



## March 2017

For more information,  
please contact:

### Andrew Wingfield

Partner

t: +44.20.7280.2021

[awingfield@proskauer.com](mailto:awingfield@proskauer.com)

### John Verwey

Special Regulatory Counsel

t: +44.20.7280.2033

[jverwey@proskauer.com](mailto:jverwey@proskauer.com)

### Fiona Beatty

Special Technology Media &

Telecommunications Counsel

t: +44.20.7280.2037

[fbeatty@proskauer.com](mailto:fbeatty@proskauer.com)

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.

© 2017 PROSKAUER ROSE LLP  
All Rights Reserved.

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

Key developments in March 2017:

### 1 March

The FCA published its [Consultation Paper](#) on "Reforming the availability of information in the UK equity IPO process" (CP17/5). The CP proposes a package of policy measures to address identified concerns and improve the IPO process in the interest of issuers and investors.

### 2 March

FCA published its [Policy Statement](#) on "Payment protection insurance complaints" (PS17/3). This set out the FCA's feedback on CP16/20 and final rules and guidance, covering (among other things) a new rule that sets a deadline by which consumers will need to make their PPI complaints or lose their right to have them assessed by firms or by the Financial Ombudsman Service. This rule will come into force on 29 August 2017, with the deadline falling on 29 August 2019.

### 3 March

The FCA published its Quarterly [Consultation Paper](#) No.16 (CP17/6). This includes a proposal to amend the Market Conduct Sourcebook to reflect the ESMA guidelines on commodity derivatives that became effective this month.

The FCA published two press releases: one on "[Investment managers still failing to ensure effective oversight of best execution](#)", and another on "[Firms continue to fail to meet our expectations on their use of dealing commission](#)". These releases are instructive for firms in setting out the FCA's expectations for compliance in these areas.

The Information Commissioner's Office updated its [paper](#) on Big data, artificial intelligence, machine learning and data protection. The paper discusses some of the tools and approaches that can help organisations ensure that big data processing complies with data protection requirements, including in the context of the new General Data Protection Regulation ("GDPR") coming into force in May 2018.

### 6 March

The FCA [published](#) "Insurance Distribution Directive Implementation – Consultation Paper I" (CP17/7). This is the first of two FCA Consultation Papers on implementing the IDD. The second consultation paper will be published later in 2017.

### 7 March

The rules regarding regulatory references for Senior Managers and staff in the Certification Regime came into force. The Certification Regime applies to staff in roles that can cause 'significant harm' to either the firm or its customers. In essence, firms covered by the regime will be required to take reasonable steps to obtain references from former employers of individuals applying for regulated roles with them. The references should cover the candidate's employment in the previous six years and must be requested from all types of employer, regardless of their regulated status. The rules can be found in the [FCA's PS 16/22](#).

Ben Morgan, Joint Head of Bribery and Corruption at the SFO, gave a [speech](#) on "The future of Deferred Prosecution Agreements after Rolls-Royce" (8 March 2017).

### 8 March

The European Commission adopted a [Delegated Regulation \(including Annexes 1 – 7\)](#) supplementing the PRIIPs Regulation on key information documents (KIDs) for packaged retail and insurance-based investment products by laying down regulatory technical standards (RTS) regarding the presentation, content, review and revision of KIDs and the conditions for fulfilling the requirement to provide KIDs. The European Parliament and European Council now have a period of three months (which is extendable) to review the PRIIPs RTS. If neither of them objects, the PRIIPs RTS will enter into force twenty days after they are published in the Official Journal of the EU.

### 15 March

HM Treasury published a [consultation](#) on the Money Laundering Regulations 2017. In addition, the Government published draft regulations.

### 16 March

FCA published its [guidance consultation](#) on the treatment of politically exposed persons (PEPs) under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

Andrew Bailey (CEO of the FCA) gave a [speech](#) on the culture in financial institutions.

### 21 March

JMLSG published its [proposed final guidance](#) on "Prevention of money laundering/combating terrorist financing: Guidance for the UK financial sector part I. It also published an accompanying [press release](#).

A letter from Lord Young, Government Spokesman for the Cabinet Office and Government Whip, confirmed that the Government will delay making the Legislative Reform (Private Fund Limited Partnerships) Order (the "LRO") until after the Department for Business, Energy and Industrial Strategy's call for evidence on limited partnerships. This will allow time for the Government to assess whether there is any reason the LRO should not become law.

### 27 March

The Information Commissioner's Office warns companies to respect customers' [data wishes](#) when preparing for the implementation of the GDPR. Steve Eckersley, ICO Head of Enforcement, states that "Sending emails to determine whether people want to receive marketing without the right consent, is still marketing and it is against the law." The ICO recognises that companies will be reviewing how they obtain customer consent for marketing to comply with the GDPR coming into force in May 2018 but warns that companies must not "break one law to get ready for another".

The Bank of England (BoE) published a [paper](#) setting out the key elements of the 2017 stress test for the UK banking system. The BoE will publish the results of the stress tests in the fourth quarter of 2017.

The FCA updated its AIFMD National Private Placement Regime notification [forms](#) that must be used to market alternative investment funds in the UK when the marketing passport is unavailable.

### 28 March

The FCA published its final notice on Tesco plc for FCA [final notice](#) for false or misleading impression. The SFO [confirmed](#) a deferred prosecution agreement in principle with Tesco in relation to the deal over the accounting scandal.

### 29 March

The UK Government delivered its [letter](#) to the EU Council triggering Article 50 of the EU Treaty and setting in motion the UK's departure from the EU. On the same day, EU Commission published a [Fact sheet](#), "Article 50 of the Treaty on European Union – Q&A" and [Brexit timeline](#).

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017 (SI 2017/488) was [published](#). Among other things, the Order amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 to transpose parts of the MiFID II Directive (2014/65/EU). For example, it creates a new specified activity of operating an organised trading facility and suspends the overseas persons' exclusion in article 72 of the RAO where Title VIII of the Markets in Financial Instruments Regulation (Regulation 600/2014) gives overseas persons the right to carry out the same activities.

### 31 March

Closing date for [consultation](#) on the Information Commissioner's Office guidance on consent under the GDPR. The GDPR sets a higher standard for consent to processing of personal data than the existing Data Protection Act