurance and Reinsurance);
- Answers to (EU) 2015-35 supplementing Directive 2009-138 – The Solvency II Delegated Act
- Answers to (EU) No 2015-2450 templates for the submission of information to the supervisory authorities
- Answers to guidelines on reporting for financial stability purposes
- Answers to (EU) 2015-35 supplementing Directive 2009-138 (Insurance and Reinsurance)
- Answers to (EU) No 2015-2450 templates for the submission of information to the supervisory authorities

BREXIT

FCA CONFIRMS EXTENSION OF THE TEMPORARY PERMISSION REGIME DEADLINE

On 24 May, the FCA confirmed the deadline for notifications for the temporary permissions regime (TPR) will be extended to the end of 30 October 2019. TPR would allow EEA-based firms passporting into the UK to continue new and existing regulated business within the scope of their current permissions in the UK for a limited period, while they seek full FCA authorisation.

TECHNICAL STANDARDS (INSURANCE DISTRIBUTION DIRECTIVE) (EU EXIT) INSTRUMENT 2019

On 28 April, the FCA issued the Technical Standards (Insurance Distribution Directive) (EU Exit) Instrument 2019 which makes amendments to Commission Implementing Regulation (EU) 2017/1469 of 11 August 2017 laying down a standardised presentation format for the insurance product information document.

This instrument comes into force on the day the United Kingdom leaves the European Union.

PRUDENTIAL REGULATION

OPERATIONAL RESILIENCE - A PROGRESS REPORT

On 14 May, Nick Strange, Director, Supervisory Risk Specialists, delivered a speech at the 21st Annual Operational Risk Europe Conference in London. He began by acknowledging the serious cyber-attacks of recent years and stressing that the financial sector is not immune from such attacks. He gave examples where the UK regulatory community is working to build a more resilient financial system, including the July 2018 joint Discussion Paper (DP) from the Bank of England, PRA and FCA on operational resilience which made it clear that all three UK regulatory bodies consider operational resilience to be a senior management responsibility.

He also spoke about the Financial Policy Committee's (FPC) work in this area. The FPC is concerned with impact tolerance and vital services, and has indicated that it will ask firms to test their tolerances in severe but plausible scenarios through cyber stress testing. He argued that this process injects a suitable degree of proportionality, as firms are not expected to withstand the most extreme forms of disruption, and the Bank recognises that it would be unreasonable to have a zero tolerance for disruption.

He added that the Bank's operational resilience current work programme aims to develop the supervisory approach to operational resilience in line with the DP and developing a cyber stress testing programme. He concluded by stating that there has never been a better time to be an operational risk practitioner, given the renewed interest in operational risk and resilience.

MODEL USE AND MISUSE - SPEECH BY DAVID RULE

On 14 May, David Rule, Executive Director of Insurance Supervision at the PRA, gave a speech at the ABI Prudential Regulation Seminar. He discussed insurance models and the growing importance of model risk management and described some recent findings from the PRA's work to guard against the weakening over time of capital requirements calculated from internal models – so-called 'model drift'. He also highlighted some of the PRA's expectations for how models are used by insurers' senior management and boards.

He noted that the increased use of models by insurers are also raising new questions and risks including new ethical and conduct related risks. For example, when designing a pricing algorithm what characteristics and behaviours of people is it acceptable to include? Is collecting data on behaviour to improve pricing an unacceptable interference in privacy?

He noted model risk can arise in two ways:

- From fundamental flaws in models where the risk is not that the model is imperfect – that is inevitable – but that the flaws are so fundamental that the model produces inaccurate or undesirable outputs when viewed against design objectives and intended business uses. For example a capital requirement that is significantly too low; or a pricing model might include analytical methods that lead to outcomes that are outside the insurer's risk appetite.
- From misuse of models which arises when management take decisions based on the outputs of a model without sufficiently understanding the uncertainty around those outputs.

He concluded by noting that as insurers deploy increasing numbers of models, drawing on massive amounts of data and with new analytical techniques, it is vital that they give sufficient attention to effective model risk management. Insurers should be confident enough to use their models but not overconfident and misuse them.

STYLISH REGULATION - SPEECH BY SAM WOODS

On 16 May, Sam Woods, Deputy Governor for Prudential Regulation at the Bank of England and CEO of the PRA, spoke at the UBS Financial Institutions Conference in Lausanne about the style of regulation in a post-Brexit world.

He set out the first principles he believes should underpin any regulatory regime seeking to deliver safety and soundness and financial stability in the UK, which are:

- robust prudential standards;
- responsible openness based on international collaboration and standards;
- proportionality and sensitivity to business models and promoting competition;
- dynamism and responsiveness;
- consistency; and
- accountability.

He went on to consider where these principles might lead for a post-Brexit system of UK financial regulation and set out various styles that the UK Government and Parliament may choose to adopt, building on these principles, including the differing approaches adopted for regulatory legislation in both the UK and EU over the past twenty years or so.

He concluded by expressing support for a legislative approach based on the model adopted for introducing the SMCR core aspects of the regime (e.g. the framework for regulatory approval processes and the fitness and propriety test, relevant offences, and introducing the concept of conduct rules and statements of responsibilities) are set out in legislation. But regulators were given considerable discretion in filling in the detail of the framework – including what functions required approval, the content of the conduct rules, and the detailed systems and controls requirements that apply to firms.

SOLVENCY II: MAINTENANCE OF THE TRANSITIONAL MEASURE ON TECHNICAL PROVISIONS – CP11/19

On 22 May, the PRA published a Consultation Paper (CP11/19) requesting comments on proposed updates to Supervisory Statement SS6/16 'Maintenance of the transitional measure on technical provisions under Solvency II'.

The proposals set out:

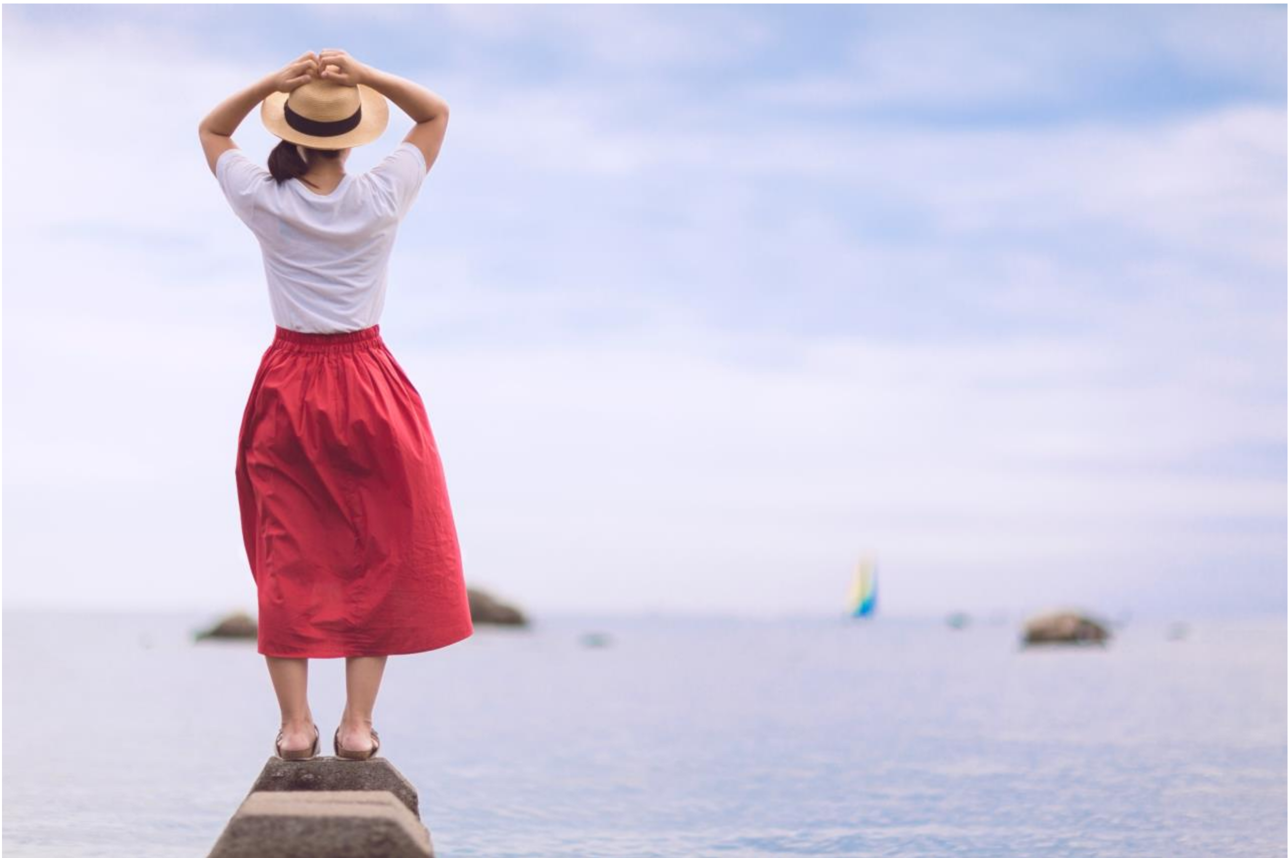
- further guidance for firms seeking to use a proportionate approach to the transitional measure on technical provisions (TMTP) recalculation methodology; and
- provide more clarity on the consistency of Solvency I and Solvency II methodologies.

Comments should be submitted by 21 August 2019.

A FRAMEWORK FOR ASSESSING THE FINANCIAL IMPACTS OF PHYSICAL CLIMATE CHANGE

On 22 May, the PRA published a framework for assessing financial impacts of physical climate change: A practitioner's aide for the general insurance sector written by a cross-industry working group.

With a foreword from David Rule (PRA Executive Director of Insurance Supervision), a one-page executive summary, and short introduction, this report has been written by a cross-industry working group to outline a framework for practitioners in the general insurance sector to use to assess the financial impacts of physical climate change. Such assessments can leverage existing tools already in use by the insurance industry. The report demonstrates how expert judgement, hazard maps, footprints, and catastrophe models can be tailored to address practitioners' needs, depending on the data available, the business need in question and the required output metrics.



SCANNING THE HORIZON - SPEECH BY SAM WOODS

On 24 May, Sam Woods, Deputy Governor for Prudential Regulation and CEO of the PRA, gave a speech at the Building Societies Association, during which he set out the importance of 'scanning the horizon' to identify problems in the financial system. He gave examples of issues the PRA looks for and he warned that, unless we keep questioning firms and ourselves about worrying developments in the markets, the work we have done to make the financial system safer could be reversed. Particular risks for regulators in the border zone between banking and insurance were identified as being:

- ensuring equity-release mortgage holdings are treated appropriately on insurance companies' regulatory balance sheets;
- the use of credit insurance to optimise capital positions of banks and being satisfied that a risk which disappears from a bank's capital requirement has genuinely been moved across the border, and that the receiving insurer is properly reserving and capitalising for that liability; and
- where insurers are taking on illiquid or structural risks from banks, for instance assuming the risk on long-dated inflation swaps.

CONDUCT REGULATION

REGULATION ROUND UP

On 16 May, the FCA published its monthly Regulation round-up. The editorial discussed the FCA's Discussion Paper on Intergenerational Differences which reflects the wide public and policy debate over the deepening financial differences between generations – and the choices they have to make as a result. The Hot Topics included the Feedback Statement on Duty of Care published in April, the FCA's feedback on how it supervises and enforces and preparing for the Senior Managers & Certification Regime.

This edition includes the following articles that are relevant to insurers or insurance intermediaries:

- Retail Distribution Review & Financial Advice Market Review Roadshows.
- Digital Regulatory Reporting.
- Live & Local 2018/19 events for regulated firms – a survey to be completed.

FCA APPROACH TO SUPERVISION

In March 2018, the FCA published its Approach to Supervision consultation paper. This was the start of a formal consultation with its stakeholders about supervision and how it fits into the overall regulatory system and decision-making framework. The feedback the FCA received during the consultation was supportive of its approach and the FCA have used it to inform its Approach to Supervision and feedback statement published on 24 April.

The Approach to Supervision and feedback statement explains the purpose of, and the FCA's approach to, supervising firms and individuals and the public value it delivers. It sets out:

- the FCA's role in ensuring fair and honest markets;
- why and how the FCA prioritises supervision work; and
- how, in practice, it supervises the firms and individuals it regulates.

FCA APPROACH TO ENFORCEMENT

In March 2018, the FCA published its Approach to Enforcement consultation paper. The FCA have used the responses to inform its Approach to Enforcement and feedback statement published on 24 April. The paper is part of the series of documents that the FCA committed to as part of the publication of its mission, which are aimed at providing transparency to its activities and explaining its approach in more depth.

The FCA notes that the overriding principle in its Approach to Enforcement is substantive justice – to ensure it carry out investigations in a consistent and open-minded way to get the right outcomes. The FCA decide whether to take enforcement action based on whether they believe there has been serious misconduct, considering factors such as intent to do wrong, failure to act on feedback or negligence or recklessness. In many of the cases, harm has already been caused, but early detection of an issue and intervention can prevent it from getting worse.

REVIEW OF THE FAIR TREATMENT OF WITH-PROFITS CUSTOMERS - TR19/3

On 25 April, the FCA published the results of its Thematic Review of the fair treatment of with-profits customers. The review started with an assessment of all the areas across the with-profits market where there is potential for customer harm. After identifying those areas the FCA regard as presenting the highest potential for customer harm, they conducted a detailed review of firms' practices in these areas, with the key focus being whether these are resulting in the fair treatment of with-profits customers. The key focus areas of our review were:

- investment strategy and management;
- capital management in relation to areas such as estate distribution and fund resolution;
- fair allocation of risk and reward between stakeholders in capital management decisions; and
- governance of with-profits business, principally in relation to the above three areas.

At the end of 2017 there were 98 with-profits funds across 37 firms. After reviewing information from most of the firms the FCA conducted a detailed assessment of with-profits funds within 8 firms on the areas highlighted above. This sample formed approximately 80% of with-profits assets within the market and included a mix of open and closed funds across mutual and proprietary firms of varying sizes.

The FCA found:

- Most firms we assessed were taking reasonable care to manage the risk of customer harm.
- Where funds were closed to new business they found firms did not always use their run-off plans appropriately, as intended and described in FCA rules and guidance.
- They identified weaknesses in assessments for and distribution of excess surplus.
- They identified examples of insufficiently robust fund-level capital management approaches.
- These practices have the potential to cause customer harm if not corrected.
- In most cases there was no evidence of actual customer harm having occurred.
- In the limited instances where they found practices presenting a higher risk of customer harm a key cause was failure of governance.

Feedback has been provided to all firms that participated in the review. The FCA have requested firms to take action where we have identified poor practice. The CEOs of all firms operating with-profits business have been asked to ensure that their firm takes full account of our findings.

NUMBER OF FCA SKILLED PERSON REPORTS COMMISSIONED IN Q4 2018/19

On 1 May, the FCA published a list of the number of skilled person reports commissioned in Q4 2018/2019.

The report shows that six reports were commissioned across four of the seven different FCA Sectors, including two in the General Insurance & Protection sector. The Lots covered by the Skilled Person Reports commissioned related to Client Assets, Controls & Risk Management Frameworks and Financial Crime.

INTERGENERATIONAL DIFFERENCES - DP19/2

On 2 May, the FCA issued a Discussion Paper (DP19/2) launching a discussion with industry, consumers and their representatives, regulators and academics to understand the changing financial needs across generations for UK financial services markets.

The Discussion Paper presents data, demographic and socio-economic trends to look at the financial needs of three generations of consumers – Baby Boomers, Generation X and Millennials. The FCA believes that to ensure financial markets work well, it needs to understand how socio-economic changes impact both

markets and individuals. The FCA want to publicly outline its understanding of the issues different generations face, bring together stakeholders to pin point issues that need a response and identify specific action the FCA can take to help the market meet these changing consumer needs.

The FCA are holding a summer conference on 2 July 2019 to discuss and debate the issues in the paper and the responses received. Comments are open to 1 August 2019.

The responses to the paper and the output from the conference will help determine the work the FCA will take forward to continue to advance its objectives under changing circumstances.

FCA LAUNCH THE FINANCIAL SERVICES REGULATORY PARTNERS PHOENIXING GROUP

On 3 May, the FCA held a round table event with its regulatory partners to build on existing collaboration and to launch a working group to tackle the ongoing issue of phoenixing in financial services.

Representatives of the Financial Services Compensation Scheme (FSCS), the Financial Ombudsman Service, the Insolvency Service and Scotland's Accountant in Bankruptcy joined the FCA to discuss approaches to tackling phoenixing and how they can work together more closely in the future by more effectively sharing data and intelligence on individuals and firms.

Phoenixing in this context involves firms and individuals deliberately seeking to avoid their liabilities to consumers or poor conduct history by closing down firms – or resigning senior positions – only to re-emerge in a different legal entity. The practice can have a devastating impact on the individual consumers concerned and a knock-on effect on the wider economy.

Whilst the partners have shared information and discussed phoenixing in the past, this is the first time that they have come together as a group and in a formal way to discuss and agree to work together to tackle the issue. Sharing data on issues such as FSCS claims, complaints, unpaid Financial Ombudsman Service awards and director disqualifications is proving highly effective in preventing and detecting instances of phoenixing and in helping the FCA build cases to refuse applications for authorisation.

WEIGHING THE VALUE OF DATA - TRADE-OFFS, TRANSPARENCY AND COMPETITION IN THE DIGITAL MARKETPLACE

On 7 May, Robin Finer, Acting Chief Economist at the FCA, spoke at the Respublica conference titled 'The Value of Data, Competition, and Financial Services' in London. His speech focused on the value of data. Firstly, he considered the economic value of data for consumers, noting that it is not always clear how much information consumers give to firms that exceeds what is openly demanded and even when consumers do know how their data is being used, how much it is really 'worth' is still not known.

He also spoke about the emotional value of data for consumers leading to a lack of a fixed value for data, noting that it is essential that consumers can choose what they get in return for providing their data.

Lastly, Mr Finer spoke about the extraction of value, highlighting that while consumers may struggle to understand the value of their own data, some firms are very good at knowing the value of that information to them, and these two values may be very different.

In conclusion, Mr Finer said that regulators need to better understand the value of these datasets and how this might change over time, to support analysis of markets, inform better policy, and ensure consumers are better informed.

FINANCIAL CONDUCT REGULATION IN A RESTLESS WORLD

On 8 May, Christopher Woolard, Executive Director of Strategy and Competition at the FCA, delivered a speech at the Deloitte conduct risk roadshow about the FCA's Business Plan and priorities for the coming year and also considered the future direction of the finance sector and the regulation that governs it.

He noted there are a number of priorities that are guaranteed a place in the FCA Business Plan, even as other themes and issues vie for attention including:

- financial crime and anti-money laundering;
- firms' culture and governance;
- operational resilience; and
- the fair treatment of existing customers.

Mr Woolard then discussed:

- how the FCA is employing machine learning technology to identify firm or individuals who could pose a risk to the FCA's objectives;
- the future of regulation and now being the right time for the FCA to consider how the Principles function as part of the FCA's work on the duty of care;
- the future needs of the financial sector for the next generation, noting that the FCA should adapt to ensure that regulation meets the changing needs of the public; and
- the changing international landscape because of Brexit and the focus of the FCA to ensure that Brexit is implemented in a way that delivers upon the FCA's objectives.

In conclusion, he noted that for the FCA to continue as a forward-thinking and technology-driven regulator, it needs to react as the world changes.

LEADING THE WAY ON REGULATION

On 15 May, Karina McTeague, FCA Director of General Insurance and Conduct Specialists Supervision, spoke at the British Insurance Brokers' Association conference. The key topics she discussed were:

- the need for business models to be sustainable and analysed against the risks and opportunities of quickly evolving customer expectations;
- the importance of meeting the requirements of the Insurance Distribution Directive (IDD) to foster trust in the insurance industry; and
- that the clarity provided in the Senior Managers and Certification Regime is a matter of good business practice for firms of all sizes, not just regulatory compliance.

She also noted there is a lot going on in the insurance sector from a conduct perspective including:

- the recent thematic work on General Insurance Distribution Chains and Delegated Authorities;
- the introduction of IDD;
- publication of the findings from the Wholesale Intermediaries Market Study;
- the current Market Study in General Insurance Pricing Practices
- Brexit.

Firms therefore need to have sustainable and trustworthy strategy and business models and a customer-focused culture supported by openness, honesty and professionalism.

ENFORCEMENT ACTION

FCA REGULATORY FINES ROUND-UP

FCA regulatory fines for 2019 now total £272.9m. The following fines and related enforcement actions have been announced in the past month:

Standard Chartered Bank	The FCA has fined Standard Chartered Bank (Standard Chartered) £102,163,200 for Anti-Money Laundering (AML) breaches in two higher risk areas of its business. This is the second largest financial penalty for AML controls failings ever imposed by the FCA. The fine follows FCA investigations into two areas of Standard Chartered's business identified as higher risk: its UK Wholesale Bank Correspondent Banking business and its branches in the United Arab Emirates (UAE). The FCA found serious and sustained shortcomings in Standard Chartered's AML controls relating to customer due diligence and ongoing monitoring. Standard Chartered failed to establish and maintain risk-sensitive policies and procedures, and failed to ensure its UAE branches applied UK equivalent AML and counter-terrorist financing controls. The failings occurred in Standard Chartered's UK Correspondent Banking business during the period from November 2010 to July 2013 and in its UAE branches during the period from November 2009 to December 2014. Under the Money Laundering Regulations 2007 (MLRs), Standard Chartered was required to establish and maintain appropriate and risk sensitive policies and procedures to reduce the risk it may be used to launder the proceeds of crime, evade financial sanctions or finance terrorism. The MLRs also imposed a duty on Standard Chartered to require its global (non-EEA) branches and subsidiaries to apply policies and procedures in relation to due diligence and ongoing monitoring that are equivalent to those required of Standard Chartered in the UK. The FCA found significant shortcomings in Standard Chartered's own internal assessments of the adequacy of its AML controls, its approach towards identifying and mitigating material money laundering risks and its escalation of money laundering risks. These failings exposed Standard Chartered to the risk of breaching sanctions and increased the risk of Standard Chartered receiving and/or laundering the proceeds of crime.
Goldman Sachs International (GSI)	Goldman Sachs International (GSI) has been fined £34,344,700 by the FCA for failing to provide accurate and timely reporting relating to transaction reports between November 2007 and March 2017. GSI failed to ensure it provided complete, accurate and timely information in relation to approximately 213.6m reportable transactions. It also erroneously reported 6.6m transactions to the FCA, which were not, in fact, reportable. Altogether, over a period of 9 and a half years, GSI made 220.2m errors in its transaction reporting, breaching FCA rules. The FCA also found that GSI failed to take reasonable care to organise and control its affairs responsibly and effectively in respect of its transaction reporting. These failings related to aspects of GSI's change management processes, its maintenance of the counterparty reference data used in its reporting and how it tested whether all the transactions it reported to the FCA were accurate and complete.
Linear Investments Limited (Linear)	The FCA has published a Decision Notice concerning Linear Investments Limited that a fine of £409,300 should be imposed upon Linear for its breach of Principle 3 by failing to take reasonable care to organise and control its affairs responsibly and effectively to ensure potential instances of market abuse could be detected and reported. The failure occurred from 14 January 2013 to 9 August 2015. Linear has agreed the facts

set out in the Notice, as well as liability for the breaches identified. It disputes the penalty imposed and has referred the issue of penalty to the Upper Tribunal.

Linear is an authorised firm providing its clients with a range of brokerage services, including access to trade execution via electronic DMA. As with any other broker, inherent within Linear's business was the risk that clients may commit market abuse. Linear did not appreciate the need to undertake its own separate surveillance based on information available to it and its perspective. This reliance on the broker's surveillance was wrong.

Prior to August 2015, Linear had limited manual oversight of trading conducted through its Direct Market Access (DMA). When Linear's business model changed and trading volumes increased this manual oversight did not provide adequate monitoring. Up until November 2014, Linear mistakenly believed that it could rely upon post-trade surveillance undertaken by the brokers through which it executed transactions.

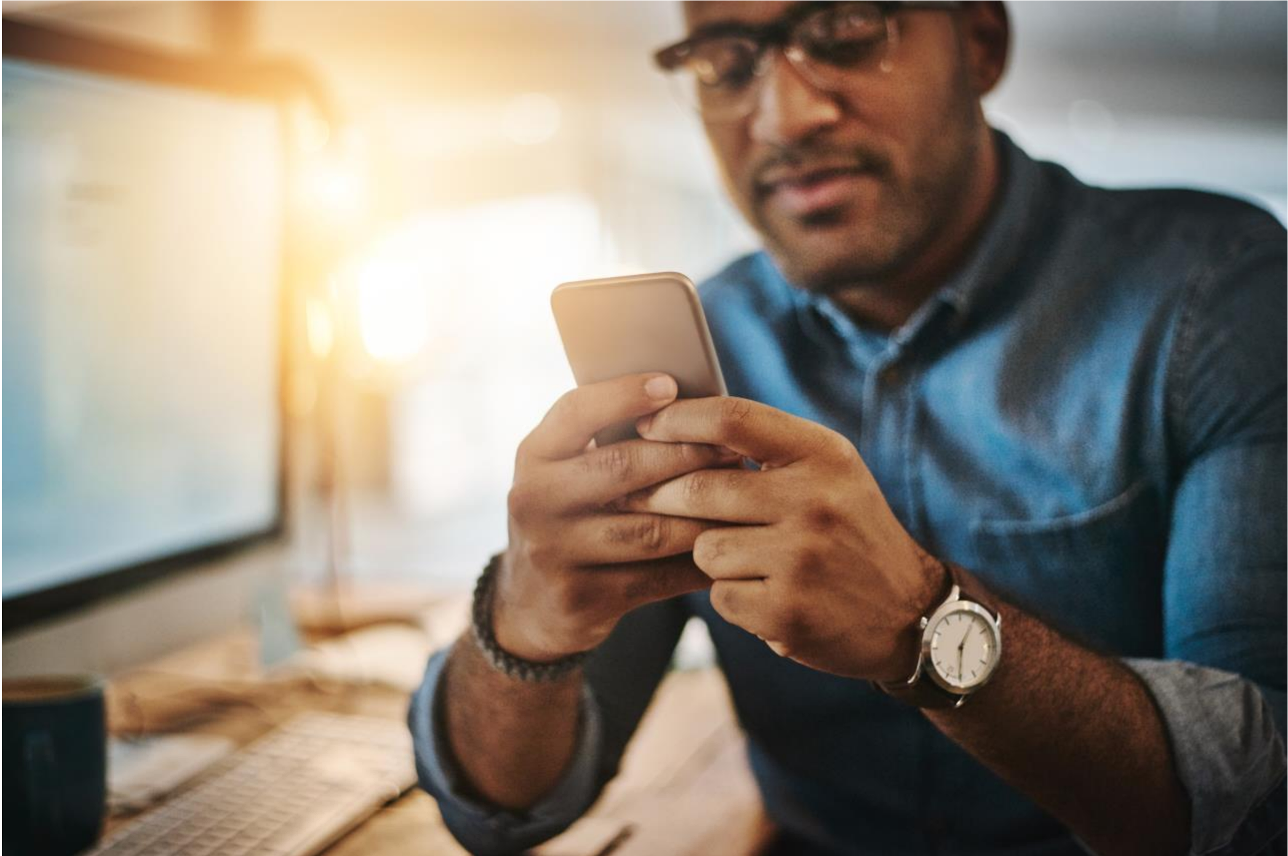
FCA PUBLISHES DECISION NOTICES AGAINST THREE FIRMS AND FIVE INDIVIDUALS FOR ACTING WITHOUT INTEGRITY IN RELATION TO THEIR PENSION ADVICE BUSINESS AND MISLEADING THE FCA

On 9 May, the FCA published Decision Notices in respect of three firms (Financial Page Ltd, Henderson Carter Associates Limited and Bank House Investment Management Limited) and five individuals (Andrew Page, Thomas Ward, Aiden Henderson, Robert Ward and Tristan Freer). Some of the Decision Notices have been referred to the Upper Tribunal but they outline the following disciplinary enforcement actions.

Firm/Individual	Sanction
Financial Page Ltd (FPL) (in liquidation)	Public Censure
Andrew Page (Director of FPL)	Prohibition and penalty of £321,033
Thomas Ward (unapproved de facto director of FPL)	Prohibition and penalty of £416,558
Henderson Carter Associates Limited (HCA) (in liquidation)	Public Censure
Aiden Henderson (Director of HCA)	Prohibition and penalty of £179,179
Bank House Investment Management Limited (BHIM)	Penalty of £311,639
Robert Ward (Director of BHIM)	Prohibition and penalty of £88,100
Tristan Freer (Director of BHIM)	Prohibition and penalty of £52,725

The FCA considers that FPL, HCA and BHIM had little meaningful oversight and involvement in the advice provided to customers in their name. They adopted a pension review and advice process which involved outsourcing important functions to unauthorised third parties and held themselves out to customers as providing bespoke independent investment advice based on a comprehensive and fair analysis of the whole market, but that did not reflect the reality of the service that was provided. In reality customers were recommended pension switches and pension transfers to products that invested in high risk, illiquid assets which were unlikely to be suitable for them. In total, 2,004 customers invested approximately £76 million of their pension assets. As at 29 January 2019, the Financial Services Compensation Scheme has paid compensation of £26.8 million to 1,106 customers of FPL, HCA and BHIM in relation to the above matter and is investigating further claims.

The directors should have known that the products were unlikely to be suitable for retail customers, except in very limited circumstances, but acted recklessly in closing their minds to the obvious risks. They were all approved persons in a controlled function at their firms and so should have known that by using the pension review and advice process they were acting recklessly. The directors also acted dishonestly by providing false and / or misleading information to the FCA, in some cases on more than one occasion.



ICO FINES PPI CLAIMS COMPANY £120,000 FOR MILLIONS OF NUISANCE TEXTS

The ICO has fined Hall and Hanley Ltd, a PPI claims management company, £120,000 for sending unlawful spam texts about its services. The company were responsible for sending 3,560,211 direct marketing text messages between 1 January 2018 and 26 June 2018 about PPI compensation claims.

The ICO launched an investigation after it became aware of a large number of complaints about the company. It found that Hall and Hanley had used a third party for this work, but did not have valid consent as required by law. Hall and Hanley claimed that consent to send the marketing had been obtained when people subscribed to one of four websites. However Hall and Hanley were named on only two of these websites' privacy policies and people were required to give consent to receive marketing from third parties as a condition of subscribing – which is against the law.

FOR MORE INFORMATION:

ALEX BARNES

+44 (0)20 7651 1213
alex.barnes@bdo.co.uk

CHARLES PORTSMOUTH

+44 (0)20 7651 1428
charles.portsmouth@bdo.co.uk

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