Compliance Consultancy

RBCCL UPDATES JUNE – JULY 2017

Compliance Consultancy

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ICO fines Satsuma Loans for spam texts

Credit company Provident, responsible for sending nearly one million nuisance texts in six months has been fined £80,000 by the Information Commissioner's Office (ICO). Satsuma employed third party affiliate companies to send 999,057 unsolicited text messages on its behalf to promote personal loans for its brand, Satsuma Loans. This was against the law as the recipients had not consented to receive such messages from the creditor.

An ICO investigation was sparked following 285 complaints to the spam reporting service between 6 April and 13 October 2015. The ICO found that one of Satsuma's affiliates had sent 868,393 unsolicited texts while another sent 130,664. It is believed that the full scale of the contravention was significantly higher as it is likely that other affiliates sent out many more.

Lloyds agrees redress scheme for mortgage arrears customers

On 27 July 2017 the Financial Conduct Authority (FCA) announced that Lloyds Banking Group (Lloyds) has agreed to set up a redress scheme for mortgage customers who incurred fees after they fell behind with their mortgage payments. Following engagement with the FCA, Lloyds acknowledged that when customers fell into arrears, they did not always do enough to understand customers' circumstances to be confident that their arrears payment plans were affordable and sustainable.

As a result, Lloyds has committed to refund all fees charged to customers for arrears management and broken payment arrangements from 1 January 2009 to January 2016. For those mortgage customers who entered its litigation process during this period, this will include any litigation fees that were applied unfairly.

Lloyds will also offer payments for potential distress and inconvenience as well as consequential loss which customers may have experienced as a result of not being able to keep up with unsustainable repayment plans. Lloyds estimates that approximately 590,000 customers will receive redress payments, totaling around £283 million.

Jonathan Davidson, Executive Director of Supervision- Retail and Authorisations at the FCA, said: "Ensuring fair treatment of customers, especially those in financial difficulties or who are vulnerable, is a key priority for the FCA. We continue to engage with Lloyds as it works to improve the way it treats customers in arrears. The redress scheme will refund the accrued interest on all fees up to the remediation date or, where customers have already paid the fees, the date when the fees were paid. Lloyds will also pay an additional 8% interest for customers deprived of funds."

Lloyds will write to all affected customers to explain the refund they will receive and to prompt them to make a claim for any distress and inconvenience they may have experienced. Lloyds will also advise customers to consider whether they suffered any consequential losses as a result of this issue, such as a direct debit fee charged because of a broken payment plan. Customers do not need to take any action until they are contacted by the bank.

FCA fines compliance oversight officer for pension transfer failings

On 14 July 2017 the FCA announced that is has fined David Watters £75,000 for failing to exercise due skill, care and diligence in his role as compliance oversight officer, firstly at FGS McClure Watters (FGS) and then Lanyon Astor Buller Ltd (LAB). Following an investigation, the FCA found that Mr Watters had failed to take reasonable steps to ensure that the process in place at FGS and LAB for giving advice on enhanced transfer value (ETV) pension transfer exercises, was adequate and met regulatory standards. This led to a serious risk of unsuitable advice being given to customers about the merits of transferring their pension.

You can read the FCA's Final Notice here:
https://www.fca.org.uk/publication/final-notices/david-samuel-watters.pdf

Consumer Contracts - first undertaking received under the Consumer Rights Act 2015

The FCA has received its first undertaking under the Consumer Rights Act 2015 following engagement with a firm regarding their contract.

The undertaking has been given by London General Insurance Company Limited. It concerns the transparency of a term in the contract for Nationwide Building Society's FlexPlus current account. This term sets out what items were covered by the Extended Warranty Protection Policy provided by the account. Lifestyle Services Group Limited administers the policy. The firms fully cooperated with the FCA in resolving their concerns.

the FCA has reminded all firms that:

- They must ensure that the terms in their consumer contracts comply with the Consumer Rights Act 2015. This requires terms to be fair and transparent - consistent with our objective of reducing harm to consumers.
- Under section 69(1) of the Consumer Rights Act 2015, if a term could have different meanings, the meaning that is most favourable to the consumer is to prevail.
- The FCA expects firms to consider the undertakings they publish as part of their risk management process (see UNFCOG 1.5).

You can read details of the undertaking here:
https://www.fca.org.uk/publication/undertakings/undertaking-london-general-insurance-company-limited.pdf

Regulatory Developments

Update on the regulatory sandbox

On 15 June the FCA announced the firms that were successful in their applications to test in the second cohort of the regulatory sandbox. The sandbox allows businesses to test innovative products, services, business models and delivery mechanisms in a live environment while ensuring that consumers are appropriately protected. It is part of Innovate, an initiative the FCA kicked off in 2014 to promote competition in the interest of consumers.

The FCA is also now accepting applications from firms to be part of the third sandbox phase. Firms have until 31 July 2017 to submit their applications. The eligibility criteria, application form and instructions on how to apply are available on the regulatory sandbox pages on the FCA's website and the regulator has stated they are keen to get applications from firms of all sizes.

You can find more information here:
https://www.fca.org.uk/news/press-releases/financial-conduct-authority-provides-update-regulatory-sandbox

FCA release next series of "now you are authorised" videos for consumer credit

On 14 June the FCA released the next in their series of "now you are authorised" videos for consumer credit firms. The four short videos are as follows:

1. **Your obligations - reporting to us**
   The FCA explains what systems you should use, along with how and what you are expected to report. This includes information on firm specific reports.
2. **Reporting significant events**
   The FCA outlines how to determine what is 'significant' and when a firm should report a significant event to them.
3. **Updating information on Connect**
   Here the FCA focuses on when and how you should update information you have previously submitted via Connect. This features clips from regulated firms.
4. **FCA Handbook: rules and principles for business**
   This outlines how you can find out what rules apply for your business and how to apply the principles for business in practice.

You can watch the latest videos here:
https://www.fca.org.uk/firms/authorisation-consumer-credit/now-you-are-authorised-video-guides

Money Laundering Regulations 2017 come into force

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) came into force on 26 June 2017. They implement the EU's 4th Directive on Money Laundering. In doing so, they replace the Money Laundering Regulations 2007 (MLR 2007) and the Transfer of Funds (Information on the Payer) Regulations 2007 which were previously in force.

The MLR 2017 was subject to two rounds of consultation, the first between September and November 2016 and the second between March and April 2017. The final instrument has not changed substantially from the most recent consultation draft. It should be noted that this is not a root and branch change. MLR 2017 constitutes an evolution of content and a reorganisation of structure. The intention is for MLR 2017 to improve upon and plug certain gaps in MLR 2007, including:

- changing the approach to customer due diligence
- seeking to prevent new means of terrorist financing, including through e-money and prepaid cards
- improving transparency of beneficial ownership of companies and trusts
- effectively enforcing sanctions.

Who is covered by MLR 2017?

For the most part, those persons covered by MLR 2017 ("relevant persons") remain the same as under the previous rules. However, there are a few differences:

- All gambling providers are now caught by MLR 2017, rather than simply holders of a casino operating licence, as under MLR 2007.
- Trustees have greater obligations relating to transparency of beneficiaries in their trusts. This point is dealt with below.
- MLR 2017 does not apply to those engaging in financial activity on a very occasional basis, with a turnover of under £100,000. This is an increase from £64,000 under MLR 2007.

What are the new requirements?

A key difference is that relevant persons are obliged to adopt a more risk-based approach towards anti-money laundering, particularly in how they conduct due diligence. Determining the appropriate level of due diligence requires analysis of risk factors based on the EU Directive and which are set out in MLR 2017. Sector-specific guidance will also follow.

Key changes for MLROs to consider include:

General risk assessment: Whereas MLR 2007 required firms to keep policies relating to risk assessment and due diligence, MLR 2017 is more prescriptive, particularly when it comes to risk mitigation procedures. MLR 2017 sets out the procedure that must be taken by a relevant person to analyse the business's potential exposure to money laundering or terrorist financing. This means that a relevant person must produce a written AML risk report addressing its customers, countries of operation, products and services, transactions, delivery channels and the size and nature of the business. The relevant person must then translate the findings of this process into written policies.

Risk mitigation policies: These policies and controls must be in writing, be proportionate to the risks identified and be approved by the relevant person's senior management. They must include internal controls over money laundering and terrorist financing risks (e.g. appointing a board member responsible for MLR 2017, screening agents and training staff). They must also include revised customer due diligence procedures as well as reporting, record keeping and monitoring requirements.

Level of due diligence: The circumstances in which simplified customer due diligence is permissible is more restricted under MLR 2017. In a significant departure from MLR 2007, and as part of the risk based approach, there ceases to be "automatic" simplified due diligence requirements for any transactions. Instead, a relevant person needs to consider both customer and geographical risk factors in deciding whether simplified due diligence is appropriate. Another major change in MLR 2017 is the creation of a "black list" of high risk jurisdictions which, if involved in a transaction, makes enhanced due diligence and additional risk assessment compulsory.

Reliance on third parties: Relevant persons are still able to rely on the CDD carried out by a third party if that third party is either subject to the MLR 2017 or an equivalent regime. However, the conditions for doing so are prescriptive. The third party must effectively provide the CDD information it has obtained and enter into a written agreement under which it agrees to provide, within two working days, copies of all CDD documentation in respect of the customer and/or its beneficial owner.

Politically exposed persons (PEPs): The parts of MLR 2007 which applied only to foreign PEPs now also apply to local PEPs. This, in practice, means enhanced due diligence requirements for a broader range of individuals who have been trusted with prominent public functions both in the UK and overseas.

New criminal offence: Any individual who recklessly makes a statement in the context of money laundering which is false or misleading commits an offence punishable by a fine and/or up to 2 years' imprisonment.

FCA publishes new webpage on notification requirements under Money Laundering Regulations 2017

On 27 June the FCA published a new webpage on the notification requirements in the Money Laundering Regulations 2017 for persons authorised under the Financial Services and Markets Act 2000 (FSMA). Regulation 23 requires FSMA-authorised persons to inform the FCA if they are undertaking money service business (MSB), or trust or company service (TCSP) activities.

There are three situations which an authorised firm may need to notify the FCA about:

1. If they conducted MSB or TCSP activity before 26 June 2017, they must notify the FCA immediately
2. If they begin to conduct MSB or TCSP activity after 26 June 2017, they must notify the FCA within 28 days of doing so
3. If they cease to provide either of these services, they must also notify the FCA within 28 days.

The webpage gives details of how firms should notify the FCA and also what MSB and TCSP activities are.

You can find the FCA's webpage here:
https://www.fca.org.uk/firms/money-laundering-terrorist-financing/reporting

FCA publishes FG17/5: The treatment of politically exposed persons for anti-money laundering purposes

On 16 March 2017, the FCA published a guidance consultation on proposed new guidance on how financial services firms should treat customers who are politically exposed persons (PEPs) when meeting their anti-money laundering obligations. On 6 July 2017, the FCA published the finalised guidance, together with a summary of feedback received.

The finalised guidance states that the FCA expects firms to take appropriate but proportionate measures in meeting their financial crime obligations. It also provides clarity on how firms should apply the definitions of a PEP in the money laundering regulations in the UK. The FCA says that the EU is currently negotiating targeted amendments to the 4th Money Laundering Directive and the final text may impact this guidance.

You can read the guidance consultation here:
https://www.fca.org.uk/publication/finalised-guidance/fg17-05.pdf

New super trade body launches for UK financial services

On 3 July UK Finance, the new merged trade association representing the finance and banking industry in the UK, launched.

UK Finance will represent more than 300 firms in the UK providing credit, banking, markets and payment-related services. Its members offer financial and advisory services across both mutual and corporates, representing regional, national, domestic and international businesses. The new association brings together the Asset Based Finance Association; the British Bankers' Association, the Council of Mortgage Lenders, Financial Fraud Action UK, Payments UK and The UK Cards Association.

In a launch statement, the new association said its role will be to help members build customer trust, facilitate industry-wide collaboration and innovation, and work with policy makers and regulators in the UK, EU and at a global level, to ensure the UK retains its position as a "global leader in financial services".

UK Finance said its board will focus on issues of importance to retail, SME and wholesale customers including ethics, financial inclusion, financial fraud, crime, access to markets and diversity. The board will also try to ensure the consumer voice is heard with the inclusion of "a strong, independent consumer champion". There will also be overlap of board members with the Banking Standards Board.

Ofgem proposes measures for debt recovery and consumer protection

On 3 July energy regulator Ofgem proposed a series of measures to help vulnerable customers – including a price cap on the warrant of force-fitted prepayment meters. This proposal is one of many steps the regulator wants to take to ensure fairness across the market including the introduction of a safeguard tariff for vulnerable consumers to protect them from overpaying. Other measures include trialing a new 'Check Your Energy Deal' online switching service, to help customers who have been on poor value standard variable tariffs for three years or more to find cheaper deals.

The proposal on the warrant of imposed pre-pay meters, which is now out to consultation, has been amended following responses to a draft consultation in September 2016. The energy watchdog aims to introduce the new rule to protect household consumers in the process of having prepayment meters force-fitted, under warrant, for debt recovery purposes.

It proposes a price cap of £150 for the warrant suppliers to charge consumers for the force-fitting of prepayment meters – which is currently around £210 according to Ofgem research. Ofgem explained how companies are expected to use warrants as a last resort, but believe they can do more to avoid warrants where possible, including better identification of consumers in vulnerable situations throughout the debt recovery process.

Ofgem said it doesn't want any domestic energy consumer to face disproportionate or inappropriate actions or costs throughout the debt recovery process. It thinks consumers, including those in vulnerable situations, need specific protection against warrant usage and costs. Ofgem has also considered introducing a proportionality principle, covering the costs and actions of suppliers, for all customers in the debt recovery process. The intention here is to ensure suppliers take action and levy charges that are proportionate in all cases where they seek to recover debt from consumers.

Responses to the consultation must be submitted to Ofgem by August 29. The regulator expects to publish its final consultation later this year and implement the changes two months after publication.

You can view the consultation here:
https://www.ofgem.gov.uk/publications-and-updates/prepayment-meters-installed-under-warrant-statutory-consultation

FCA publishes PS17/15: FCA regulated fees and levies 2017/2018

On 3 July the FCA published a policy statement containing its 2017/2018 periodic regulatory fees and levies for the FCA, the FOS general levy, the Money Advice Service, pensions guidance levies and the new illegal money lending levy. It also contains the FCA's feedback on the responses to its April 2017 consultation paper on the draft fees and levies rules.

You can read the policy statement here:
https://www.fca.org.uk/publication/policy/ps17-15.pdf

FCA publishes CP17/20: Staff incentives, remuneration and performance management in consumer credit

On 4 July the FCA published a consultation paper on measures to address risks that can arise from the way consumer credit firms pay or incentivise their staff. The consultation affects firms that are engaged in credit-related activity and are not subject to any of the existing remuneration arrangements in the Senior Management Systems and Controls sourcebook (therefore the majority of consumer credit firms).

The FCA has completed a thematic review of staff incentives, remuneration and performance management with 98 consumer credit firms and, from that sample, found that some firms have inadequate systems and controls to manage the risk of staff incentives. Additionally, some of these firms had not recognised the potential harm to customers that these schemes could pose. The key finding from the FCA's review are found in chapter 2 of the paper.

In the consultation, the FCA proposes a requirement on firms to detect and manage the risks to customers arising from their remuneration or performance management practices. It also sets out guidance to assist firms in identifying features of their arrangements that might give rise to potential harm to consumers and ways they can more effectively manage those risks.

Comments are requested by October 2017 and, depending on the nature of responses, the FCA expects to publish a policy statement in early 2018.

You can read the consultation here:
https://www.fca.org.uk/publication/consultation/cp17-20.pdf

Government bans "rip-off" card charges

On July 19 the Treasury announced that the ban on surcharging will extend to all retail payment instruments from January 2018. Payment instruments are the systems used when non-cash payments are made, such as paying using debit or credit cards, credit transfers, direct debits or e-money.

The rules have been consulted as part of the EU Payment Services Directive (PSD2) which will also tackle surcharging by local councils and government agencies. In 2010, the government found the total value of surcharges for debit and credit cards was an estimated £473m.

Stephen Barclay, economic secretary to the Treasury, said: "Rip-off charges have no place in a modern Britain and that's why card charging in Britain is about to come to an end. This is about fairness and transparency, and so from next year there will be no more nasty surprises for people at the check-out just for using a card."

Barclay said this action forms part of the government's wider help for families with the cost of living by helping to raise their incomes and keep more of what they earn. The Financial Conduct Authority has also been reviewing credit cards as part of its high-cost credit review, which is soon to be published.

The government said this ban will be easier to enforce than the current position where merchants pass on costs to the consumer without them having an easy way of knowing what those costs are. However, the ban will not be extended to commercial payment instruments.

FCA publishes CP17/25: Individual Accountability: Extending the Senior Managers & Certification Regime to all FCA firms

On 26 July the FCA confirmed proposals to extend the Senior Managers and Certification Regime (SM&CR) to almost all regulated firms. The new regime will essentially replace the Approved Persons Regime. The aim of the new regime is to reduce harm to consumers and strengthen market integrity by making individuals more accountable for their conduct and competence. As part of this, the SM&CR aims to encourage a culture at all levels of staff taking personal responsibility for their actions and make sure firms and staff clearly understand and can demonstrate where responsibility lies.

The FCA proposes three parts to the SM&CR:

1. Five Conduct Rules that will apply to all financial services staff at FCA authorised firms. This simple set of rules means that individuals must act with integrity, act with due care, skill and diligence, be open and cooperative with regulators, pay due regard to customer interests and treat them fairly, and observe proper standards of market conduct.
2. The responsibilities of Senior Managers will be clearly set out and, should something in their area of responsibility go wrong, they can be personally held to account. The Senior Managers will be approved by the FCA and appear on the FCA Register.
3. Under the Certification Regime, firms will certify individuals for their fitness, skill and propriety at least once a year, if they are not covered by the Senior Managers Regime but their jobs significantly impact customers or firms.

The FCA is committed to ensuring that the regime is proportionate according to the size of the firm, and therefore proposes applying a baseline of specific requirements to all regulated firms, called the "core regime". For the largest and most complex firms (fewer than 1% of regulated firms) the FCA proposes some extra requirements, under the "enhanced regime".

The FCA's proposals do not affect approved persons of appointed representatives of firms. The FCA intends to confirm its approach to the SM&CR for appointed representatives in a follow-up paper later in 2017. It says that principle firms, including the senior managers of principle firms, remain fully responsible for ensuring that their appointed representatives and networks comply with FCA rules.

The FCA will consult separately later in 2017 on changes following the extension of the SM&CR. This will include how firms will transition into the new regime and any other changes the FCA needs to make to its forms and other parts of the Handbook. The FCA says that the same principles of simplicity and proportionality will apply when it considers how to transition firms to the new regime, for example, minimising the need for firms and individuals to apply for new approval as a senior manager if they are already an approved person.

The FCA is inviting responses to its consultation by 3 November 2017 and will publish policy statements in 2018. The new regime will not come into effect until it publishes its final rules and sets a date for them to commence.

You can read the consultation here:
https://www.fca.org.uk/publication/consultation/cp17-25.pdf

Creditworthiness Assessment Bill first reading in House of Lords

On 28 June 2017 the Creditworthiness Assessment Bill had its first reading in the House of Lords. The Bill requires certain matters to be taken into account when assessing a borrower's creditworthiness. In particular, the Bill amends section 64A of the Financial Services and Markets Act 2000 (FSMA) and imposes a requirement on the FCA to make rules to ensure that firms carrying on credit-related regulated activities and connected activities, and firms entering into or varying a regulated mortgage contract or home purchase plan, take into account rental payment history and council tax payment history when assessing a borrower's creditworthiness. The second reading of the Bill has yet to be scheduled.

FOS publishes annual complaints report

On 13 June the Financial Ombudsman Service (FOS) published its annual Complaints report which indicates a continued rise in complaints about payday loan companies. FOS said there were 10,529 complaints about payday loan companies in 2016/17. This is more than a three-fold increase since the 3,216 complaints in 2015/16. Complaints about consumer credit rose by 89%: 25,984 complaints were received about consumer credit and 8% of all complaints involved consumer credit.

Caroline Wayman, Chief Executive and Chief Ombudsman of the FOS said: "The most striking story has been the rise in contact we've had from people having trouble with credit. We've seen around three times last year's volumes of complaints about payday loans. And over the same period – while the numbers involved are smaller – complaints about instalment loans and guarantor loans have risen by 318% and 182% respectively."

Payment protection insurance (PPI) continues to be the highest complaint accounting for 168,769 of the total 321,283 complaints, or 53%.

Biggest increases in complaints:

- Instalment Loans +318%
- Payday Loans +227%
- Guarantor Loans +182%
- Hiring, leasing and renting +81%
- Catalogue shopping +75%
- Logbook loans +75%
- Electronic payment +73%
- Building warranty +70%
- Credit reference agencies +65%
- Hire purchase +64%

You can read the full FOS report here:
http://www.financial-ombudsman.org.uk/publications/annual-review-2017/pdf/Annualreview-fullreport-AR2016-17.pdf

Overdue bills and housing arrears triple in a decade

Debt charity Christians Against Poverty has released findings that show household bills and costs have tripled in the past ten years. A decade ago, their average customer owed £1,412 in priority arrears, a figure representing just nine per cent of that person's collective debts. In 2016, it had escalated to £4,582, nearly a third (32%) of the whole.

Chief Executive Matt Barlow said: "It's easy to say that people get into debt because they are thoughtlessly overspending. That view is now not only lacking in compassion, it's thoroughly outdated." He continued: "The vast majority of people we see have turned to credit to cover the costs of necessities like council tax, energy bills and rent. A decade ago, the pattern was different, credit was more easily found and living costs weren't so high."

The charity's latest client report outlines the facts and figures of its nationwide debt counselling service throughout the past year. Seven in ten (68%) clients fell behind with an essential bill, and for half (47%) this included rent or mortgage payments. By the time they sought help, clients had struggled to meet their basic living needs and had racked up, on average, more than ten separate debts resulting in multiple companies chasing them for money. Of the clients CAP helped in 2016:

- 47% fell behind with rent/mortgage
- 43% fell behind with council tax
- 40% fell behind with gas/electric bills
- 36% fell behind with water bills

You can read CAP's latest report here:
http://www.credit-connect.co.uk/wp-content/uploads/2017/06/Partnership-the-key-to-transforming-lives.pdf

Money Advice Service publishes toolkit for creditors

On 4 July the Money Advice Service published a toolkit for creditors which sets out best practice processes and case studies from creditors that have effective partnerships in place with the debt advice sector. The toolkit sets out seven steps to improve collaboration with debt advice agencies and better support of customers in financial difficulty. These include:

- Debt advice interventions: creditors should track the benefits bad debt advice brings to customers as well as their ability to collect arrears payments
- Customer affordability: creditors should apply the standard financial statement spending guidelines or equivalent industry guidance when agreeing affordable repayments
- Debt advice referral strategies: creditors should use this toolkit to review all customer channels and help appropriate customers to easily access independent debt advice
- Creditor oversight of referral partners: creditors should have oversight of what happens to customers post debt advice referral
- Target specific customer cohorts for debt advice intervention: the Money Advice Service shares some examples and case studies of innovative partnership working with debt advice agencies

The toolkit will be updated periodically as practices and technology improve and the Money Advice Service will also use this publication as a template to produce other toolkits for specific creditor types.

You can access the toolkit here:
https://masassets.blob.core.windows.net/cms/files/000/000/780/original/MAS0003_Collaborative_working_Final_W.pdf

FCA publishes findings on handling of packaged bank account complaints

On 7 July the FCA published a new webpage on the findings from its review of how firms handle complaints about packaged bank accounts. The FCA originally published the findings of its thematic review of packaged bank accounts in October 2016, which found weaknesses in how firms handled complaints about these products as of the end of 2014. When it published the findings, the FCA committed to reviewing more recent complaint standards, specifically relating to complaints where the customer claimed that their packaged account was mis-sold.

The FCA has now completed this follow-up review, covering complaints received by firms between March and May 2016. Though the review was limited to a review of complaints handling in relation to packaged bank accounts, the findings will be of wider interest to other types of FCA regulated firms:

Customer outcomes: while firms have made progress in how they investigate complaints, the FCA also found that firms could do more to ensure consistency in how they deliver fair outcomes.

Final response letters: firms could improve the final response letters in a number of ways, for example, by setting out the letters in a helpful and clear way, using information that is specific to the customer rather than relying on generic information, accurately reflecting the investigation that was actually undertaken, and fully addressing every complaint point.

Record keeping: the FCA found that firms could improve the audit trail in the complaint files.

The FCA has provided individual feedback to all of the firms involved in the follow-up review. It will also be communicating with firms who were not part of the review, inviting them to an industry-wide roundtable where the FCA will discuss its findings.

You can find the FCA webpage here:
https://www.fca.org.uk/publications/multi-firm-reviews/handling-complaints-packaged-bank-accounts

Certification regime: Banking Standards Board consultation on draft guidance

On 13 July the Banking Standards Board (BSB) published a consultation paper which seeks views on its proposed draft guidance on dealing with the risks and issues that may arise when firms are assessing the fitness and propriety of their staff as required by the certification regime.

The guidance is intended to support the BSB's fitness and propriety assessment principles by providing further good practice guidance in relation to Principle 4 (establishing pass/fail criteria) and Principle 5 (evidencing the fitness and propriety assessment). This draft guidance is intended to help firms and individuals making certification decisions, especially in cases where the issues are not clear-cut. It includes:

- factors to consider when evaluating the evidence used in assessing fitness and propriety
- an overview of the options available to firms in making certification decisions
- examples of dealing with certification risks and issues
- good practice in recording the outcomes of an assessment

Comments are requested by 9 September 2017.

You can read the consultation here:
https://www.bankingstandardsboard.org.uk/wp-content/uploads/2017/07/BSB-risks-and-issues-consultation-document.pdf

FCA publishes TR17/1: Customer understanding: retail banks and building societies

On 17 July 2017 the FCA published a report which gives findings from its thematic review into firms' assessment of customer understanding of transactions delivered by retail banks and building societies to consumers. The FCA had previously commissioned a survey of 17 retail banks and building societies to review how they assess their customers' understanding of the products they bought and published the results in April 2016. The FCA said it would continue to monitor this area and undertake follow up work and this has now been completed through a thematic review involving 18 retail banks and building societies. Though the review was limited to retail banks and building societies, the findings will be of interest to any FCA authorised firm:

- Firms are increasingly alert to the importance of assessing customer understanding
- Some firms have made good progress in developing practices to help ensure their customers have a reasonable opportunity to understand the products they have bought
- A few firms continue to confuse customer understanding with customer satisfaction
- The most developed systems and practices for checking customer understanding are undertaken post-sale, for example, through customer contact exercises
- Practices appeared least developed in the area of online sales, but a number of firms were taking steps to develop this area further

In the report, the FCA sets out examples of how firms are trying to ensure that customers have a reasonable opportunity to understand a transaction in line with the Parliamentary Commission on Banking Standards' recommendations.

You can read the FCA's report here:
https://www.fca.org.uk/publication/thematic-reviews/tr17-1.pdf

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