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This publication is a service to our clients and friends. It is designed only to give general information on the developments actually covered. It is not intended to be a comprehensive summary of recent developments in the law, treat exhaustively the subjects covered, provide legal advice, or render a legal opinion.

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Welcome to the Regulation Round Up, a regular bulletin highlighting the latest developments in UK and EU financial services regulation.

Key developments in March 2018:

1 March

The Financial Conduct Authority (“**FCA**”) published general insurance value measures [data](#) in relation to 36 insurers (including both UK and EEA firms) for the year ending 31 August 2017. The data is aimed at helping address issues in the general insurance sector.

The FCA published a “[Dear CEO letter](#)” that it sent to firms which had entered into regulated second charge mortgage contracts, asking them to review their mortgage lending processes to address certain significant issues.

The FCA published a [speech](#) given by Andrew Bailey, FCA Chief Executive, relating to recent developments in financial markets. This included updates in relation to the implementation of the second Markets in Financial Instruments Directive (2014/65/EU) (“**MiFID II**”) and the reform of the London Interbank Offered Rate (“**LIBOR**”).

2 March

The Prime Minister, Theresa May, gave a [speech](#) on the UK’s future economic partnership with the EU. She confirmed that the UK intends to agree a free trade agreement with the EU, covering financial services and she argued for a collaborative, objective framework that is reciprocal, mutually agreed, permanent and reliable for business. She also stated that the UK would not seek to retain existing passporting arrangements, which would depend on membership of the single market and the UK implementing new EU financial services legislation automatically.

The FCA published its 20th quarterly [consultation](#) paper in which it proposed certain changes to some of the chapters set out in the FCA Handbook of rules and guidance (“**FCA Rules**”). In particular, changes are suggested to the Prudential sourcebook for Investment Firms (IFPRU), the reporting requirements in the Supervision Manual (SUP) and changes to reflect the FCA’s registered office relocation to Stratford this summer.

The International Swaps and Derivatives Association (“**ISDA**”) published an interbank offered rate (IBOR) global benchmark transition [roadmap](#), in conjunction with a number of other trade associations. The roadmap aggregates and summarises existing information issued by regulators and various risk-free rate (RFR) working groups on work carried out to date on transitioning financial products and practices from certain IBORs to selected RFRs. The roadmap covers LIBOR and certain other IBORs denominated in euro, sterling, Swiss franc, USD and yen.

6 March

The FCA published a [final notice](#) issued to Paul Flowers, a former Chair of Co-operative Bank, prohibiting him from performing any function related to any regulated activity. The FCA found that Mr. Flowers demonstrated that he lacks the fitness and propriety required to work in the financial services industry.

7 March

Philip Hammond gave a [speech](#) in relation to Brexit and financial services. He argued that a post-Brexit free trade agreement (“**FTA**”) between the UK and EU should contain extensive provisions on financial services and should enable the ongoing delivery of cross-border financial services between the UK and the EU. He argued that the partnership should be based on the following principles:

- mutual recognition and reciprocal regulatory equivalence;
- close supervisory co-operation; and
- addressing consequences of divergence in a reasonable, proportionate and predictable way.

8 March

The Department for Exiting the European Union published a [statement](#) guaranteeing Gibraltar financial services firms access to UK markets as of now until 2020. It was further stated that the UK government will work closely with the government of Gibraltar to design a replacement framework that will last beyond 2020.

The European Commission published a [communication](#): Completing the Capital Markets Union by 2019 – time to accelerate delivery and an associated Annex. The European Commission summarised its progress to date, including pending initiatives, on completing the capital markets union (“**CMU**”) by mid-2019.

The European Commission published a [communication](#) setting out its FinTech action plan, as well as FAQs and a factsheet which includes measures to create a more competitive and innovative European financial sector with regards to the FinTech industry.

The Financial Services Act 2012 (Mutual Societies) [Order](#) 2018 was published. This transfers the registration functions of the Registrar of Credit Unions for Northern Ireland to the FCA. This is in order to streamline the registration process and provide greater consistency throughout the mutuals sector.

9 March

The FCA published a [page](#) on its website announcing the launch of a survey of EEA inbound firms that passport into the UK. This survey is intended to assist in Brexit contingency planning and the possibility of a temporary permissions regime.

12 March

The European Commission published legislative [proposals](#) for a Regulation and Directive (“**Proposed Legislation**”) intended to facilitate the cross-border distribution of collective investment funds. The Proposed Legislation has set out a proposed harmonised definition of “pre-marketing” under the alternative investment fund managers’ directive (2011/61/EU).

The FCA published a discussion [paper](#) on transforming culture in financial services. The paper is intended to provide a basis for stimulating further debate as to transforming culture in the financial services sector.

13 March

The European Commission published Commission Delegated [Regulation](#) (EU) 2018/389 supplementing the second Payment Services Directive (EU/2015/2366) (“**PSD2**”) with regard to regulatory technical standards for strong customer authentication and common and secure communication under PSD2.

The UK government has issued a [call](#) for evidence in relation to understanding the role of cash and digital payments in the new economy. The call for evidence seeks to gather evidence to explore how the government can support digital payments and to crack down on the minority who use cash to evade tax and launder money.

14 March

The FCA published a [policy statement](#) on its powers to require banks to contribute to the LIBOR (PS18/5).

The FCA published a [speech](#) (given by its outgoing Chair – John Griffith-Jones) in which four major challenges facing the FCA were referred to, being:

- Brexit;
- the perimeter between policy, regulation and unregulated activity;
- the relationship between the legal and regulatory process; and
- the relationship between the regulator and regulated.

15 March

The UK Competition and Markets Authority (CMA) published draft [guidance](#) on the CMA's approach to changes to the jurisdictional thresholds for UK merger control in three defined sectors. The purpose of those changes is to ensure that the Government can intervene in mergers in those sectors which might give rise to national security implications. The consultation closes on 12 April.

The FCA published a [speech](#) by Sarah Rapson, a Director in the FCA's Authorisations team, in relation to the FCA's approach to authorisation.

The FCA published an [update](#) on its review of the motor finance sector, in which it set out its findings so far in relation to motor finance and the areas of concern that it intends to focus on for the remainder of its review of the sector.

19 March

The UK government and European Commission published a [draft withdrawal agreement](#) which includes the legal text agreed by the negotiators on the post-Brexit transition period. The UK government has now agreed that the transition period will end on 31 December 2020.

The FCA published a [speech](#) by Andrew Bailey, FCA Chief Executive, on transforming culture in financial services. In his speech, Mr. Bailey highlighted the following issues:

- the role of the FCA in relation to culture of firms;
- firms' public interest responsibilities;
- using regulation and supervision to create incentives for good culture;
- leadership in firms; and
- the importance of positive culture.

21 March

The FCA published on its [website](#) its Approach to Supervision and Approach to Enforcement. The Approach to Supervision shows how the FCA aims to be more forward-looking and pre-emptive in its supervision of firms while the Approach to Enforcement outlines how the FCA conducts investigations and its powers.

22 March

ESMA published an updated version of its [Q&A](#) in relation to the implementation of the Regulation on indexes used in financial instruments and financial contracts or to measure the performance of investment funds (2016/1011) ("BMR"). One new Q&A has been added (Q&A 6.1), which considers how supervised contributors should apply Article 16 of the BMR during the transitional period.

The FCA issued a [press release](#) in relation to the Enhanced Cooperation Agreement that it entered into with the Australian Securities and Investments Commission in relation to an extension of their existing agreement of cooperation and coordination with regard to Fintech innovation.

23 March

ESMA published an updated version of its [Q&A](#) in relation to investor protection provisions under MiFID II. In particular, these relate to topics such as inducements, information on costs and charges, post-sale reporting and the meaning of the term "ongoing relationship" which is used in various Articles of MiFID II.

ESMA published an updated version of its [Q&A](#) in relation to the Market Abuse Regulation (596/2014). Q&A 5.1, which considers the disclosure of inside information related to Pillar II requirements under Article 17 of MAR, has been updated.

28 March

The FCA published on its website a [statement](#) relating to the UK's withdrawal from the EU following the agreement reached by the UK and European Council in relation to the transitional period following the UK's withdrawal from the EU. The FCA also published a [speech](#) from Andrew Bailey in relation to the same topic.