



### Chris Whittaker

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Chris Whittaker is a London-based Senior Associate who specialises in financial services laws, regulations and regulatory practice. He advises clients on UK and European financial services laws including the Financial Services and Markets Act 2000, the Payment Services Directive II, the Alternative Investment Fund Managers Directive, the Market Abuse Regulation, the UK Senior Managers and Certification Regimes, as well as MIFID II.

His clients include banks, payment schemes, funds, insurers and investment firms as well as disruptive new players in FinTech. Chris advises his clients on regulatory regimes including authorisations and deal approvals, conduct of business requirements and with ensuring compliance with regulatory frameworks.

Prior to working at DLA Piper, Chris worked at the Australian corporate and financial markets regulator, the Australian Securities & Investments Commission (ASIC). At ASIC, Chris investigated and litigated financial crime matters including insider trading cases. Chris uses his regulatory experience to guide and advise clients on interactions with financial services regulatory agencies.

#### RELATED SERVICES

- Finance
- Projects, Energy and Infrastructure

#### EXPERIENCE

- Advised a New York based global fund of funds of the implications of the AIFMD in conducting European business, including raising funds from European investors
- Advised a range of clients on the requirements and processes of authorisation as a Payment Institution or an Electronic Money Institution
- Guided the negotiation for the acquisition of the operator of several major UK Payment Systems
- Assisted clients with submissions to the Payment Systems Regulator
- Developed a Market Abuse Regulation compliant policy for a major investment bank and advised on the implementation of that policy in the lead up to the commencement of the Market Abuse Regulation
- Worked in-house at a global bank on the implementation of the requirements of the UK Senior Managers Regime, Certification Regime and the impact of conduct rules applying to bank staff

- Advised a Hong Kong based fund on the application of the EU Short Selling Regulation as it applied to the fund's broader investment strategies
- Advised a major UK clearing bank on the ring fencing rules, operational continuity and meeting both the PRA's Rules and expectations
- Drafted terms and conditions and associated documentation for a new, digital and disruptive challenger bank
- Advised new and established banks on regulatory capital requirements including providing capital structuring options and recommendations

## CREDENTIALS

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### Professional Qualifications

- Solicitor of the Supreme Court of New South Wales, 2012

### Education

- University of Sydney, LL.M., 2018
- College of Law, Graduate Diploma in Legal Practice, 2012
- University of Wollongong, 1st Class Hons, BCom (Finance) LL.B., 2011

## INSIGHTS

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### Publications

#### 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.

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#### 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).

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#### The development of Open Banking in Australia

15 August 2019

As part of the initiative to facilitate Open Banking in Australia, the Treasury Laws Amendment (Consumer Data Right) Act 2019 passed into law on 1 August 2019. Open Banking involves opening up the use of banking customer data to third party providers to provide customers with new or enhanced financial services.

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#### FCA publishes findings of senior managers and certification regime stocktake report

7 August 2019

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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.

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### **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).

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### **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.

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### **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.

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### **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.

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### **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.

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### **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.

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

5 July 2019

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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.

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### **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.

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### **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.

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### **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.

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### **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.

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### **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.

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## Facebook unveils its plans for a global digital currency: the future of money?

19 June 2019

On 18 June 2019, Facebook formally announced its plans to launch a global digital currency, called 'Libra'. The Libra White Paper outlines Facebook's ambitious vision to shape the future of money by establishing a new decentralised blockchain, a low-volatility cryptocurrency and a smart contract platform.

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## 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".

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## 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.

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## 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.

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## 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.

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## 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.

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## **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.

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## **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.

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## **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.

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## **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).

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## **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.

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## **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.

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## **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.

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## **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-authorised 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.

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## **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.

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## **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.

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## **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).

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## **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).

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

10 JAN 2018

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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.

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## **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.

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## **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.

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## **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.

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## **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).

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## **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.

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## **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.

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## **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.

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## **Europe-wide ban on 'risky' binary options**

26 OCT 2018

New requirements on Contracts for Difference introduced by ESMA

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## **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).

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## **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).

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## **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.

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## **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.

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## **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,

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the Directory, containing the details of key individuals working in the financial services industry.

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### **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.

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### **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.

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### **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)).

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### **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.

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### **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.

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### **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.

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## 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.

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- Chris has published his empirical research examining stock market manipulation on the Hong Kong Stock Exchange in Gerace, Chew, Whittaker and Mazzola, *Stock Market Manipulation on the Hong Kong Stock Exchange*, *Australasian Accounting, Business and Finance Journal*, 8(4) 2014, 105-140
- Chris has authored articles in DLA Piper's *Exchange - International* including articles on interchange payment card fee regulation in the UK, the implications of the Market Abuse Regulation on market soundings and HM Treasury extending the Senior Managers Regime to all FSMA-authorized firms

## Events

### Previous

#### WIN: FCA/PRA Senior Managers and Certification Regime - Breakfast Briefing

6 NOV 2018  
Manchester

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

5 OCT 2018  
London

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#### Cryptocurrency Conference

26 APR 2018

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#### Extension of the individual accountability regime: breakfast briefing

7 NOV 2017  
Manchester

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## NEWS

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#### 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 authorized community.

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