



Michael McKee

Partner

London

T: +44 (0)20 7153 7468

F: +44 (0)20 7796 7710

M: +44 (0)7968 559 208

Michael McKee has over 30 years' experience in the financial services sector having practised at major international law firms in London. Michael also has several years of in-house experience at Citigroup where he provided legal advice to the trading floor and other parts of the business.

Michael also has wide-ranging experience of banking and investment banking issues having worked for some years as Executive Director at the British Bankers Association where he led the negotiation of major European Directives such as the Markets in Financial Instruments Directive and the Market Abuse Directive on behalf of the banking industry in the UK. His deep understanding of financial services law and regulation includes a wide range of contacts within the Financial Conduct Authority, and the Prudential Regulation Authority and contacts with regulators across Europe and elsewhere.

In February 2012 Michael was appointed as a member of the Executive Board of the International Regulatory Strategy Group of CityUK and the Corporation of London. The IRSG develops the UK financial services industry's position on a range of important international regulatory issues.

CREDENTIALS

Professional Qualifications

- Solicitor of the Senior Courts of England and Wales

Recognitions

Michael won awards for his work on financial services regulatory matters including, in particular, the implementation of the Markets in Financial Instruments Directive.

Education

RELATED SERVICES

- Litigation, Arbitration and Investigations
- Finance
- Intellectual Property and Technology
- EU Law and Policy
- Data Protection, Privacy and Security
- International Trade, Regulatory and Government Affairs
- Corporate
- Investigations
- Restructuring
- Global Governance and Compliance
- Real Estate
- Real Estate Asset Management
- Technology Transactions and Strategic Sourcing
- White Collar and Corporate Crime

RELATED SECTORS

- Financial Services
- Energy and Natural Resources
- Technology

- Queen's University, Belfast, LLB, 1st Class Hons, 1984
 - Queens' College, Cambridge, LL.M, 1st Class Hons, 1986
 - Queen Mary College, University of London, Post-Graduate Diploma in International Arbitration, Distinction, 1990
- Insurance

Memberships

- Liveryman of Worshipful Company of International Bankers
- Member of Chartered Institute of Arbitrators.

INSIGHTS

Michael is an author of FinBrief – Global finance updates blog. Read his insights on legal issues relating to finance, markets and their regulation.

Publications

No-deal Brexit: Impact on financial markets

1 September 2019

While a range of outcomes, including [a departure under the terms of the current Withdrawal Agreement](#), remains possible, it is important for businesses to plan for a no-deal Brexit, in which the UK leaves the EU without a withdrawal agreement or other deal. Here we look at the potential impact of a no-deal Brexit on the financial services industry?

Upper Tribunal publishes decision on Andrew Tinney, former COO of Barclays Wealth

26 August 2019

On 16 August 2019, the Financial Conduct Authority (the FCA) announced that the Upper Tribunal found that Andrew Tinney, the former Chief Operating Officer of Barclays Wealth and Investment Management (Barclays Wealth), breached his obligation as an approved person to act with integrity.

FCA agrees to plan for a phased implementation of strong customer authentication

14 August 2019

On 13 August 2019, the FCA announced that it had agreed a plan to give the payments and e-commerce industry extra time to implement Strong Customer Authentication (SCA).

FCA publishes findings of senior managers and certification regime stocktake report

7 August 2019

On 5 August 2019, the Financial Conduct Authority (FCA) published findings of its review into the embedding of the Senior Managers and Certification Regimes (SM&CR) in the banking sector.

EBA publishes further clarifications raised by its working group on APIs under PSD2

31 July 2019

On 26 July 2019, the European Banking Authority (EBA) published its clarifications to the fourth set of issues that had been

raised by participants of its Working Group on Application Programming Interfaces (APIs) under the revised Payment Services Directive (EU) 2015/2366 (PDS2).

FCA announces extension to its use of the Temporary Transitional Power

30 July 2019

On 25 July 2019, the FCA confirmed its intention to extend the proposed duration of directions issued under the Temporary Transitional Power (TTP) to 31 December 2020.

FCA views on artificial intelligence: Using AI for consumer good

24 July 2019

On 16th July 2019, Christopher Woolard, the Executive Director of Strategy and Competition at the Financial Conduct Authority (FCA), delivered a speech on the ethics behind Artificial Intelligence (AI) and the financial services sector.

ESMA publishes report on the licensing of Fintech business models

15 July 2019

On 12 July 2019, the European Securities and Markets Authority (ESMA) published a Report on the status of licencing regimes of Fintech firms across the European Union.

FCA proposes ban on sale of crypto-derivatives to retail consumers

9 July 2019

On 3rd July 2019, the FCA published Consultation Paper CP19/22 proposing a ban on the sale of crypto-derivatives to retail consumers (Consultation). This fulfilled the commitment it had made to explore such a ban in the UK Cryptoasset Taskforce Final Report in October 2018.

FCA sets out reasons for acting contrary to ESMA opinion on its final rules for CFDS and CFD-like options

5 July 2019

On 1 July 2019, the Financial Conduct Authority (FCA) published Policy Statement PS19/18 (PS19/18) which confirmed rules restricting the sale, marketing and distribution of contracts for difference (CFDs) and CFD-like options sold to retail consumers.

Global Financial Innovation Network publishes its 'One year on' report

5 July 2019

In June 2019, the Global Financial Innovation Network (GFIN) released its 'One Year On' Report, reflecting on its first year of operation (the Report). The GFIN is an international network of financial services regulators and relevant organisations, designed to support regulatory collaboration and cross-border testing of innovative products and technologies in the financial sector.

FCA confirms permanent restrictions on the sale of CFDS and CFD-like options to retail consumers

2 July 2019

On 1 July 2019, the Financial Conduct Authority (FCA) confirmed rules restricting the sale, marketing and distribution of contracts for difference (CFDs) and CFD-like options sold to retail consumers. This follows a previous FCA announcement on 26 April that delayed the publication of a Policy Statement and any final FCA Handbook rules until the FCA had received further consultation feedback in response to Consultation Paper 18/38 (CP18/38). The FCA has now published Policy Statement PS19/18 which summarises the consultation feedback and outlines final policy and Handbook rules.

FCA recognises voluntary FX Global and UK Money Markets Codes under its codes recognition scheme

28 June 2019

On 26 June 2019, the Financial Conduct Authority (FCA) announced that it has recognised the voluntary FX Global and UK Money Markets Codes (the Codes) under its industry codes recognition scheme. Last year the FCA launched the scheme for recognising industry codes for unregulated financial markets and activities. The Codes are the first industry codes that have received recognition under the scheme.

Wolfsberg Group publishes CBDDQ capacity building material

28 June 2019

The Wolfsberg Group, which is an association of 13 global banks, has published materials to supplement the implementation of the Correspondent Banking Due Diligence Questionnaire (CBDDQ). The CBDDQ was published on 22 February 2018 in order to update the original Wolfsberg 2004 Anti Money Laundering Questionnaire. The CBDDQ aims to set an enhanced and reasonable standard for cross-border and other higher risk correspondent banking due diligence. In the long term, if adopted across the finance industry, the CBDDQ aims to establish a better overall industry standard, combat financial crime and strengthen the international financial system.

Governor of Bank of England delivers speech on the future of finance

25 June 2019

On 20 June 2019, the Governor of the Bank of England (Bank), Mark Carney, delivered a speech outlined the findings of Huw van Steenis' report, the 'Future of Finance Review on the Outlook for the UK Financial System' (the Report), and set out the Bank's Response to the Report (the Response). The speech was delivered by the Governor at the Mansion House Bankers' and Merchant's Dinner.

EBA opinion on the elements of Strong Customer Authentication under PSD2

25 June 2019

On 21 June 2019, the European Banking Authority (EBA) published an opinion on the elements of strong customer authentication (SCA) under the second Payment Services Directive 2015/2366 (PSD2). The opinion addressed some concerns about the ability of certain actors in the payments chain to ensure compliance with SCA rules in time for the 14 September 2019 start date. The EBA also took the opportunity to provide a non-exhaustive list of the authentication approaches currently being observed in the market and whether these would be considered SCA compliant.

FCA delays publication of Policy Statement and final rules for CFDs and CFD-like options

27 MAY 2019

On 26 April 2019, the Financial Conduct Authority (FCA) announced that it will delay the publication of a Policy Statement and any final FCA Handbook rules for contracts for difference (CFDs) and CFD-like options sold to retail clients. The FCA had previously indicated that publication of a Policy Statement and final rules would take place in April 2019, but its recent statement

has announced that it now plans to publish these rules in "Summer 2019".

EMIR Refit: How market participants should prepare for the upcoming changes

24 MAY 2019

The amending regulation to the European Market Infrastructure Regulation (also known as EMIR 2.1 or EMIR Refit) will introduce several key changes to the regulation of EU derivatives from next month. On 14 May 2019, the Council of the EU adopted the amended regulation and confirmed that the final text is expected to be signed in the coming weeks, with the amending regulation entering into force 20 days after its publication in the Official Journal of the EU.

Anti-Money Laundering Bulletin - Spring 2019

23 MAY 2019

DLA Piper's Financial Services Regulatory team welcomes you to the Spring 2019 edition of our Anti-Money Laundering (AML) Bulletin. In this issue we provide updates on anti-money laundering and counter-terrorist financing news, both in the UK and internationally, covering the period from February 2019 to April 2019.

UK's payment systems regulator delays the implementation of confirmation of payee

23 MAY 2019

On 9 May 2019, the UK's Payment Systems Regulator (PSR) published a Consultation Paper announcing a delay of the implementation deadline of 'Confirmation of Payee' (CoP). You may access the Consultation Paper [here](#). CoP, was due to come into force by 1 April 2019 but will now be pushed back until 31 December 2019.

European Supervisory Authorities propose the regulation of third party cloud service providers

13 MAY 2019

On 10 April 2019, the European Supervisory Authorities (ESAs) published a Joint Advice on the need for legislative improvements relating to Information and Communication Technology (ICT) risk management in the EU financial sector (Joint Advice). The three ESAs are the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA). The Joint Advice includes, among other things, a recommendation addressed to the EU Commission to establish a framework for the oversight and monitoring of 'critical' cloud services providers.

Financial stability board progress report on reforming major interest rate benchmarks

9 MAY 2019

In late 2018, the Financial Stability Board (FSB) published a progress report on the implementation of its 2014 recommendations to reform major interest rate benchmarks as well as on its more recent work to improve contractual robustness in relation to the risk of discontinuation of major interest-rate benchmarks (Progress Report). The FSB's 2014 recommendations aimed to strengthen existing benchmarks for key Interbank Offered Rates (IBORs) in the unsecured lending markets and promote the development and adoption of alternative nearly Risk-Free Reference rates (RFRs).

ESMA letter to European commission on MiFID II and MiFIR third-country regimes

9 MAY 2019

On October 1, 2018 the European Securities and Markets Authority (ESMA) published a letter, dated September 26, 2018 from Steven Maijoor, ESMA Chair, addressed to Valdis Dombrovskis, Vice President of the European Commission. The letter discusses ESMA's concerns and proposes improvements in relation to the regime for third-country firms under the second Markets in Financial Instruments Directive (MiFID II) and Markets in Financial Instruments Regulation (MiFIR).

The Directory: a new public register for financial services

11 APR 2019

On 8 March 2019, the Financial Conduct Authority (FCA) published Policy Statement PS19/7 (Policy Statement) introducing the 'Directory', a new public register for financial services which will include information specifically on individuals. The Policy Statement summarises the feedback to Consultation Paper 18/19 and sets out the final rules establishing the Directory.

No-deal Brexit: Impact on financial markets

4 APR 2019

While a range of outcomes, including [a departure under the terms of the current Withdrawal Agreement](#), remains possible, it is important for businesses to plan for a no-deal Brexit, in which the UK leaves the EU without a withdrawal agreement or other deal. Here we look at the potential impact of a no-deal Brexit on financial services.

FCA fines UBS AG £27.6 million for transaction reporting failure

20 MAR 2019

On 19 March 2019, the FCA announced that UBS AG (UBS) has been fined £27,599,400 for failings relating to 135.8 million transaction reports between November 2007 and May 2017. A transaction report involves submitting data to the FCA that contains information relating to an individual financial market transaction. The FCA's rules on transaction reporting, previously based in the first Markets in Financial Instruments Directive (MiFID), have, from 3 January 2018, been applied by the second Markets in Financial Instruments Directive. Each report includes information about the financial instrument traded, the firm undertaking the trade, the buyer and seller, and the date and time of the trade.

Finalised Guidance on Statements of Responsibility and responsibilities maps for FCA firms under SM&CR

20 MAR 2019

On 8th March the FCA published its Final Guidance on Statements of Responsibilities (SoRs) and responsibilities maps under the Senior Managers and Certification Regime (SM&CR). The Final Guidance builds on the FCA's SM&CR guidance for solo-regulated firms published in July 2018 and followed the FCA's consultation on the subject in October 2018. It aims to give FCA solo-regulated firms practical assistance and information on preparing SoRs and responsibilities maps prior to the roll out of the new rules in December 2019.

Operational resilience and its failures in the financial services sector

18 MAR 2019

In August 2018 the Financial Conduct Authority (FCA) mandated banks start publishing information relating to major operational and security incidents. According to recent BBC findings, the data published so far show that big banks experience typically one outage per month. Between April and December, major UK banks suffered more than ten shutdowns. Barclays, followed by Lloyds, have reported the highest number of incidents.

FCA publishes findings on consumer attitudes and awareness of cryptoassets

12 MAR 2019

On 7th March 2019, the FCA published two pieces of research it had commissioned on consumers' attitudes and awareness of cryptoassets. "Cryptoassets" generally refer to cryptocurrencies (like Bitcoin) as well as other digital assets secured cryptographically.

European Banking Authority publishes opinion on deposit protection in the event of a no-deal Brexit

7 MAR 2019

On 1 March 2019, the European Banking Authority (EBA) published an Opinion on deposit protection issues arising from the UK's withdrawal from the EU (Opinion). The Opinion seeks to ensure that depositors in the EU are adequately protected also in a no-deal scenario. Most importantly, it recommends that EU branches of UK credit institutions should be required to join local EU Deposit Guarantee Schemes (DGSs) subject to the requirements of national law.

ESMA adopts recognition decision regarding Euroclear in preparation for a no-deal Brexit

7 MAR 2019

On 1 March 2019, the European Securities and Markets Authority (ESMA) announced that it will recognise Euroclear UK and Ireland Limited (Euroclear) as a third country Central Securities Depository (CSD), in the event of a no-deal Brexit (Recognition Decision). Euroclear, which is the CSD in the UK, also services Irish securities. The Recognition Decision will allow Euroclear to continue offering its services in the EU and will help avoid disruption for the Irish securities market.

Bank of England and Prudential Regulation Authority approach to no-deal Brexit

4 MAR 2019

On 28 February 2019, the Bank of England (BoE) and Prudential Regulation Authority (PRA) published a joint Policy Statement PS5/19 setting out the general approach they will follow in the event of a no-deal Brexit (Policy Statement).

FCA encourages asset managers to transition to alternative risk-free rates

1 MAR 2019

On 21 February 2019, Megan Butler, the FCA's Executive Director of Supervision: Investment, Wholesale and Specialists delivered a speech on firms' ongoing transition from the use of the London Interbank Offered Rate (LIBOR) to overnight risk-free rates (RFRs).

UK and US regulators publish joint statement ensuring continuity of derivatives trading and clearing post-Brexit

27 FEB 2019

On 25 February 2019, the Bank of England (BoE), the Financial Conduct Authority (FCA) and the US Commodity Futures Trading Commission (CFTC) published a joint statement setting out their plan to ensure the continuity of derivatives trading and clearing post-Brexit (Joint Statement).

Financial stability board publishes report on FinTech and market structure in financial services

25 FEB 2019

On 14 February 2019 the Financial Stability Board (FSB) published its FinTech and Market Structure in Financial Services Report which assessed how technological innovation may affect financial stability (Report). The Report looks at new players entering the financial services market, including Fintech firms, large technology companies as well as third-party providers of cloud computing services.

Payment systems regulator publishes market review into the supply of card-acquiring services

22 FEB 2019

On 24 January 2019, the Payment Systems Regulator (PSR) published the final Terms of Reference of its market review MR18/1.2 into the supply of card-acquiring services (ToR). This follows a consultation on the draft terms of reference in July 2018. You can find DLA Piper's summary and commentary on the consultation [here](#).

Global Financial Innovation Network formally launches

8 FEB 2019

The Global Financial Innovation Network (GFIN) launched officially in January 2019. The GFIN is an international network of financial services regulators and relevant organisations, designed to support regulatory collaboration and cross-border testing of innovative products and technologies in the financial services sector.

FCA announces further rule changes following its asset management market study

6 FEB 2019

On 6 April 2018, the UK Financial Conduct Authority (FCA) published a statement on its website regarding the regulatory treatment of cryptocurrencies and derivative instruments associated with them.

Anti-Money Laundering Bulletin - Winter 2019

30 JAN 2019

In this issue, we provide updates on AML developments in the Financial Services Sector. We offer the latest updates on Brexit, including the anti-money laundering and counterterrorist financing aspects of the Political Declaration on the future UK-EU relationship and we look at the steps that firms need to take in preparation of a 'no-deal' Brexit.

FCA proposes to exclude heads of legal as senior managers under SM&CR

28 JAN 2019

On 23rd January the FCA published a Consultation Paper 19/4 outlining several amendments to the Senior Managers and Certification Regime (SM&CR) for banking firms, insurers and FSMA-authorized solo-regulated firms. The FCA hopes that the proposals will ensure the effectiveness of the SM&CR and support its objectives of reducing harm to consumers and strengthening market integrity.

6 things to be aware of in UK residential mortgage regulation in 2019

23 JAN 2019

As the new year gets underway in earnest, DLA Piper's specialist mortgage team considers some of the key issues and developing trends affecting the UK residential mortgage market.

FCA publishes its refreshed values and conflict of interests policy

22 JAN 2019

On 3 January 2019, the Financial Conduct Authority (FCA) published a short Reference Guide clarifying its Values and Core Skills (Reference Guide). On 2 January 2019, the FCA also published its Conflict of Interests Policy, which replaces and supersedes its Code of Conduct, with effect from 1 January 2019.

FCA follows US regulators in warning firms over manufactured credit events in its latest Market Watch

22 JAN 2019

Two and a half years since the Market Abuse Regulation (Regulation 596/2014) (MAR) came into effect, the FCA released the 58th edition of its Market Watch newsletter on 17 December 2018 (Newsletter) commenting on the latest developments on market conduct and transaction reporting.

ESMA and EBA approach to Crypto-Assets

21 JAN 2019

On 9 January 2019, the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA) published Advice and a Report, respectively, on the regulatory treatment of assets secured cryptographically (crypto-assets).

FCA consultation paper and policy statement on regulatory technical standards under PSD2

15 JAN 2019

On 19 December 2018, the Financial Conduct Authority (FCA) published Consultation Paper 18/44 which proposed to make Regulatory Technical Standards for Strong Customer Authentication and common and secure open standards of communication, for the purposes of contingency planning in the event of a no-deal Brexit (Consultation Paper).

EEA firms and investment funds can now notify under Temporary Permissions Regime

10 JAN 2018

The notification window to enter the Temporary Permissions Regime (TPR) opened on 7 January 2019 and will close at the end of 28 March 2019. In the event of a 'no deal' Brexit, the TPR allows inbound passporting EEA firms and investment funds to continue carrying out regulated business in the UK for a limited period of time, while working towards obtaining authorisation or recognition.

European Commission "No Deal" Contingency Plan - Financial Services Implications

20 DEC 2018

On 19 December, the European Commission began implementing its "no deal" Brexit Contingency Action Plan. This came in the context of the continued uncertainty surrounding the ratification of the Withdrawal Agreement agreed between the EU and the UK on 25 November 2018 and last week's call by the European Council (Article 50) to intensify preparedness work against the backdrop of a potential "no deal" Brexit.

Data Protection: What should financial services firms do in the event of a no-deal Brexit?

20 DEC 2018

On 13 December 2018, the Department for Digital, Culture, Media and Sport (DCMS) published a Policy Statement clarifying how a 'no-deal' Brexit will affect UK data protection law. On the same day, the Information Commissioner's Office (ICO) published detailed guidance as well as a six-steps practical guide advising firms on how to prepare for a no-deal scenario.

PRA and BoE consult on the Resolvability Assessment Framework

19 DEC 2018

The Bank of England and the Prudential Regulation Authority have published two consultation papers to outline their proposed Resolvability Assessment Framework for banks. The regime is designed to ensure that banks are, and are able to demonstrate that they are, resolvable.

Commission refers Luxembourg to the Court of Justice for not completely implementing MLD4

17 DEC 2018

On 8 November 2018, the European Commission referred Luxembourg to the Court of Justice of the European Union (CJEU) for failing to fully transpose the fourth Anti-Money Laundering Directive (MLD4) into national law. On the same day, the Commission also sent Estonia a reasoned opinion and Denmark a letter of formal notice to assess compliance with MLD4.

EBA Finalises guidelines on the contingency mechanism exemption under PSD2

13 DEC 2018

Article 98(1) of the Second Payments Services Directive (EU) 2015/2366 (PSD2) requires the European Banking Authority (EBA) to develop Regulatory Technical Standards (RTS) on Strong Customer Authentication and common and secure communications (SCA).

FSB progress report on decline in correspondent banking

5 DEC 2018

On 16 November 2018, the Financial Stability Board (FSB) published its data report on correspondent banking as well as a progress report to the G20 Summit on the FSB action plan to assess and address the decline in corresponding banking.

ESMA renews intervention measures on Binary Options and Contracts for Difference

30 NOV 2018

On 9 November 2018, the European Securities and Markets Authority (ESMA) renewed the prohibition of the marketing, distribution and sale of binary options to retail clients for another three-month period, starting from 2 January 2019.

Financial Stability Board progress report on reforming major interest rate benchmarks

28 NOV 2018

On 14 November 2018, the Financial Stability Board (FSB) published a progress report on the implementation of its 2014

recommendations to reform major interest rate benchmarks as well as on its more recent work to improve contractual robustness in relation to the risk of discontinuation of major interest-rate benchmarks (Progress Report).

FSB appoints new Chair and Vice Chair

28 NOV 2018

On 26 November 2018, Plenary of the Financial Stability Board (FSB) unanimously agreed to appoint Randal K. Quarles, Governor and Vice Chairman for Supervision at the US Federal Reserve, as its new Chair and Klaas Knot, President of De Nederlandsche Bank, as Vice Chair.

HM Treasury consults on breathing space scheme and statutory debt repayment plan

20 NOV 2018

On 29 October 2018, HM Treasury published a consultation paper on a breathing space scheme and a statutory debt repayment plan, which were both part of the government's 2017 manifesto commitments.

FSB welcomes IAIS proposed insurance systemic risk framework

20 NOV 2018

Last week, the International Association of Insurance Supervisors (IAIS) published for consultation its proposed holistic framework for the assessment and mitigation of systemic risk in the insurance sector.

EU Commission refers Slovenia and Spain to the Court of Justice for non-implementation of MiFID II

19 NOV 2018

The Second Markets in Financial Instruments Directive 2014/65/EU (MiFID II) was required to come into force across all EU Member States on 3 January 2018. Some Member States however have not yet transposed MiFID II in full into their national law.

Financial services implications of Brexit Withdrawal Agreement

16 NOV 2018

On 14 November 2018, the European Commission and the United Kingdom's negotiators reached an agreement on the entirety of the Withdrawal Agreement of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Withdrawal Agreement). They also agreed on an outline of the political declaration on the future EU-UK relationship (Outline Declaration); a more detailed declaration will be published in due course.

The Impact of MiFID II on Dark Pools so far

13 NOV 2018

We are now 11 months after the application of the legislative framework known as the second Markets in Financial Instruments Directive 2014/65/EU (MiFID II) across the European Union.

Securities and Markets Stakeholder Group Report on Initial Coin Offerings and crypto-assets

13 NOV 2018

On 19 October 2018, the Securities and Markets Stakeholder Group (SMSG) published its Own Initiative Report advising the European Securities and Markets Authority (ESMA) on Initial Coin Offerings (ICOs) and crypto-assets (Report). In its Report the SMSG examines whether and, if so, how crypto-assets should be regulated and advises ESMA on the next steps it should take to mitigate the relevant risks, focusing particularly on investor protection issues.

EEA Firms can notify under Temporary Permissions Regime from 7 January

12 NOV 2018

On 7 November 2018, the PRA published a notice for EEA firms looking to make notifications under the temporary permission, followed by a similar notice issued by the FCA issued two days subsequent.

FCA Policy Statement on SME access to the Financial Ombudsman Service

8 NOV 2018

On 16 October 2018, the FCA published Policy Statement 18/21 on the access of Small and Medium-sized Enterprises (SMEs) to the Financial Ombudsman Service (FOS) (Policy Statement). The Policy Statement publishes rules that will extend the FOS eligibility scope, allowing larger SMEs, charities and trusts, as well as personal guarantors of loans to a business to access the service.

FCA report on money laundering and terrorist financing in the e-money sector

7 NOV 2018

On 3 October 2018, the FCA published a thematic review on money laundering and terrorist financing in the e-money sector (Thematic Review). This review was conducted to better understand how Electronic Money Institutions (EMIs) assess and mitigate money laundering-related risks.

Bank of England and Prudential Regulation Authority approach to Brexit

6 NOV 2018

On 25 October 2018, the Bank of England (BoE) and the Prudential Regulation Authority (PRA), preparing for a "no-deal" Brexit scenario, published a series of consultation papers (Consultation Package) with proposed amendments to the financial services legislation under the European Union (Withdrawal) Act 2018 (EUWA).

European Commission Publishes 2019 Work Programme

5 NOV 2018

Currently, 45 legislative proposals are pending for adoption before the European Parliament and the Council. The Commission aims to reach an agreement on these proposals, to the extent possible, before the European Elections in May 2019. The Commission will also address outstanding challenges and present new initiatives to promote the future of Europe. The Work Program includes 15 new initiatives and 10 new evaluations as part of the regulatory fitness and performance (REFIT) programme, in order to review existing legislation and ensure that it remains fit for purpose. The Commission also suggests to withdraw or repeal 17 pending proposals and existing laws.

How the Regulators will use the Senior Managers and Certification Regimes across the financial services industry

1 NOV 2018

On 25 October 2018, the Chief Executive Officer of the Prudential Regulation Authority (PRA) Sam Woods delivered an important speech at the Mansion House City Banquet.

Anti-money laundering bulletin - Autumn 2018

31 OCT 2018

In this issue we provide updates on anti-money laundering and counter-terrorist financing news, both in the UK and internationally, covering the period from July 2018 to October 2018.

Money Market Funds Regulations 2018 published

26 OCT 2018

An overview of the new regulation and its impact on money market fund managers and sponsor banks.

UK Government publishes proposed framework on post-Brexit UK-EU partnership in financial services

26 OCT 2018

An overview of the key features of the government's framework and its purpose.

Europe-wide ban on 'risky' binary options

26 OCT 2018

New requirements on Contracts for Difference introduced by ESMA

European parliament adopts resolution on distributed ledger technologies and blockchains

22 OCT 2018

On 3 October 2018, the European Parliament adopted a non-legislative resolution on distributed ledger technology (DLT) and blockchain. The resolution discusses potential benefits from the application of DLT in various sectors of the economy, including financial services, and sets out the suggested regulatory approach.

Pay.UK announced as the new name for the UK's retail payments authority

22 OCT 2018

On 18 October 2018, the New Payment System Operator (NPSO), the leading retail payments authority in the UK, was renamed and rebranded as Pay.UK.

HM Treasury proposal for temporary recognition of EU passporting firms post-Brexit

19 OCT 2018

On 8 October 2018, HM Treasury published a proposal to provide the Bank of England (BoE), the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) (together the UK Regulators) with temporary transitional powers in the event that the UK leaves the EU without an implementation period.

FCA publishes consultation paper on illiquid assets and open-ended funds

18 OCT 2018

On 8 October 2018, the Financial Conduct Authority (FCA) published Consultation Paper CP18/27 (Consultation Paper) on open-ended funds and illiquid assets. The Consultation Paper provides feedback to Discussion Paper DP17/1 and builds on the updated Recommendations on Liquidity Risk Management for Collective Investment Schemes (CISs) of the International Organisation of Securities Commissions (IOSCO), published in February 2018.

FCA guidance on statements of responsibilities and responsibilities maps under the SM&CR

16 OCT 2018

On 11 October 2018, the FCA published a guidance consultation (GC18/4) on statements of responsibilities (SoR) and responsibilities maps under the Senior Managers and Certification Regime (SM&CR). The purpose of the guidance was to give practical assistance and information to solo-regulated firms, who will be required to prepare these documents from 9 December 2019 when the SM&CR extends to all FCA authorised firms.

ESMA Letter to European Commission on MIFID II and MIFIR third-country regimes

11 OCT 2018

On 1 October 2018, the European Securities and Markets Authority (ESMA) published a letter, dated 26 September 2018, from Steven Maijoor, ESMA Chair, addressed to Valdis Dombrovskis, Vice President of the European Commission.

HM Treasury adopts draft Markets in Financial Instruments (amendment) (EU exit) Regulations 2018

10 OCT 2018

On 5 October 2018, HM Treasury published a draft statutory instrument on the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (Draft Statutory Instrument) as well as an explanatory note. The Draft Statutory Instrument seeks to ensure that the second Markets in Financial Instruments Directive (MiFID II) and Markets in Financial Instruments.

ECJ ruling on interpretation of payment account under PSD2

8 OCT 2018

On 4 October 2018, the European Court of Justice (ECJ) delivered its judgment in *Bundeskammer für Arbeiter und Angestellte v ING-DiBa Direktbank Austria Niederlassung der ING-DiBa AG (Case C 191/17) (4 October 2018)*, ruling on the interpretation of "payment account" under the Payment Services Directive (2007/64/EC) (PSD). Whilst PSD has been repealed and replaced by the second Payment Services Directive ((EU) 2015/2366) (PSD2)), PSD2 retains the same definition of "payment account".

ESMA renews restriction on Contracts For Differences

3 OCT 2018

On 28 September 2018, the European Securities and Markets Authority (ESMA) announced the renewal of the restriction on the marketing, distribution or sale of Contracts For Differences (CFDs) to retail clients, with effect from 1 November 2018 and for a further three-month period, citing "a significant investor protection concern".

Bank of England's report on the impact of climate change on the UK banking sector

3 OCT 2018

On 26 September 2018, the Prudential Regulation Authority (PRA) published a report on the impact of climate change on the UK banking sector (Report). The Report examined the financial risks arising due to climate change and impacting PRA-regulated firms, assessed how PRA-regulated firms are responding to these risks and aimed to help them understand the PRA's supervisory approach on such matters.

ESMA work programme for 2019

2 OCT 2018

On 2 October 2018, the European Securities and Markets Authority (ESMA) published its 2019 Work Programme setting out the objectives and priorities for 2019

EU commission provides definition of 'pre-marketing' under AIFMD: an end to reverse solicitation?

28 SEP 2018

In March 2018, the European Commission proposed a regulation on facilitating cross-border distribution of collective investment funds and a complementing directive amending the Alternative Investment Funds Managers Directive (2011/61/EU) (AIFMD).

FCA statement on high-risk speculative investments

14 AUG 2018

On 1 August 2018, the FCA published a statement on selling high-risk speculative investments to retail clients.

Card-acquiring services market review terms of reference published

14 AUG 2018

On 24 July 2018, the Payment Systems Regulator (PSR) announced that it plans to carry out a market review into card-acquiring services in the UK and published draft terms of reference for consultation.

Four former directors of online consumer credit broker banned for life

13 AUG 2018

On 27 July 2018, the PRA published a consultation paper on credit risk and the definition of default (CP17/18) (Consultation Paper), setting out its proposed approach to implementing the European Banking Authority (EBA)'s regulatory publications relating to the definition of default in the Capital Requirements Regulation (CRR).

PRA consults on credit risk and CRR definition of default

13 AUG 2018

On 27 July 2018, the PRA published a consultation paper on credit risk and the definition of default (CP17/18) (Consultation Paper), setting out its proposed approach to implementing the European Banking Authority (EBA)'s regulatory publications relating to the definition of default in the Capital Requirements Regulation (CRR).

FCA takes next steps towards a Global Financial Innovation Network

10 AUG 2018

On 7 August 2018, the FCA, collaborating with 11 overseas financial regulators, announced the creation of the Global Financial Innovation Network (GFIN) and together they published a consultation document about this.

EBA publishes Opinion on strong customer authentication

7 AUG 2018

On 13 June 2018, the European Banking Authority (EBA) published an important Opinion and a Consultation Paper arising from the far-reaching consequence of the second Payment Services Directive (EU) 2015/2366 (PSD 2).

New proposed rules for crowdfunding platforms

31 JUL 2018

On 27 July 2018, the FCA published a consultation paper proposing new rules for loan-based crowdfunding platforms. The proposed changes are published less than two years since the last FCA review of the sector during which time the FCA observed the various loan-based crowdfunding business models.

Approach to consumers and discussion paper on a duty of care published by the FCA

23 JUL 2018

On 17 July 2018, the FCA published two documents: its approach to consumers document and a discussion paper on a new duty of care (Discussion Paper). The publications follow an earlier consultation paper (Consultation) by the FCA and build the "Our Mission" document published in 2017. These two publications, taken together are intended to provide further clarity about the actions the FCA will take to protect consumers and ensure there are no gaps in the consumer protection regime in the financial sector.

FSB report on crypto-assets

19 JUL 2018

On 16 July 2018, the Financial Stability Board (FSB) published a report on the work undertaken by the FSB as well as other standard-setting bodies on crypto-assets. The G20 Ministers of Finance and Central Bank Governors called on the FSB to produce this report following the G20 meeting in Buenos Aires in March 2018.

FCA publishes investment platforms market study

19 JUL 2018

On 16 July 2018, the FCA published its investment platforms market study interim report (MS17/1.2) (Interim Report), outlining the FCA's view on how competition in the investment platform market works and how it would like the market to develop. The market study follows an earlier report on the asset management market study (MS15/2.3), published last year, which highlighted some potential competition issues in this sector.

Bank of England publishes speech on resilience and continuity in an interconnected and changing world

17 JUL 2018

On 13 June 2018, the Bank of England published a speech on resilience and continuity in an interconnected and changing world. The speech, delivered by Lyndon Nelson, Deputy CEO of the Prudential Regulation Authority and Executive Director of the Bank of England, tracked developments in the financial services sector over the last 30 years, focussing on the increasing dependency of the financial system on technology and data and the resultant importance of operational resilience.

PRA consults on unfunded credit protection

16 JUL 2018

The Prudential Regulation Authority has published a consultation paper in which it consults on proposals to clarify its expectations regarding the eligibility of guarantees as unfunded credit protection under the Capital Requirements Regulation.

FCA consult on complaints handling and extending the jurisdiction of the FOS for authorised push payment fraud

12 JUL 2018

The FCA and Financial Ombudsman Service (FOS) have published a joint consultation paper on firm complaints handling and extending the jurisdiction of the FOS to include handling complaints regarding authorised push payment (APP) scams in cases where the PSP who received the APP fraud funds did not do enough to prevent the fraud, or where it failed to respond to it sufficiently.

Speech by ESMA Chair on MIFID II implementation

12 JUL 2018

On 21 June 2018, Steven Maijoor, Chair of the European Securities and Markets Authority ("ESMA") delivered a keynote address at the Federation of European Securities Exchanges Convention 2018 in Vienna.

FCA statement on strong customer authentication and common and secure open standards of communication under PSD2

10 JUL 2018

On 22 June 2018, the FCA published a statement on its website, providing its response to the recent publication by the EBA of an opinion and a consultation on draft guidelines on the implementation of the strong customer authentication (SCA) and common and secure open standards of communication (CSC) regulatory technical standards (RTS) under PSD2.

EU commissioner criticises "slow and unsatisfactory" AMLD4 implementation

10 JUL 2018

The European Commission has published a speech by Věra Jourová, the European Commissioner for Justice, Consumers and Gender Equality, delivered on 25 June 2018, in which she gives a damning assessment of the implementation of the fourth Anti-Money Laundering Directive (AMLD4), describing it as "weak and unsatisfactory".

Money Market Funds Regulations 2018 published

9 JUL 2018

On 11 June 2018, HM Treasury published the Money Market Funds Regulations 2018 (the UK Regulations), which will come into

force on 21 July 2018. The UK Regulations are published in the context of the EU Regulation 2017/1131 on money market funds (the EU MMF Regulation) which will become applicable in the UK on the same date.

ESMA speech on PRIIPS implementation and costs transparency

9 JUL 2018

On 22 June 2018, the European Securities and Markets Authority (ESMA) published a speech by Steven Maijoor, Chair of ESMA, delivered at the joint European Supervisory Authorities' (ESAs) consumer protection day. Although discussing transparency of costs at length, the Speech is perhaps most notable for Mr Maijoor's comments on the implementation of PRIIPs and the ESAs' programme of action in this area.

PRA 'Dear CEO' letter on existing or planned exposure to crypto-assets

5 JUL 2018

On 28 June 2018, the Prudential Regulation Authority ("PRA") published a 'Dear CEO' letter by Sam Woods, Deputy Governor and CEO of the PRA, with regards to existing or planned exposure to crypto-assets. The purpose of the letter was to remind PRA regulated entities of their obligations and communicate the PRA's corresponding expectations.

All financial services firms to comply with the SMRC from 9 December 2019

5 JUL 2018

The FCA has also proposed to implement a new directory of financial services workers.

Europe-wide ban on risky binary options and new requirements on contracts for difference introduced by ESMA

4 JUL 2018

On 27 March 2018, the European Securities and Markets Authority (ESMA) announced a ban on the marketing, distribution and sale of binary options to retail investors. ESMA also announced that it will require a mandatory risk warning for all Contracts for Difference (CFDs) sold to retail investors. This represents the first use of ESMA's product banning powers under article 40 of the Markets in Financial Instruments Regulation.

FCA publishes rules on the extension of the SMCR to whole financial services industry and proposes new directory of financial services workers

4 JUL 2018

On 4 July 2018, the FCA published a number of documents relating to the implementation of the Senior Managers and Certification Regime (SMCR), including a consultation paper (CP18/19) outlining its proposals to introduce a new public register, the Directory, containing the details of key individuals working in the financial services industry.

Anti-money laundering bulletin - Summer 2018

3 JUL 2018

DLA Piper's Financial Services International Regulatory team welcomes you to the thirty four edition of "Exchange – International" – our international newsletter designed to keep you informed of regulatory developments in the financial services sector.

Treasury publishes responses to call for evidence on implementation of problem debt breathing space scheme

20 JUNE 2018

On 19 June 2018, the Treasury published its call for evidence response (Response) in respect of the government's proposed 2017 manifesto pledge to introduce a 'breathing space scheme' for serious problem debt (Scheme). The call for evidence for the Scheme was published in October 2017 (Call for Evidence), and the Response summarises the feedback received from over 80 unique respondents. A consultation paper is expected later in the summer with proposals for the Scheme.

Money market funds regulations 2018 published

18 JUN 2018

On 11 June 2018, HM Treasury published the Money Market Funds Regulations 2018 (the UK Regulations), which will come into force on 21 July 2018. The UK Regulations are published in the context of the EU Regulation 2017/1131 on money market funds (the EU MMF Regulation) which will become applicable in the UK on the same date.

FCA publishes dear CEO letter on cryptoassets and financial crime

12 JUN 2018

On 11 June 2018, the FCA published a dear CEO letter (Letter) to banks regarding the FCA's expectations in relation to financial crime for firms who provide services to clients who conduct business in or related to cryptoassets, or whose source of wealth derives from such assets or activities relating to such assets.

AML failings by bank result in FCA fine and restriction on new business

11 JUN 2018

The FCA has published its final notice issued to Canara Bank, levying a fine of £896,000 and imposing a restriction on accepting deposits for new customers for 147 days, for failings relating to AML systems and controls between 2012 and 2016. Canara is the UK branch of the Indian state owned bank of the same name.

Latest chapter of the FCA's high-cost credit market review

7 JUN 2018

On 31 May 2018, the FCA, following its 18-month review of the high-cost credit market, published two consultation papers pointing to the key areas of concern and focus with regards to arranged and unarranged overdrafts, the rent-to-own market, home-collected credit, catalogue credit and store card products.

New rules and guidance on persistent credit card debt

7 JUN 2018

From 1 September 2018, all firms offering credit cards to consumers will be required to comply with the new rules and guidance on persistent credit card debt and earlier intervention. The new rules have been published in the Consumer Credit sourcebook (CONC) and came into force on 1 March 2018.

The Bank of England and FCA Respond to the Brexit Transition Deal

11 MAY 2018

How have the FCA and PRA described their approaches to preparations for Brexit in light of the implementation period agreed at the March European Council? The Bank of England (which the PRA sits within) and the FCA have both welcomed the transitional Brexit agreement reached between the UK and EU27.

UK government agrees to force British Overseas Territories to increase financial transparency

11 MAY 2018

On 1 May 2018, the Minister of State for Europe and the Americas Sir Alan Duncan conceded the UK government accepted a cross party amendment that will force British overseas territories such as the British Virgin Islands and Gibraltar to establish public registers of companies incorporated within their jurisdictions.

ECB and Bank of England form new joint technical working group on Brexit risk management

8 MAY 2018

On 27 April 2018, it was announced that the European Central Bank (ECB) and the Bank of England (BoE) are to convene a joint technical working group (Working Group), commissioned by HM Treasury and the European Commission.

New rules and FCA guidance on the UK equity Initial Public Offering process

4 MAY 2018

In October 2017, the Financial Conduct Authority (FCA) published Policy Statement 17/23 (PS17/23) containing new rules and guidance on the availability of information in the UK equity Initial Public Offering (IPO) process. The rules and guidance in PS17/23 come into force on 1 July 2018. Investors, issuers, investment banks and firms that produce research should be aware of the impact of these new rules and ensure they are compliant where relevant.

ESMA publishes trading data for dark pool restrictions

16 APR 2018

On 7 March 2018, ESMA published trading volumes and calculations relating to the Double Volume Cap (DVC) under the second Markets in Financial Instruments Directive (2014/65) (MiFID II) and Markets in Financial Instruments Regulation (Regulation 600/2014) (MiFIR)).

Cheaper Euro payments and enhanced transparency of dynamic currency conversions

16 APR 2018

On 28 March 2018, the European Commission (EC) proposed two amendments to the Regulation (EC) No. 924/2009 (Cross Border Payments Regulation) to reduce the cost of intra-EU payments in Euro and enhance transparency so that consumers understand the true costs associated with dynamic currency conversions.

Finance and Markets Global Insight - Issue 14, 2018

11 APR 2018

Finance and Markets Global Insight Series

2018 brings a wealth of regulatory change which has been long in the making and is now finding its way into the law of European Member States, including for the time being, the UK. In this issue we look at the impact of a number of important new regulatory

frameworks for capital markets transactions in the EU, including how the securitization regulations will effect CLOs and proposed RTS on risk retention and homogeneity. We also reflect on MiFid II, which came into effect on 3 January 2018 presenting a second overhaul of the European financial system.

Anti-money laundering bulletin - Spring 2018

21 MAR 2018

DLA Piper's Financial Services Regulatory team welcomes you to the Spring 2018 edition of our Anti-Money Laundering (AML) Bulletin. In this issue we provide updates on anti-money laundering and counter-terrorist financing news, both in the UK and internationally, covering the period from October 2017 to February 2018.

Second FCA Consultation Paper Published On Accountability 2

21 DEC 2017

On 13 December 2017, the FCA published the second Consultation Paper (CP 17/40) on the extension of the Senior Managers and Certification Regime (SMCR) to all FCA regulated firms.

FCA issues Feedback Statement on DLT

20 DEC 2017

On 15 December 2017, the FCA published a Feedback Statement summarising the responses to its Discussion Paper on Distributed Ledger Technology (DLT) and setting out its own views on the recent developments. The Feedback Statement is divided into six sections, each relating to a specific risk or application of DLT. A particular focus is made on the potential risks of ICOs and cryptocurrency-related products like CFDs.

Payments Strategy Forum's Publication of NPA Design and Transition Blueprint

18 DEC 2017

On 13 December 2017, the Payments Strategy Forum (PSF) published its New Payments Architecture Design and Transition Blueprint. This sets out the key features, design and implementation approaches for the proposed New Payments Architecture (NPA), which provides a framework for the UK's future payments system. In this alert, we look at the key features of the NPA, the role of Direct Debits in a Push Payments world and the implementation stages which the New Payment System Operator will need to follow.

Changes in trade reporting requirements under EMIR

16 NOV 2017

In this alert, we highlight some changes in trade reporting requirements under EMIR. EMIR is the European Market Infrastructure Regulation (Regulation 648/2012) which entered into force on 16 August 2012. It requires the reporting of derivative contracts to registered trade repositories by counterparties.

For US corporates, it impacts, for example, on OTC derivative transactions undertaken by EU subsidiaries on their own behalf or intragroup.

Anti-money laundering bulletin - Autumn 2017

6 OCT 2017

Extension of the senior managers and certification regimes

4 OCT 2017

The global financial crisis highlighted the difficulties with the culture in banks and in holding individuals to account for their failings. To help prevent the reoccurrence of these failings, the Parliamentary Commission recommended a number of measures. These included the implementation of a framework to provide clarity of responsibilities, ensure accountability and improve the competence and conduct of all levels of staff.

Finance and Markets Global Insight - Issue 13, 2017

27 SEP 2017

Finance and Markets Global Insight Series

This issue of Finance and Markets Global Insight reflects the ongoing evolution of global financial markets as financiers and businesses continue to grapple with the two key themes of innovation and regulation. There's discussion on the implantation of the revised regulatory framework for derivatives and securitization, as structurers deal with variation margin implantation, and debate around Article 17 of the Securitization Regulation concerning the exclusion of self-certified mortgages. We see how the Nordics are implanting PSD 2 and look at European Central Bank guidance to banks on dealing with non-performing loans. We also weigh up the booming initial coin offerings market, and consider the European Commission's consultation on the impact of FinTech and its role in driving a more competitive and innovative European financial sector. This issue also reports on a new set of framework principles for social bonds to encourage interest in environmental, social and ethically sound investments, the European Union's plan for retail financial services and the FX Global Code. It also brings a US perspective on the risks inherent in trade and commodity finance.

Brexit and MiFID II implementation in the UK – impacts on foreign markets

14 SEP 2016

Brexit prompts legal uncertainty regarding the implementation of pending EU financial regulations.

US and EU reach an important agreement on CCP global equivalence: how will it affect you?

10 MAY 2016

This historic agreement allows market participants to use clearing infrastructures in both the US and Europe and assures a level playing field for US and EU CCPs.

[Events](#)

[Previous](#)

Today's challenges for lawyers in the payments sector

12 JUN 2019

London

Extension of the Individual Accountability Regime - Final Rules Published: breakfast briefing

5 OCT 2018
London

Digital Transformation in Financial Services

6 SEP 2018
London

Michael is a frequent speaker and commentator on financial regulation.

NEWS

DLA Piper hosts cross-group SMCR event in London

12 OCT 2017

On Tuesday 26 September, DLA Piper's F&P, IPT and Employment groups hosted a joint breakfast briefing event in the London office on the Senior Managers and Certification Regime (the SMCR). The SMCR has now replaced the approved persons regime for all FCA-authorized firms, and will have a major impact on the whole authorised community.
