

Regulatory Update

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UK Edition

INDEX

APRIL 2021

1.0 FCA UPDATES & DEVELOPMENTS	2
1.1 FCA Consults on Changes to UK MiFID's Conduct and Organisational Requirements	2
1.2 FCA Consults on New UK Prudential Regime for MiFID Investment Firms	2
1.3 FCA Publishes Discussion Paper on Strengthening Financial Promotion Rules	2
1.4 FCA to Publish 2021/22 Business Plan in July 2021	2
1.5 FCA Consults on FCA Periodic Fees	2
2.0 PRA UPDATES & DEVELOPMENTS	3
2.1 PRA Publishes Consultation Paper to Correct Remuneration Definition	3
3.0 EU REGULATORY UPDATES	3
3.1 ESMA Updates SFTR Q&As	3
4.0 FINANCIAL CRIME	3
4.1 JMLSG Publishes Proposed Revisions to Part II of its Guidance	3
4.2 First Sanctions in UK Under New Global Anti-Corruption Regime	3
5.0 ENFORCEMENT ACTIONS	3
5.1 FCA Commences Criminal Proceedings for Fraud and Unauthorised Business	3
5.2 FCA Secures Bankruptcy of Individuals in an Unauthorised Share Scheme	3
5.3 FCA Bans and Fines Financial Adviser for Lacking Honesty & Integrity	4
5.4 FCA Stops FXVC Offering CFDs to UK Customers	4
ABOUT US	5

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1.0 FCA UPDATES & DEVELOPMENTS

1.1 FCA Consults on Changes to UK MiFID's Conduct and Organisational Requirements

The FCA has published a consultation paper considering changes to the UK Market in Financial Instruments Directive (MiFID) conduct and organisational requirements. The FCA is considering reforms to capital markets to ensure it is adapted to the structures of UK markets. The paper is the first output and covers two changes in conduct and organisational rules: research and best execution reporting.

The consultation applies to investment firms and market operators in the UK, banks and collective investment scheme operators, article 3 firms and firms providing research not authorised by the FCA.

The deadline for comments is by 23 June 2021.

1.2 FCA Consults on New UK Prudential Regime for MiFID Investment Firms

The FCA has published a consultation paper consulting on its second phase of proposed rules to introduce the UK Investment Firm Prudential Regime ("IFPR"). IFPR is a new prudential regime for UK firms authorised under MiFID.

The paper sets out the FCA's proposals for changing prudential standards and should be read in conjunction with the first consultant paper CP20/24. The new regime will streamline and simplify the prudential requirements for MiFID investment firms that are prudentially regulated by the FCA.

Accompanying the consultation, the FCA published proposed templates for new reporting under the IFPR, as well as guidance for completing the templates. Proposed forms for applications and notifications will also be published and feedback is welcomed.

Comments are invited by 28 May 2021.

1.3 FCA Publishes Discussion Paper on Strengthening Financial Promotion Rules

The FCA has published a discussion paper on changes to strengthen its financial promotion rules for high-risk investments and for authorised firms which approved financial promotions.

The paper seeks views on three areas where changes could be made to protect consumers:

- the classification of high-risk investments
- the segmentation of the high-risk investment market
- the responsibilities of firms which approve financial promotions

The deadline for comments is 1 July 2021.

1.4 FCA to Publish 2021/22 Business Plan in July 2021

The FCA has released a statement confirming it will publish its 2021/22 Business Plan in July 2021 rather than April.

1.5 FCA Consults on FCA Periodic Fees

The FCA has published a consultation paper to consult on its periodic fee rates for the next financial year 2021/22. In addition, the FCA is also consulting on the Financial Ombudsman Service general levy, Money and Pensions Service, Devolved Authorities and illegal money-lending levies for the next financial year.

The consultation paper is relevant to all fee payers. The deadline for comments is 25 May 2021.

2.0 PRA UPDATES & DEVELOPMENTS

2.1 PRA Publishes Consultation Paper to Correct Remuneration Definition

The PRA has published a consultation paper 9/21 setting out its proposal to correct an error in the definition of 'higher paid material risk taker' within the Rulebook. The purpose of the proposal is to streamline the definition with the PRA's supervisory statement 2/17.

The paper is relevant to PRA-authorized banks, building societies and PRA-designated investment firms.

Comments are invited by 26 May 2021.

3.0 EU REGULATORY UPDATES

3.1 ESMA Updates SFTR Q&As

The European Securities and Markets Authority ("ESMA") has updated its Q&As in relation to reporting under the Securities Financing Transactions Regulation ("SFTR"). The updated Q&As complement ESMA's guidance on reporting under SFTR.

The Q&As were updated to simplify reporting of SFTs when an external portfolio manager is used.

4.0 FINANCIAL CRIME

4.1 JMLSG Publishes Proposed Revisions to Part II of its Guidance

The Joint Money Laundering Steering Group ("JMLSG") has published proposed revisions to Part II of its Guidance in Sector 15 (Trade Finance).

The deadline for comments on the proposed revision is 18 June 2021.

4.2 First Sanctions in UK Under New Global Anti-Corruption Regime

The UK has imposed asset freezes and travel bans against 22 individuals under the new Global Anti-Corruption sanctions regime. The new regime gives the UK power to stop corrupt actors profiting from the UK economy and exploiting its citizens.

The new regime will allow the UK to combat serious corruption, particularly bribery and misappropriation.

5.0 ENFORCEMENT ACTIONS

5.1 FCA Commences Criminal Proceedings for Fraud and Unauthorised Business

Following an investigation, the FCA has commenced criminal proceedings against Larry Barreto and Tassib Hussain. The proceedings relate to the offence of conspiracy to commit fraud involving both individuals, and two further offences for Mr. Barreto for carrying on regulated activities without authorisation.

Mr Barreto traded as Barreto and Partners without authorisation in Nottingham. The unauthorised business charges relate to advice provided and arrangements made regarding a series of regulated mortgage contracts. Both individuals are due to appear in court on 19 May 2021.

5.2 FCA Secures Bankruptcy of Individuals in an Unauthorised Share Scheme

The FCA has made applications to the court to petition for the bankruptcy of three defendants who have been ordered by the Court to pay £3.62 million in restitution to members of the public who bought shares that were promoted unlawfully.

The three defendants (Lee Skinner, Tyrone Miller and Clive Mongelard) have failed to satisfy the order and the FCA has made bankruptcy applications for the three individuals.

5.3 FCA Bans and Fines Financial Adviser for Lacking Honesty & Integrity

The FCA has **banned Simon Varley** from working in financial services and fined him £68,300 for knowingly performing a controlled function without approval and for providing investment advice to retail customers when he knew he was not qualified or approved to carry out the function.

Mr Varley was found to have failed to act with integrity as a Director (CF1) and Compliance Oversight (CF10) and is not a fit and proper person. The individual continually misled his fellow directors with false information that he had sat and passed relevant exams to continue providing advice. Mr Varley also provided untrue explanations to the FCA to conceal his own misconduct.

5.4 FCA Stops FXVC Offering CFDs to UK Customers

The FCA has **acted to stop a Cypriot based firm**, Finteractive Limited (trading as FXVC), from offering high risk contracts for difference (“CFD”) to UK investors.

The firm used a variety of inappropriate techniques, including misleading financial promotions which promoted the opportunity to buy shares in well-known companies but did not mention they were CFD. FXVC also used pressure tactics to encourage consumers to invest increasing sums of money, as well as declaring they were professional investors, despite not meeting the criteria.

The FCA has stopped FXVC conducting any regulated activity within the UK and required the firm to close all trading positions and return money to customers.

ABOUT CCL

Established in the UK in 1988, and 2006 in the UAE. 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 CORE
- Compliance Advisory
 - Assurance Reviews
 - Compliance Remediation
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 - Corporate Governance
 - Risk Management
- FCA Authorisation
- Prudential Rules & Regulatory Reporting
- Hot Topics
 - COVID-19
 - 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.