

# Regulatory Focus

Issue 130

In this edition of Regulatory Focus, the experts in Duff & Phelps' UK Compliance and Regulatory Consulting team, provide a detailed synopsis of the latest news and publications issued by the Financial Conduct Authority (FCA) during October 2019.

## INSIDE

### 2 VOICE

Less than a month until the implementation of the Senior Managers and Certification Regime (SM&CR)  
FCA remain concerned they don't receive enough SARs or STORs

### 4 BREXIT

UK's Exit from the EU delayed

### 5 SUPERVISORY

The European Securities and Markets Authority consults on MiFIR alignment following the introduction of EMIR Refit  
ESMA adopts MAR standards on supervisory cooperation  
ESMA publishes final report on CSDR Guidelines on standardised procedures and messaging protocols  
The European Supervisory Authorities (ESA) consult on changes to the key information document for PRIIPS  
ESMA sees significant room for improvement in national regulators supervision of derivatives data

### 9 ENFORCEMENT

The FCA fines an inter-dealer broker £15.4 million  
FCA seeks compensation for collective investment scheme investors

### 11 OTHER

ESMA prepares for new responsibilities in 2020  
ESMA updates EMIR Q&A  
ESMA updates MiFID II Q&As on transparency and market structures issues  
ESMA updates Q&A on MiFIR data reporting  
FCA urges remaining victims of Churchgate Trading Syndicate to get in touch  
Class, cliques and social codes: doing more on diversity  
Building better bridges: a world-leading investment industry around outcomes customers need  
Gabriel users share suggestions for the FCA's new data collection platform  
Steven Maijoor Speech on The Quality of Corporate  
Update on a firm's Equity Income Fund  
Regulation in a changing world  
Andrew Bailey speech at Lord Mayor's City Banquet  
The future of financial services regulation in the UK

## Less than a month until the implementation of the Senior Managers and Certification Regime (SM&CR)

The SM&CR implementation date of 9th December 2019 is creeping up fast and we would like to remind firms of the key actions they need to take before that date arrives.

- Establish whether you are a Core, Limited Scope or Enhanced firm
- Brief Senior Managers on the new regime and the impact on them as individuals
- Review and assess current governance arrangements to see whether changes need to be made in preparation for SM&CR
- Agree population of Senior Managers, Certified Staff and Conduct Rules Staff
- Review current approved persons, assess how they will be grandfathered to Senior Management Functions and make any necessary changes before the implementation date.
- Assess whether your firm has a Chair. These will not convert automatically for Limited Scope and Core firms. Firms will need to submit forms to notify the FCA where they have either Non-Executive directors or Directors who will become Chairs.
  - For a Non-Executive Chair a Form K needs to be submitted by **24 November 2019** (which is available now on Connect)
  - If the firm is going to have an Executive Chair a Form A should be submitted.
- Allocate and agree appropriate Prescribed Responsibilities to Senior Managers. (This does not apply to Limited Scope firms).
- Identify other aspects of the business that are relevant for your firm for which responsibilities need to be allocated, covering both regulated, operational and support activities. Allocate other responsibilities for areas which are relevant for your firm's business to Senior Managers. (This only applies in a limited way for Enhanced firms, who need to allocate Overall Responsibilities instead.)
- Draft, agree and finalise Statements of Responsibilities for each Senior Manager

- Undertake Fit and Proper Assessments for Senior Managers and Non-Executive Directors. (Assess how the Fit and Proper requirements apply if you are a Limited Scope firm.)
- Develop a Reasonable Steps framework for Senior Managers across the firm
- Deliver Conduct Rules Training for Senior Managers and Certified Staff
- Produce internal procedures for SM&CR, making sure they cover the requirements for Senior Managers, Certification Regime, Conduct Rules, Fitness and Propriety Checks (including Regulatory References) and update existing procedures where necessary, for instance recruitment or annual appraisal procedures.

Please note that this list is not exhaustive and only includes actions needed before 9th December 2019.

If you need assistance with your [SM&CR preparation](#) or would like to discuss our SM&CR toolkit which enables firms to implement SM&CR themselves, please contact us.

The [SM&CR Toolkit](#) contains:

- an implementation project plan which takes you through the steps you need to take to be compliant
- a grandfathering and mapping spreadsheet which helps you plan for the conversion process
- an SM&CR Handbook which can be easily tailored and adopted for your internal SM&CR procedures and also provides guidance during implementation, and
- a number of templates for implementation and ongoing business as usual.

We would be very happy to demonstrate the toolkit to provide training or other assistance to firms.

Please email [jane.stoakes@duffandphelps.com](mailto:jane.stoakes@duffandphelps.com).

## FCA remain concerned they don't receive enough SARs or STORs

We're aware that the FCA have recently reached out to firms asking them to clarify why the number of Suspicious Activity Reports (SARs) and/or Suspicious Transaction and Orders Reports (STORs) they have sent is appropriate. These firms have been asked to complete a questionnaire.

The FCA wrote to UK Finance's Chief Executive on [6 September](#) and recently published this as an open letter to underline firms' responsibilities and the FCA's expectations in this regard. SARs and STORs are a key tool for the FCA to enable it to meet its responsibility to minimise the incidence of market abuse and criminal activities which relate to trading.



## UK's Exit from the EU delayed

### 30 October

The FCA published a statement in relation to the Brexit delay, stating that firms do not need to implement their Brexit contingency plans for 31 October.

The FCA has extended the deadline for firms and funds to notify it for entry into the temporary permissions regime (TPR) to 30 January 2020, whilst fund managers have until 15 January 2020 to make any changes to existing notifications.

The arrangements regarding MiFID transaction reporting and EMIR trade reporting set out in the FCA's press release are suspended. Firms should continue to report as normal and comply with all existing regulatory requirements.

The FCA will continue to provide updates on their website and through other channels. Firms can call the FCA Brexit information line (0800 048 4255) if they are unsure what changes are required as a result of the extension or have any further questions.



## The European Securities and Markets Authority consults on MiFIR alignment following the introduction of EMIR Refit

### 4 October

ESMA launched a consultation on possible amendments to the trading obligation under MiFIR following the introduction of EMIR Refit.

Recent changes to EMIR through Refit provide an exemption to the clearing obligation for small financial counterparties and modified determination of non-financial counterparties. No direct amendments have been made to MiFIR, resulting in a misalignment between the scope of counterparties subject to the clearing obligation (CO) under EMIR and the derivatives trading obligation (DTO) under MiFIR. Instead, the EMIR Refit mandates ESMA to assess whether the DTO under MiFIR should be aligned with changes to the CO introduced by EMIR Refit, and submit its findings in a report to the Commission.

ESMA developed a range of arguments on the necessity and appropriateness of aligning both obligations within the consultation paper (CP). The initial proposal formulates a recommendation to the European Commission to align the scope of counterparties subject to the clearing and the trading obligation.

### Next steps

ESMA will consider all comments and feedback received in relation to this consultation paper by 22 November 2019 and will develop the final report accordingly. ESMA intends to submit the final report to the European Commission (EC) in early 2020. The EC's report shall be submitted to the European Parliament and to the Council by 18 December 2020.

To read the article in full click [here](#).



## ESMA adopts MAR standards on supervisory cooperation

**8 October**

ESMA has issued its final report on a set of Regulatory Technical Standards (RTS) on the application of the Market Abuse Regulation (MAR).

As markets' integration further increases, smooth cooperation between authorities, entities and public bodies is vital in order to identify and deter market abuse behaviour. As such, ESMA's RTS cover cooperation arrangements between National Competent Authorities within the EEA and their counterparts in third-countries, which it hopes will lead to the efficient exchange of information and the enforcement of obligations related to market abuse.

ESMA has submitted these RTS for endorsement to the European Commission. Once fully implemented, these RTS will form part of the single rulebook for EU securities markets.

ESMA's final report on the RTS can be found [here](#).

## ESMA publishes final report on CSDR Guidelines on standardised procedures and messaging protocols

**8 October**

ESMA has published final guidelines to clarify the scope of the requirement contained in Article 6(2) of the Central Securities Depositories Regulation (CSDR).

This requirement focusses on investment firms having processes, limiting the number of settlement fails, ensuring that firms have all necessary settlement details on the transaction business day, where possible, and to obtain settlement information from clients where they do not have it.

These guidelines include investment firms agreeing communication procedures and messaging protocols with their professional clients to ensure they receive the necessary settlement information in a timely manner; and clarify, subject to written agreements, the degree of flexibility in organising this communication.

These guidelines will be translated into the official languages of the EU and published on the ESMA website. They should start applying on the date of entry into force of the RTS on Settlement Discipline.

ESMA's final report on these guidelines can be found [here](#).

# The European Supervisory Authorities (ESA) consult on changes to the key information document for PRIIPS

16 October

ESAs have issued a Consultation Paper on amendments to the existing rules underpinning the Key Information Document (KID) for Packaged Retail and Insurance-based Investment Products (PRIIPs). The aims of the review are to:

- Address the issues identified by stakeholders and supervisors since the KIDs were implemented in 2018; and
- Make specific changes to allow the rules to be applied to investment funds which are expected to require the preparation of a KID from 1 January 2022.

The consultation paper also proposes changes relating to the following areas:

- Illustrations of what the retail investor might receive in return from their investment (performance scenarios);
- Information on what the costs of the investment are;
- Specific issues for different types of investment funds; and
- Specific issues for PRIIPs offering a range of options for investment (i.e. "Multi-Option Products").

The European Commission, in cooperation with the ESAs, is also undertaking a consumer testing exercise, in which it will assess the effectiveness of different presentations of performance scenarios, with the results expected during Q1 2020.

When deciding on their final proposals, the ESAs will consider the feedback from respondents to this consultation, as well as the results of the European Commission's consumer testing exercise. The deadline for submission of feedback is 13 January 2020.

The Consultation Paper can be found [here](#).



# ESMA sees significant room for improvement in national regulators supervision of derivatives data

17 October

ESMA has published the results of a peer review of the supervisory actions of six National Competent Authorities (NCAs) to enhance the quality of derivative data reported under the European Market Infrastructure Regulation (EMIR). This review also considered ESMA's role as direct supervisor of EU Trade Repositories (TR).

The NCAs included in the review supervise important European Union (EU) derivative markets and have key counterparties reporting their derivative trades to EU TR's:

1. The Netherlands Authority for the Financial Markets (AFM);
2. The French Authority of the Financial Market (AMF);
3. The German Federal Financial Supervisory Authority (BaFin);
4. The Central Bank of Ireland (CBoI);
5. The Cypriot Securities and Exchange Commission (CySEC); and
6. The UK Financial Conduct Authority (FCA).

The peer review considered:

- The NCAs' supervisory approach to supervising EMIR data quality
- The integration of EMIR data within the NCA's overall supervisory approach
- The NCAs' access, assessment and analysis of EMIR data quality

The majority of NCAs had a supervisory approach in place, although two were less effective at integrating EMIR data quality controls into their supervisory approach. As a consequence, this negatively impacted their ability to supervise EMIR data.

The review identified a number of good practices, which all NCAs should consider incorporating into their supervisory approaches, and ESMA suggested a number of initiatives for the short and long-term, including:

- Revising NCA's annual Data Quality Review exercises; and
- Identifying how NCA's can incorporate this data into their supervisory approach.

To read the article in full click [here](#).





## The FCA fines an inter-dealer broker £15.4 million

### 11 October

The FCA has fined an electronic and voice inter-dealer broker (the Firm) £15.4 million for failing to conduct its business with due skill, care and diligence, for not having adequate risk management systems in place and for not being open and cooperative with the FCA.

Following its investigation, the FCA concluded that between 2008 and 2010 the Firm had ineffective controls over the conduct of brokers in its Rates Division. As a result, improper trading, including “wash” trades, was a prominent feature within the division and generated unwarranted and unusually high amounts of brokerage for the Firm.

The Firm failed to act upon obvious red flags indicating broker misconduct. One example involved the Firm asking a broker about the high brokerage on one trade and the broker responding with “You don’t want to know”. However, the Firm took no further steps to identify the reasons.

The Firm also breached Principle 11 by failing to provide broker audio tapes, first requested by the FCA in August 2011, not provided by the Firm until 2014.

Mark Steward, Executive Director of Enforcement and Market Oversight at the FCA said:

“While these trades did not mislead the market, nor amount to market abuse, the wash trades were entirely improper, undermining the proper function of the market. Senior management and compliance were cocooned from seeing the misconduct, and systems and controls failed to probe broker conduct, even when warning signs were visible. The Firm’s failure to be open with the FCA about the existence of key evidence reflected a high degree of culpable incompetence and prejudiced the FCA enquiries.”

The Firm qualified for a 30% discount by agreeing to resolve the matter, otherwise the fine would have been £22 million.

The Final Notice issued to the Firm can be found [here](#).



## FCA seeks compensation for collective investment scheme investors

17 October

The FCA has started proceedings against a firm, its senior managers (including its CEO), and a number of other companies connected to the group, as a result of losses suffered by investors in one of the Firm's collective investment schemes. The FCA is seeking compensation for investors in respect of losses incurred.

The FCA alleges that the collective investment scheme ("CIS"), which raised approximately £230 million from 4,500 investors, was illegally established to operate car park investments, using investments made by the public. The FCA also alleges that the scheme was promoted to the public by the senior managers of the Firm and other companies connected to the group (the "Defendants"), using false or misleading statements, for instance that investors could realistically expect returns of 10% in years 3 and 4 of their investment and 12% in years 5 and 6, and that investments were worth 25% more than the price for which they were being sold, based on independent valuations.

The FCA alleges that the statements had no evidence to support them and the valuations were based on unrealistic returns. The FCA is, therefore, asking the Court to order the Defendants to pay a fair sum to the FCA, which will then be distributed to the investors who made a loss due to the Defendants' alleged contraventions.

The FCA is also seeking:

- A declaration that the schemes were collective investment schemes and that the Defendants have unlawfully established, operated and promoted them (or were knowingly concerned in establishing, operating and promoting them), and that the Defendants made false or misleading statements and impressions about the schemes; and
- Injunctions restraining the Defendants from repeating the same offence.

Four of the companies linked to the group who were involved in the CIS were placed in administration in July 2019.

To read the full article click [here](#).



# ESMA prepares for new responsibilities in 2020

## 1 October

ESMA has published its [2020 Work Programme](#), setting out its priorities and areas of focus for 2020 and thus supporting its mission to:

- Enhance investor protection; and
- Promote stable and orderly financial markets.

The key issue facing ESMA in 2020 is the implementation of its new mandates, and enhanced role, in areas including:

- Direct supervision;
- Supervisory convergence; strengthening the convergence powers based on the new ESMA Regulation, while ensuring consistency in the application of MiFID II/MiFIR for secondary markets. ESMA will also continue its work on the performance and cost of retail investment products, while facilitating the development of its data-driven supervision;
- Investor protection;
- Relations with third countries;
- Sustainability; and
- Technological innovation.

One obvious key uncertainty for 2020 is the UK's withdrawal from the European Union. ESMA is continuing to prepare for both a no-deal Brexit scenario and a scenario where a withdrawal agreement is reached. In the event of a no-deal Brexit, ESMA will focus on managing the immediate risks and issues.

In addition to implementing ESMA's new mandates, the other key areas of focus for ESMA during 2020 will be:

1. **Assessing Risks** – publication of its annual statistical report series based on EMIR, AIFMD and MiFID II data and promoting cooperation on risk analysis;
2. **Single Rulebook** - contributing to the implementation of the Capital Markets Union, Fintech and Sustainable Finance Action Plans, developing the necessary rules under EMIR 2.2/EMIR Refit and reviewing MiFID II/MiFIR; and
3. **Supervision** – ensuring effective supervision of Credit Rating Agencies, Trade Repositories, entities under the Securitisation Regulation and Securities Financing Transaction Regulation and Tier 2 Central Counterparties under EMIR 2.2, along with the recognition of Third-Country Central Counterparties.

To read in full click [here](#).



## ESMA updates EMIR Q&A

### 2 October

ESMA has issued an update of the Q&A's regarding data reporting issues that came from the European Markets Infrastructure Regulation (EMIR).

The Q&A's clarify a number of points, including:

- When counterparties that start taking positions in OTC derivatives need to notify the relevant National Competent Authorities (NCAs) and ESMA
- That counterparties that are not subject to the clearing obligation do not need to obtain representations from their counterparties
- How a counterparty should determine whether an entity established in a third country would be an FC+/- or NFC+/- if it was established in the Union
- How the derivatives should be reported where a Clearing Member defaults and a Central Counterparty (CCP) temporarily assumes both sides of the outstanding transactions
- How to populate the fields "Trading Venue" and "Compression" for derivatives reported at position level
- How to report derivatives based on €STR and other benchmarks that are not explicitly captured by the EMIR ITS.

To read full article click [here](#).



## ESMA updates MiFID II Q&As on transparency and market structures issues

### 2 October

These Q&As are designed to promote common supervisory approaches and practices in the application of MiFID II and MiFIR. They provide responses to general public and market participant questions on the practical application of level 1 and level 2 provisions relating to transparency and market structures issues.

ESMA will review, develop and update these Q&As where required in the coming months.

ESMA updated its Questions and Answers (Q&As) on transparency and market structures issues under the Market in Financial Instruments Directive (MiFID II) and Regulation (MiFIR).

The Q&A for transparency issues clarifies that there is only one average daily turnover (ADT) band from which to choose the highest threshold to be used to calculate the average value of transactions (AVT) for ETFs.

The market structures issues Q&A clarifies the interpretation of applying the tick size regime to periodic auctions.

To read the full article click [here](#).

## ESMA updates Q&A on MiFIR data reporting

### 7 October

The European Securities and Markets Authority (ESMA) has updated its Q&As on data reporting under the Markets in Financial Instruments Regulation (MiFIR).

These Q&As are designed to promote common supervisory approaches in the application of MiFIR and provide clarifications in relation to the submission of reference data and transactions under the legislation.

In particular this update:

- Clarifies how a FX forward transaction carried out on a trading venue should be reported under Article 26 and Article 27 of MiFIR; and
- Details new provisions for Portuguese and Romanian national client identifiers for natural persons, which are to be used in transaction reports as specified in Annex II of Commission Delegated Regulation (EU) 2017/590 (RTS 22).

The full Q&As can be found [here](#).



## FCA urges remaining victims of Churchgate Trading Syndicate to get in touch

### 8 October

Between June 2009 and February 2011, two individuals ran a trading syndicate in Newport, South Wales. The syndicate guaranteed quarterly returns of 15%, from investments in loans and spread betting, and investors were told their money would be used to trade spread bets. However, it became apparent that this was a Ponzi scheme in which investor returns were paid from other investors' money. The individuals involved obtained over £8.5m from investors in the scheme.

Following an injunction, in February 2012, the FCA prevented these individuals from running the scheme and froze their assets. In 2014, one of the individuals settled on a 'no fault' basis and paid £446,000 to the FCA. This was followed up by a High Court Order in 2014 which required the second individual to pay just over £7m to investors.

Having recovered these funds, the FCA distributed the majority of them to 93 victims in 2016. However there remains approximately £100,000 to be distributed to investors who have yet to submit their claim to the FCA. To date the FCA has been unable to trace 5 investors who they believe live, or lived, in or around South Wales.

Please see the full article [here](#) for details of how to contact the FCA if you are one of these investors.



## Class, cliques and social codes: doing more on diversity

### 10 October

Christopher Woolard, Executive Director of Strategy and Competition at the FCA, delivered a speech on diversity and inclusion (D&I) at the UBS Hedge Fund Chief Operating Officer Conference on 10th October 2019.

Mr. Woolard said that there was a challenge for asset management firms in the UK to improve their diversity. He pointed to research by the Sutton Trust which shows that 61% of asset management leaders attended independent schools. Furthermore, the same study shows that while 9% of leaders within financial services are women, this drops to 6% for asset management. Only 17% of FCA approved persons are women, a figure that has remained more or less unchanged since 2005.

He emphasised the importance of diversity in ensuring decision making received robust challenge. Diversity is important because firms are more likely to retain employees who feel included by strong diversity policies. He questioned how fund managers can make good investment decisions, if they have blind spots about how some of their clients wish them to invest.

He referred to the Investment Association's recent report on social mobility, which referred to a common desire to "recruit for familiarity or similarity", which reinforced barriers that keep "outsiders" out.

He noted the need for firms to evaluate the specific barriers in their business in order to overcome the issues surrounding D&I. Progress on D&I needs to be nurtured, iterated and evaluated. He said that firms need to set ambitious targets on D&I, if the financial services industry is to turn diversity and inclusion from an ambition to a reality.

He concluded by saying that the FCA sees D&I as a mainstream business issue that speaks to a firm's culture and conduct. The diversity of the investment sector's workforce should be an essential, appreciable aspect of the industry, which characterises its thinking and its future.

The full speech can be found [here](#).



# Building better bridges: a world-leading investment industry around outcomes customers need

11 October

The FCA has published a speech given by Charles Randell, Chair of the FCA, at the Investment Association annual dinner, at the Mansion House.

Mr. Randell emphasised the importance for savers to have access to longer-term asset classes. As a result, the FCA is:

- Working with the government on the patient capital review,
- Consulting on liberalising the permitted links regime to enable longer term investments through defined contribution pension funds, and
- Listening to the Investment Association's suggestions on the Long-Term Asset Fund.

In order to manage the illiquidity and concentration risks in private investment markets, Mr Randell highlighted the FCA's recent new rules on liquidity management and disclosure for non-UCITS funds investing in inherently illiquid assets. The FCA is also undertaking a joint review with the Bank of England to examine these issues further for all open-ended funds.

Mr Randell referred to the FCA's aim to provide fair returns to the providers of capital. In order to achieve this, the FCA has strengthened fund governance with the appointment of independent directors and required annual assessments of fund value. However, he recognised that these measures do not cover the £1 trillion of assets in unit-linked funds. The FCA is considering how best to approach improving governance and value delivery in the unit-linked sector.

He concluded his speech by saying that the FCA wants an innovative, competitive investment industry but also a successful one, which brings the benefits of global competition to consumers. To achieve these goals, the FCA has:

- Supported innovation through Project Innovate and the Sandbox,
- Provided a dedicated authorisations service for asset management firms, and
- Opened the market to funds from Hong Kong through mutual recognition.

The full speech can be read [here](#).





## Gabriel users share suggestions for the FCA's new data collection platform

14 October

The FCA has commenced work to improve the way in which data is collected from firms, and part of this improvement involves the replacement of Gabriel with a new system. The FCA previously issued a survey requesting feedback from Gabriel users and other Gabriel stakeholders with regards to the current online system.

Following feedback from over 1000 Gabriel users and Gabriel stakeholders, the FCA has identified three key areas for improvement as follows:

1. Accessing Gabriel: improvements with regards to the speed of the system and support when accessing the system;
2. Viewing the Gabriel reporting schedule: this captures both changes to the layout of the schedules together with viewing previous data submissions
3. Submitting data: captures the need for better guidance when making a data submission and advancements to the systems data validation processes

The FCA has advised that early changes to the platform will be technology focused but the platform will enable the FCA to fix issues more efficiently and the support guidance will be improved.

The FCA continues to utilise the feedback to make further improvements and the survey remains open to those who wish to provide feedback.

If you would like to read the full article, please click [here](#).

## Steven Maijoor Speech on The Quality of Corporate

15 October

Steven Maijoor, Chairman of the European Securities and Markets Authority delivered a speech in Zagreb on the signing of the new Corporate Governance Code.

Mr. Maijoor spoke about the role of corporate governance in attracting retail investors to the financial markets. He went on to suggest that if the markets, retail investors and citizens are to trust the financial markets then they need to lead by example; as it was impossible to develop a long-term financial centre without trustworthy operators.

Good corporate governance rests upon people. A strong code is helpful to understand what is expected, to align the interests of the different parties and to overcome information asymmetry. Mr. Maijoor noted that while supervisors must respect corporate governance arrangements, the aim was to ensure that the entity has the right company culture with a focus on the right people doing the right things. As ESMA is a direct supervisor it is important for them to ensure that there is strong governance with high quality people and clearly set processes.

Corporate governance is not only about respecting the long-term interest of the company and its shareholders, but also the impact it has on the wider society and the environment we work in. Mr. Maijoor mentioned how sustainable finance has been an important building block of the Capital Markets Union; which is an example of how developed financial markets can help to achieve the fundamental shift to benefit everyone's life.

Please find the full speech [here](#).

# Update on a firm's Equity Income Fund

## 15 October

Subject to approval from the FCA, the Authorised Corporate Director (ACD) of the Fund, has announced that it is seeking to begin winding-up the Fund in mid-January 2020.

### Why did the fund suspension happen?

After a rising number of investors withdrew their capital from the Fund, ACD decided to suspend the fund in June 2019. The suspension would have given the investment manager of the Fund time to restructure the fund's portfolio to achieve liquidity, thereby enabling redemption requests to be met. Had the restructuring been successful, ACD had planned to re-open the fund in December 2019.

### Why is the Fund being wound up?

Rather than reopening the fund, the ACD has decided that winding up the fund is in the best interest of investors, especially for those who had not sought redemption. The ACD had monitored the progress of the fund in disposing of less liquid assets but had not found assurance that the repositioning of the portfolio would be accomplished by December 2019.

The FCA has commented that it "welcomes the removal of uncertainty that ACD's decision provides" as it will give investors clarity on the status of their investment and enable them to receive capital sooner than they would have had the fund remained in suspension.

### What does this mean if I'm an investor in the Fund?

Under the relevant European Directive, investors must be given three months' notice of the fund's winding-up. In accordance with this timeline, the process will officially begin in mid-January 2020, whereby the fund will be closed and all investor capital will be returned by selling the underlying assets in instalments. The portfolio will continue to be restructured until the winding-up process starts.

### What are the arrangements for the management of the fund's assets?

As the fund's ACD, the ACD is responsible for winding-up the Fund. Another firm has been appointed to help sell the fund's assets and a specialist broker who was appointed during the suspension, will assist the ACD to dispose of the fund's harder to sell assets. The investment manager will no longer be the investment manager of the fund and the fund will be renamed accordingly.

### Who will return my money to me?

Investor capital will be returned in the same way the investment was made. If the investment was made directly, LFS will return the money to the investor. Those who invested via an intermediary, such as a platform provider or financial advisor, will be paid back by the relevant intermediary.

### How much of my money will I get back?

The amount of money investors will get back is dependent on the market value of the fund's underlying assets. The amount received may be less than the initial investment.

To read the article in full, please click [here](#).



## Regulation in a changing world

### 21 October

Christopher Woolard, Executive Director of Strategy and Competition at the FCA International delivered a speech at the City of London/Cicero event on the Future of Regulation.

Mr. Woolard started his speech by stating that a major selling point for the UK is the proportionate, predictable, and well-designed regulatory system which provides the basis for a competitive financial sector. However, it is evident that after the financial crisis the regulatory landscape has been constantly shifting and the importance of the regulator responding to and anticipating such changes was emphasised.

Mr. Woolard highlighted that whilst the shape Brexit takes is vitally important, it is not the main consideration driving the thinking of the FCA, as there are other factors in play that are required to be evaluated, in particular:

- Post-crisis regulation, the first wave of which is now completed, means firms are better capitalised and leaders now have clearer personal responsibilities.
- Changes in consumer needs and attitudes, long term low interest rates have strengthened the search for a return; however, consumers are getting older, have less saved and inherit assets later in life.
- Innovation has gathered pace as we move to a truly digital industry, including artificial intelligence and machine learning. Digital transformation has also led to new products finding their way direct to consumers over the internet.

Intergenerational change has placed new and different pressures on baby boomers, generation X and millennials,

meaning consumers are facing new challenges. Ordinary consumers are now required more often than not to make more complex finance decisions in comparison to a decade ago. However, as consumers take more of an active approach on their own financial decisions, it will place greater demand on the financial sector and the bodies that regulate it.

Mr. Woolard noted that the financial services industry is very different to the one in which the majority of the FCA's rules were framed and the appropriateness of the existing regulatory model must be considered – with input from the sector.

He highlighted five keys steps he believed should be taken:

- Clearly state what outcomes are wanted in markets.
- Ensure that all tools in the existing regulatory toolkit are used.
- FCA should work closely with other agencies.
- Review existing FCA Principles, Handbook and Binding Technical Standards.
- Use technology to bridge information asymmetry between consumers and providers.

In conclusion Mr. Woolard said the FCA must constantly assess the direction of travel of financial services, that regulation must be agile enough to keep pace with evolving domestic and global markets and ultimately the financial services market must serve the public interest now and in the long-term.

To see the full speech, please click [here](#).

## Andrew Bailey speech at Lord Mayor's City Banquet

### 24 October

Andrew Bailey, Chief Executive of the FCA, gave a speech at the Lord Mayor's City Banquet at the Mansion House.

Mr. Bailey discussed the following key points:

- The FCA's continued support of free trade and open global financial markets,
- The balance between investment risk taking and consumer protection, and
- The criticism faced by the FCA and its steps for improvement.

Mr. Bailey considered the "strong benefits" of free trade and open global financial markets, where financial regulatory systems in different countries seek to achieve common goals and outcomes.

Mr. Bailey spoke of striking a balance between risk taking and consumer protection, comparing the growing demand for effective intervention by the FCA against the inherent risks of investing and the need to facilitate investments in order to develop the economy. Mr Bailey asserted the public needs to receive clear, meaningful disclosure on the risks that they are taking and should expect markets that work well.

Mr. Bailey acknowledged there has been criticism directed at the FCA and other regulators about their responsiveness both in terms of promptness and timing. This criticism resulted in part from a breakdown in trust in institutions following the Financial Crisis. He noted that the FCA was making efforts to become more efficient by making major investments in data analytics to give their staff more effective tools to do their job.

Read the full article [here](#).



## The future of financial services regulation in the UK

### 29 October

Nausicaa Delfas, Executive Director International at the FCA, delivered a speech at the UK Financial Services Industry 'Beyond Brexit' Summit event on the future of financial services regulation in the UK.

Brexit has been a main talking point in the current regulatory environment and the FCA continues to prepare for all scenarios, including the default position of a no-deal exit. As a result of being actively prepared, the Financial Policy Committee of the Bank of England has concluded that the UK financial system has prepared for a disorderly Brexit.

The FCA's preparations mean that should the UK leave the EU without a deal:

- The UK's legislative and regulatory frameworks will provide much needed continuity for firms, so the rules on leaving will be much the same as today,
- Where there are changes, firms will generally have time to comply with the new rules – up to the end of December 2020,

- UK consumers can continue to receive services from EEA financial firms without interruption through the FCA's temporary permissions regime,
- For firms that do not enter the temporary permissions regime, firms will have time to wind down their UK business under the financial services contract's regime, and
- There will be continuity in the FCA's relationships and agreements with regulators around the world and EU relationships will remain strong. The FCA have agreed Memoranda of Understanding with all European Supervisory Authorities and Member States, as well as with countries across the globe.

Ms. Delfas emphasised that regardless of when and how the UK leaves the EU, the FCA will ensure it continues to work closely with the European Supervisory Authorities, national authorities in EU member states and all European policymakers. The FCA understands that it will need to continue to cooperate on firm specific issues. Cooperation with authorities have deepened with recent supervisory cooperation agreements put in place with the Dutch Authority for Financial Markets.

To see the full speech, please click [here](#).



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