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Law-Now alerts and other tools

Consumer banking and finance

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Latest news

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Consumer banking and finance

FLA: Lending Code 2012

FLA has published an updated version of its Lending Code to take account of changes in statutory regulation, such as the Consumer Credit Directive and the latest OFT Guidance. New elements include: additional measures to help customers in financial difficulty and in particular those with mental health problems. a ban on commission payments for shop staff selling store cards, and a delay in discounts or other benefits for the first seven days after a store card is acquired; a requirement on lenders to ensure customers are aware of the total cost of a short-term loan (including fees and charges) before they

apply, and that the loan is not suitable for long-term borrowing and a restriction on the number of times a short-term loan can be extended to a maximum of three, coupled with a requirement that a new credit assessment be carried out each time. (1/02/12) <http://www.fla.org.uk/filegrab/LendingCode2012.pdf?ref=692> (NB: over 70 pages long)

European Parliament: Implementation of the Consumer Credit Directive

This EC paper, prepared by the DG for Internal Policies, considers the state and the main difficulties of the implementation of Directive 2008/48/EC on credit agreements for consumers using the examples of fourteen Member States of the EU and analyses the regulation of credit agreements which fall outside the scope of the Directive. (31/01/12) <http://www.europarl.europa.eu/committees/en/studiesdownload.html?languageDocument=EN&file=66271> (NB: over 70 pages long)

The Payments Council/TSC: Impact of cheque guarantee card scheme closure: research results and research

The Payments Council concludes that research on the impact demonstrated that withdrawal of the cheque guarantee card has not significantly impacted customers who wrote guaranteed cheques or businesses who accepted them. Andrew Tyrie notes that TSC will be looking at the Payments Council's report in detail and may ask for them to come and give evidence in the New Year. (21/12/11)

http://www.paymentscouncil.org.uk/files/payments_council/cheque_guarantee_briefing_paper_dec_2011.pdf

http://www.paymentscouncil.org.uk/files/payments_council/report-cgcresearch_december_2011.pdf (NB: 70 pages long)

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news/reducing-the-use-and-availability-of-cheques-would-impact-upon-small-businesses-and-vulnerable-members-of-society-says-tyrie/>

CC: Notice of intention to revoke the Credit Cards (Price Discrimination) Order 1990 made pursuant to the Fair Trading Act 1973

CC has provisionally concluded that the Order should be revoked because: the prohibition on price discrimination in clause 3 of the Order is duplicated by the provision in PSD (Article 52) and PSR (regulation 54); Clause 4(b) of the Order, which permits a limitation on charges, is in conflict with PSR (regulation 54); and by reason of practicality it is no longer appropriate to retain the remaining provisions of the Order as they have no legal effect.. CC invites written representations by 6 January 2012. (8/12/11) http://www.competition-commission.org.uk/inquiries/ref2011/credit_cards_review/pdf/111207_credit_cards_order_provisional_decision.pdf

TSC: Cash machines

Andrew Tyrie has published the texts of correspondence with Lloyds TSB and RBS in which he calls for the banks to reconsider recent moves restricting access to cash machines for their basic bank customers. (1/12/11)

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news/tyrie-calls-on-banks-to-reconsider-moves-restricting-access-to-cash-machines/>

FSA: Speech by Andrew Bailey: Promoting a prudent and stable financial system (24 November 2011)

Text of the above, given at the Future of Retail Banking Conference, follows. Topics include: challenges on the prudential front for banks; investment banking activities within banks; pressures on retail banks; the Faster Payments Service. (24/11/11) [Promoting a prudent and stable financial system](#)

HMT/BIS/BERR: Consumer credit and personal insolvency review

This formal response to the consumer credit review sets out details on government commitments in respect of unfair bank charges; cooling-off period on store cards; interest rate caps on credit and store cards and other consumer credit issues. (22/11/11) <http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/c/11-1341-consumer-credit-and-insolvency-response-on-credit.pdf>

Insolvency Service: Bank accounts for bankrupts

The consultation seeks to explore whether bankrupts are unnecessarily financially excluded as a consequence of their bankruptcy. If evidence suggests that they are, the Insolvency Service wishes to gather views on how best to remedy the position. It reports that most of the high street banks that provide basic bank accounts in England and Wales consider it too risky to offer accounts to undischarged bankrupts because of the perceived risk of a claim from a trustee in bankruptcy. Responses are required by 9 February 2012. (21/11/11)

<http://www.bis.gov.uk/assets/bispartners/insolvency/docs/insolvency%20profession/consultations/bank-accounts-nov-2011/bankaccounts.pdf> (NB; over 40 pages long)

TSC: The future of cheques: Government and Payments Council responses to the 18th report from the Committee

TSC reports that the Payments Council is now undertaking research, the results of which will be available by the end of 2011, on the impact of the closure of the cheque card guarantee scheme and has promised that "if so indicated by the research, we will revisit the business case for the closure of the scheme". TSC argues that "without such a scheme there is a risk that more and more shops and other bodies will refuse to accept cheques; the cheque would wither on the vine". The Government in its response accepted the case made for bringing the Payments Council within the scope of financial regulation and has committed itself to consult on this issue in early 2012./ TSC suggests that FCA might be the most appropriate body. (16/11/11) <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtreasy/1645/1645.pdf>

EC: Consumer markets scoreboard

Financial services has scored particularly poorly in EC's consumer markets scoreboard and a market study is to be launched. The EC notes that, as the Consumer Credit Directive comes up for review in 2013, the findings will provide evidence for assessing the impact of the EU current rules. The study will not cover the mortgage sector because it is already the subject of a recent EC proposal. (21/10/11)

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1221&format=HTML&aged=0&language=EN&guiLanguage=en> http://ec.europa.eu/consumers/consumer_research/editions/docs/6th_edition_scoreboard_en.pdf (staff working paper – NB: over 50 pages long)

FSB: Consumer finance protection with particular focus on credit

The report, published in collaboration with OECD, provides a global overview of policy initiatives completed or planned to strengthen consumer protection frameworks;) presents a comprehensive picture of existing and evolving institutional arrangements; and reviews the work of regulators and prudential supervisors in various areas of consumer protection, including responsible lending practices, disclosure guidelines, product intervention, and complaints and dispute resolution mechanisms. . (27/10/11) http://www.financialstabilityboard.org/publications/r_111026a.pdf (NB: over 50 pages long)

TSC: Basic bank accounts

TSC has published the text of letters it has sent to Lloyds Banking Group and Royal Bank of Scotland which raises concerns over restrictions on access to using other banks' cash machines for basic bank account holders and asks for an explanation of this policy. It also seeks assurances that both banks remain committed to providing basic bank accounts. (10/10/11)

[Letters to banks RE universal access to cash machines published today - News from Parliament - UK Parliament](#)

FSA: Forbearance and impairment provisions – mortgages

Further to FSA's May consultation, this guidance has now been finalised. It sets out FSA's findings during its prudential review of firms' mortgage forbearance and impairment provisions processes and sets out actions it wants firms to take. Examples of good and poor practice guidance are included. It is noted that, as per FPC's advice to FSA to extend its review of forbearance and associated provisioning practices, work is underway to do this. (6/10/11)

http://www.fsa.gov.uk/pubs/guidance/fg11_15.pdf (NB: over 40 pages long)

Lending Standards Board: Pre-notification of overdraft charges

LSB has published the text of a letter which is aimed at clarifying what categories of overdraft charges require pre-notification. (4/10/11) <http://www.lendingstandardsboard.org.uk/docs/dcoletter8public.pdf>

FSA: Bank accounts – know your rights

FSA has published this consumer guide which covers the opening and switching accounts; making or receiving payments; understanding changes to the terms of accounts and fraud. (26/09/11)
http://www.fsa.gov.uk/pubs/consumer_info/know_your_rights_guide.pdf

FSA: Regulation of sale and rent back market

This webpage highlights planned changes to FSMA which will mean that anybody who provides a sale and rent back agreement must be authorised by FSA unless they are related to the customer. (19/09/11)
http://www.fsa.gov.uk/Pages/consumerinformation/product_news/mortgages/srb_regulation/index.shtml

BIS/BERR: Building a mutual Post Office

The aim of this consultation is to assist with the further appraisal of the case for and shape of a mutualisation, building on the recommendations made by Co-operatives UK to move towards an agreed model for a mutual Post Office Ltd. The consultation notes that the Government would support the expansion of accessible and affordable personal financial services available through the Post Office. Responses are required by 12 December 2011. (19/09/11)
<http://www.bis.gov.uk/assets/biscore/business-sectors/docs/c/11-1211-consultation-building-a-mutual-post-office> (NB: 50 pages long)

Payments Council: Current account switching

The board of the Payments Council has endorsed plans to deliver an enhanced account switching service. It is committed to delivering the new account switching service to benefit personal and small business customers in September 2013. (16/09/11) [Payments Council - Payments Council board endorses plans to make account switching easier](#)

Corrigendum to Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC

This Corrigendum has been published in the Official Journal. (12/09/11) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:234:0046:0046:EN:PDF>

The Payments Council: The future of cheques

In a press release responding to TSC's report, the Payments Council has responded "whilst we don't believe increased regulation is required, as part of an existing commitment to the OFT we are due to review our governance arrangements before the end of the year. We will take the Select Committee's recommendations particularly on the role of our independent directors into account". It also defended the closure of the cheque guarantee scheme and notes that it is about to undertake research to assess the impact that the closure of the cheque guarantee scheme will have on cheque usage and businesses, and intends publish the results. (25/08/11) [Payments Council - Payments Council response to the Treasury Select Committee's report on the future of cheques](#)

TSC: The future of cheques

TSC has published its report on the future of cheques. It recommends that HMT make provision in the forthcoming Financial Services Bill to bring the Payments Council formally within the system of financial regulation; asks that the Payments Council obtain a commitment from the banks to give the Payments Council advance sight of any material related to the future availability of cheques that the banks send to their customers; argues that all banks should be required to write to their customers stating that cheques will continue to be in use for the foreseeable future; urges the Payments Council to examine the reintroduction of the cheque guarantee card; and suggests that changes be made to the composition of Payments Council's board, saying that, as a first step, any two of the four independent members, rather than all of them as at present, should have the right of veto over a decision of the Payments Council. TSC notes: "the attempt to abolish cheques has demonstrated the lack of transparency in retail banking, which restricts the exercise of consumer choice. Improving consumer choice will require more competition in the sector, while the payments system must also be capable of taking advantage of innovation in the consumer interest". (24/08/11) [Payments Council must not have power to abolish](#)

[cheques - News from Parliament - UK Parliament](#)

<http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtreasy/1147/1147.pdf> (report – NB: over 50 pages long)

<http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtreasy/1147/1147vw.pdf>

Payments Council: Account number portability

The Payments Council has announced plans to review the issue of account number portability as part of a wider report which will look at the continuity of banking services and faster FSCS payout to be published later in 2011. (16/08/11)

[Payments Council - Account number portability](#)

OECD: Bank competition and financial stability

This report examines the interplay between banking competition and financial stability, taking into account the experiences of the recent global crisis and the policy response to date. Specific topics include: retail banking; competition in derivative markets and bank competition and government guarantees. (15/08/11) <http://www.oecd.org/dataoecd/14/49/48501035.pdf> (NB: 80 pages long)

HMT/BIS/BERR: A new approach to financial regulation: summary of responses to consultation on reforming the consumer credit regime

This document summarises responses to the consultation and it is noted that, given the lack of a clear consensus emerging from the consultation and the wide variety of alternative models that have been proposed, further policy development work is needed to enable the Government to make a determination on the future of consumer credit regulation. It promises a definitive policy response later this year in time for the introduction of the Financial Services Bill in order to allow legislative provisions implementing a transfer to be included in the Bill, should the decision be made to go ahead with some variant of a transfer of consumer credit regulation to FCA. The Government has delayed the transfer of second charge regulation from OFT to FSA until a final decision is taken on the wider transfer of consumer credit regulation. (29/07/11)

<http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/n/11-1083-new-approach-responses-to-consultation-reforming-consumer-credit> (NB: over 30 pages long)

ECOFIN: Commission Directive .../EU of XXX amending Annex I to Directive 2008/48/EC of the European Parliament and of the Council as regards the additional assumptions for the calculation of the annual percentage rate of charge

ECOFIN has published this amendment to the proposed Consumer Credit Directive. (29/07/11)

<http://register.consilium.europa.eu/pdf/en/11/st13/st13263.en11.pdf>

EC: Recommendation on access to a basic payment account

The Recommendation sets out general principles applicable to the provision of basic payment accounts within the EU. (18/07/11) http://ec.europa.eu/internal_market/finservices-retail/docs/inclusion/c_2011_4977_en.pdf

TSC: Competition and choice in retail banking:

Further to TSC's 9th report, published in April 2011, it has now published the Government Response. It highlights the response to TSC's recommendation that FCA should have competition as a primary objective and asks that the Joint Committee that will scrutinise the draft Financial Services Bill to examine the case for competition being a primary objective for FCA. (12/07/11) <http://www.parliament.uk/documents/commons-committees/treasury/CRC%20HC%201408%20-%207th%20Special%20Report%20-%20Govt%20Response%20-%20Competition.pdf>

Payments Council: Cheques

This press release advises that the Payments Council has cancelled the 2018 target to abolish cheque clearing and says that "cheques will continue for as long as customers need them ... We will use what we've learnt to keep improving existing systems, as well as introducing innovation, so that customers benefit from 21st century ways to pay. Innovation must be at the heart of what we do". (12/07/11) [Payments Council - Payments Council to keep cheques and cancels 2018 target](#)

LSB: Bulletin 4

LSB has published the above. Topics include: review of the Lending Code; compliance monitoring; treatment of customers in financial difficulties; credit cards; debt sale and debt collection and complaints received by LSB. (8/07/11)
<http://www.lendingstandardsboard.org.uk/docs/Bulletin4.pdf>

Payments Council: Account switching

Payments Council is starting a project intended to encourage competition in the UK banking sector to deliver easy account switching for all customers. It will also reduce how long it takes to switch an account from around 18 to a guaranteed maximum of seven working days. It will clarify timescales and ensure consistency of experience across the industry and ensure organisations who collect direct debits, or make payments directly into an account, update their own records promptly if their customer changes their account details. To underpin the changes, the Payments Council intends to develop a guarantee for consumers. (6/07/11) [Payments Council - Payments Council to deliver easy account switching for all customers](#)

Retail investments

FSA: Sale and Rent Back Review 2011

FSA has published the above report as a guidance consultation, together with an accompanying press release. Following a review of all regulated SRB firms which found that most sale and rent back transactions were either unaffordable or unsuitable and never should have been sold, FSA referred one firm to enforcement whilst others have either stopped taking on new business or cancelled their permissions, effectively meaning that the entire sale and rent back market is "temporarily shut". The most common failings identified by FSA included: firms incorrectly assessing appropriateness and affordability, with customers not given enough time to consider the agreement; issues concerning agreements and key facts documents; inadequate sales processes and breaches of financial promotions rules. Responses to the report are required by 29 March 2012. (3/02/12) [FSA review into sale and rent back finds widespread poor practice and sees market temporarily closed](#) [Sale and Rent Back Review 2011](#) http://www.fsa.gov.uk/static/FsaWeb/Shared/Documents/pubs/guidance/GC12_02.pdf

European Parliament: Home loans: borrowers need better protection, says Internal Market Committee

This press release notes that the Internal Committee on the Internal Market and Consumer Protection has sent an amended a draft directive which aims to curb irresponsible mortgage borrowing, and also tighten up the supervision of lenders. The proposed directive now goes to the Economic and Monetary Affairs Committee, which will vote its amendments to the text on 28 or 29 February 2012. (27/01/12)
http://www.europarl.europa.eu/pdfs/news/expert/infopress/20120123IPR35979/20120123IPR35979_en.pdf

BBA/BSA/CML/IMLA: Mortgage fraud: Good practice guidance note

This guidance note has been produced in consultation with members of the above-mentioned associations in order to assist lenders in identifying and mitigating possible vulnerabilities to fraud in the mortgage lending process. It takes into account several 2011 publications by FSA and it is noted that FSA has been consulted on this guidance and is aware of its contents, but that the guidance has no regulatory status and some of the examples of good practice given may not be appropriate for all firms. (5/01/12) <http://www.bba.org.uk/download/7342>

EC: Proposal for a Directive of the European Parliament and of the Council on credit agreements relating to residential property - progress report

This short report notes that "there is already an agreement reached, or at least a significant convergence of views on most parts of the text", but sets out some issues on which agreement needs to be reached, including the scope of the Directive as it relates to exemptions; knowledge and competence requirements for staff and the competences of the competent authorities of home and host Member States in cases of cross-border provision of services. (20/12/11)
<http://register.consilium.europa.eu/pdf/en/11/st18/st18601.en11.pdf>

CP11/31***: Mortgage Market Review: proposed package of reforms

Key features of the proposed future regime include: income will have to be verified in every mortgage application; lenders do not have to consider in detail what borrowers spend but cannot ignore utility and other unavoidable bills, interest-only mortgages can still be offered as long as borrowers have a credible plan to repay the capital; lenders will have to consider the impact of increases in interest rates in line with current market expectations; some applicants, such as those trying to consolidate debts with a mortgage, will have to get advice to ensure they understand the full implications and costs; and existing borrowers will be unaffected and lenders will have the flexibility to provide new mortgages to some existing customers even where they do not meet the new affordability requirements. FSA also calls for feedback on developing a specific approach for entrepreneurs who borrow against their home to fund their business. Following the consultation, the FSA Board will make a decision on the final form of rules in summer 2012, but implementation will not be before 2013. Responses are required by 30 March 2012. (19/12/11) [FSA puts common sense at the heart of mortgage lending](http://www.fsa.gov.uk/pubs/cp/cp11_31.pdf) http://www.fsa.gov.uk/pubs/cp/cp11_31.pdf (NB: over 500 pages long)

EC: Proposal for a directive of the European Parliament and of the Council on credit agreements relating to residential property - Presidency compromise proposal

A marked-up Presidency compromise proposal has been published which was provided for a meeting of the Working Party on Financial Services on 13 December 2011. (13/12/11) <http://register.consilium.europa.eu/pdf/en/11/st18/st18455.en11.pdf> (NB: over 100 pages long)

HMT: ISA rules

Mark Hoban has announced the Government's intention to make changes to the ISA rules to benefit investors whose ISA savings have been affected by the failure or default of a financial firm. This includes ISA investors affected by the collapse of Lehman Brothers. Under current ISA rules, an individual can pay into their ISA a total amount up to the relevant subscription limit each year. The 2011-12 subscription limit for adult ISAs is £10,680, of which £5,340 can be in cash. Where an ISA is affected by the failure or default of a financial firm, any reinstatement of sums held in the account at that point, or investment of any subsequent compensation received, is currently treated as a new ISA subscription, and therefore counts towards the normal annual limit. The Government has decided to change the ISA rules to permit investors affected by such a failure or default to make certain ISA investments over and above the normal subscription limits, up to the balance of their account at the time of the firm's failure in a new ISA, outside the normal subscription limits. Where a stocks and shares ISA has been affected, the investor will be permitted to invest any compensation (or any similar payment) derived from assets held within their ISA in a stocks and shares ISA, outside the normal subscription limits. In addition, it is proposed that in cases where Lehman Brothers was, at the time of its collapse, the sole counterparty to an ISA product, affected investors will be permitted to reinstate up to the balance of their ISA at the time of this collapse, outside the normal subscription limits, irrespective of whether any compensation has been paid to the investor. It is intended that draft regulations will be made available for consultation in the New Year and that finalised regulations will be laid in spring 2012. (7/12/11) <http://www.parliament.uk/documents/commons-vote-office/1-Chancellor-ISAReinstatement.pdf>

EIOPA: Report on pre-enrolment information to pension plan members

This report, dated July 2011, but only now published, is part of the PRIPs-related work being developed and also serves as preparatory work for the response to call for advice from the EC to EIOPA for the review of the IORP Directive, as regards the information to members and beneficiaries. The scope of the report covers all kinds of supplementary pensions. It looks at the diffusion of pension plans/products subject to different EU or national regulations; countries' approaches to pre-enrolment information requirements; the general structure of countries' pre-enrolment information requirements; investment policy; past performance; pension projections and charges. (7/12/11) https://eiopa.europa.eu/fileadmin/tx_dam/files/publications/reports/20111117_EIOPA-BoS-11-039_Report_on_pre-enrolment_info_to_pension_plan_members_final.pdf (NB: over 80 pages long)

FSA: Progress towards the professionalism requirements of the Retail Distribution Review

FSA has published a research and a technical report prepared for it by independent consultants. The first of these provides the findings of a study to estimate the size of the Retail Investment Adviser (RIA) population and measure progress towards the professionalism requirements of the RDR. It also looks at how the requirements of the RDR have influenced RIA attitudes and intentions. The report will be used to inform FSA's communications and supervisory strategy for the RDR. There will be further surveys in 2012 and 2013. The second report sets out the methodology for the survey. (6/12/11) <http://www.fsa.gov.uk/pubs/other/rdr-professionalism-research-report.pdf> (NB: over 100 pages long) <http://www.fsa.gov.uk/pubs/other/rdr-professionalism-technical-report.pdf> (NB: over 90 pages long)

EC: Proposal for a Directive of the European Parliament and of the Council on credit agreements relating to residential property

A marked-up Presidency compromise proposal has been published for a meeting of the Working Party on Financial Services which was held on 5 December 2011. (6/12/11) <http://register.consilium.europa.eu/pdf/en/11/st18/st18044.en11.pdf> (NB: over 100 pages long)

FSA: Proposed update to the distributor-influenced funds factsheets

FSA has published this guidance consultation which comprises marked-up new versions of two factsheets originally published in 2008 to help firms active in the distributor-influence funds market or thinking of entering it. The updates take account of changes to FSA rules as a result of the RDR. Responses are required by 30 January 2012. (5/12/11) http://www.fsa.gov.uk/pages/Library/Policy/guidance_consultations/2011/11_29.shtml | http://www.fsa.gov.uk/pubs/guidance/gc11_29.pdf

ESMA: Warning to retail investors on trading in forex products

ESMA has published what it describes as its first warning in which it alerts retail investors over risks involved in forex trading. It says that it has noticed an increase in some EU countries, in unauthorised firms offering transactions, or platforms to trade, in currency derivatives in the forex market, such as CFDs, FX forwards, and rolling spot contracts. (5/12/12) <http://www.esma.europa.eu/popup2.php?id=8111>

HMT: Autumn Statement

The Government is to introduce a new build indemnity by which home buyers will be able to purchase new build houses and flats with a 5% deposit. House builders and the Government will help provide security for the loan. (29/11/11) http://cdn.hm-treasury.gov.uk/autumn_statement.pdf (NB: over 90 pages long)

FSA: Traded life policy investments

FSA has published a guidance consultation, together with an accompanying press release, in respect of the above. FSA strongly recommends that TLPs should not reach retail investors in the UK and advises that in 2012, as part of a review of the rules relating to unregulated CIS, it intends to consult on a ban of all marketing – including marketing delivered in the context of financial advice – of TLPs to mass market retail investors. The guidance sets out its expectations of firms in this area; details key risks and gives examples of poor practices. Responses are required by 23 January 2012. (28/11/11) [FSA warns against 'toxic' traded life policy investments](http://www.fsa.gov.uk/pages/Library/Policy/guidance_consultations/2011/11_28.shtml) http://www.fsa.gov.uk/pages/Library/Policy/guidance_consultations/2011/11_28.shtml | http://www.fsa.gov.uk/pubs/guidance/gc11_28.pdf

HoL EU Sub-Committee A: Residential Property Directive

The Sub-Committee has published a letter from Lord Roper to Mark Hoban with regard to the EU Residential Property Directive following evidence from various organisations including CML and Which. The letter raises concerns over the regulatory burden of the proposed Directive and asks for an update on FSA's MMR, adding that "it is essential that the FSA pay due attention to the Directive in order to avoid a dual regulatory burden for UK providers". The letter also reflects concerns about the Commission's proposals on the provision of information and advice, and on passporting and the role of mortgage intermediaries. It also considers the likelihood of a more developed single market for mortgages being brought about in the longer-term. In addition, the Sub-Committee has published supplementary evidence from, amongst others, FSA (second link below). (28/11/11) <http://www.parliament.uk/documents/lords-committees/eu-sub-com-a/mortgages1/HobanResPropDir.pdf> | <http://www.parliament.uk/documents/lords-committees/eu-sub-com-a/mortgages1/WSOResPropDir.pdf>

BoE: Speech by David Miles: Mortgages, housing and monetary policy - what lies ahead? (22 November 2011)

In this speech, given to the Northern Housing Consortium, David Miles discusses how the financial crisis has transformed the UK housing and mortgage markets. (22/11/11) <http://www.bankofengland.co.uk/publications/speeches/2011/speech531.pdf>

FSA: Speech by Sheila Nicoll: Changes in the intermediary mortgage market - and in regulation (17 November 2011)

Text of the above, given at the Mortgage Expo, follows. Topics include: MMR; proposed Mortgages Directive; authorisation, supervision and forthcoming small firms review programme; current issues in the mortgage sector and the new regulatory structure. (18/11/11) [Changes in the intermediary mortgage market - and in regulation](#)

FSA: RDR Newsletter Issue 3

Topics include: final rules on data collection through the RMAR and adviser complaints; trail commission; product disclosure; simplified advice; platforms and a "myth busting" section on specific issues. (18/11/11) <http://www.fsa.gov.uk/pubs/newsletters/rdr3.pdf>

EC: Proposal for a Directive of the European Parliament and of the Council on credit agreements relating to residential property

A marked-up Presidency compromise proposal has been published ahead of a meeting of the Working Party on Financial Services on 18 November 2011. (17/11/11) <http://register.consilium.europa.eu/pdf/en/11/st16/st16948.en11.pdf> (NB: over 80 pages long)

CP11/26**: Distribution of retail investments: RDR adviser charging - treatment of legacy assets

FSA notes that it has received an increasing number of queries from firms and trade bodies about legacy commission in connection with adviser charging which has led FSA to believe that the effect of the rules that made in PS10/6 banning new commission for advised sales of retail investment products had not been properly understood by some firms. In March 2011, FSA circulated a note to trade bodies setting out its understanding of the position, and held discussions with a number of them on this issue. The discussions were into account when FSA prepared this CP and also explains the approach FSA has adopted in the draft guidance contained in Appendix 1. Responses are required by 16 January 2012. (16/11/11) http://www.fsa.gov.uk/pubs/cp/cp11_26.pdf

CP11/25**: Distribution of retail investments - RDR adviser charging and Solvency II disclosures

The CP covers issues relating to facilitation of payment of adviser charges under RDR; whether product providers should, when reporting data under our data requirements such as Product Sales Data, report investment amounts on a basis that is net or gross of any adviser charges being facilitated; and minor changes to the disclosure requirements in chapters 13 to 16 of COBS to implement Solvency II requirements. Responses are required by 10 January 2012. (10/11/11) http://www.fsa.gov.uk/pubs/cp/cp11_25.pdf (NB: over 40 pages long)

CP11/24*: RDR – accredited bodies

FSA is proposing to confer accredited body status on two applicants – the Institute of Chartered Accountants in England and Wales, and the Pensions Management Institute and is now consulting on including them in the Handbook. This proposal will enable advisers to decide which body they wish to approach to validate their qualification gap-fill (if required) and to issue their Statement of Professional Standing. Responses are required by 9 December 2011. (10/11/11) http://www.fsa.gov.uk/pubs/cp/cp11_24.pdf

FSA: RDR post-implementation review: Measuring progress and impact.

This paper sets out a number of focused, measurable 'success' indicators to track and assess the benefits that FSA expects the RDR to deliver. It also sets out baseline data collected to date, against which FSA will measure the 'success' indicators after RDR implementation to make a 'before' and 'after' comparison. (9/11/11) <http://www.fsa.gov.uk/pubs/RDR-baseline-measures.pdf>

FSA: RDR

FSA has published a webpage which sets out training and competence modifications for RDR requirements. (9/11/11)
[Training and Competence Modifications for Retail Distribution Review \(RDR\) requirements](#)

PS11/13: Data collection: Retail Mediation Activities Return and complaints data - feedback to CP11/18 and final rules

CP11/18 set out proposals for new requirements for collection of data under the RMAR, covering adviser charging revenue, payment and client numbers, and charging structure, from all firms that provide advice on retail investment products; requirements for firms that provide services on group personal pension schemes to provide data on consultancy charging and fees revenue, payment methods, employer client numbers and charging structures; and new complaints data at individual adviser level, for use in combination with other risk information as an indicator of behaviour that could imply potential consumer detriment. FSA notes that collecting RMAR and complaints data will be one of the first steps towards developing FCA's emerging risk model and data strategy. The rules will come into effect on 31 December 2012. (8/11/11)
http://www.fsa.gov.uk/pubs/policy/ps11_13.pdf (NB: over 70 pages long)

PS11/14: Product disclosure: Retail investments - changes to reflect RDR adviser charging - feedback to CP11/3 and final rules

CP11/14 proposed changes to the KFI's that firms must give clients arising from the RDR rules on adviser and consultancy charging; disclosures relating to SIPP's and the potential replacement of monetary projections by inflation-adjusted projections for personal and stakeholder pensions (both individual and group). FSA has made some changes to the rules consulted on with regard to the first issue and, with regard to the second issue and in the light of responses, has decided to re-consult on revised disclosure requirements. Therefore, disclosure rules for SIPP's will not alter with effect from April 2012 as originally proposed, but they are likely to be amended later. The new rules come into force on 31 December 2012, at the same time as the RDR rules. A transitional rule allows firms to take advantage, from 1 October 2012, of a rule for generic key features illustrations for groups or sub-groups of employees in a group personal pension scheme. (8/11/11)
http://www.fsa.gov.uk/pubs/policy/ps11_14.pdf (NB: over 40 pages long)

HoL Select Committee on the EU Economic and Financial Affairs and International Trade (Sub-Committee A): Residential Properties Directive

The Committee has published the uncorrected evidence from the hearing on the above topic held on 1 November 2011 which was attended by representatives from Which?, CML and Paragon. Topics include: MMR and the Directive; foreign currency denominated mortgages; 100%+ mortgages; buy-to-let mortgages and passporting. (8/11/11)
<http://www.parliament.uk/documents/lords-committees/eu-sub-com-a/mortgages1/ucEUA011111ev1.pdf> (NB: over 40 pages long)

TSC: Retail Distribution Review: Government and FSA responses to the Fifteenth Report from the Committee

TSC has published the above. TSC draws attention to the fact that FSA made its initial reply to the report by means of an embargoed response rejecting the idea of a one year delay to the RDR before it had even been published. It notes "some signs of further thought in its response" in paragraphs 20 and 21 of the attached, but TSC says that it regrets FSA has not accepted TSC recommendations that RDR be delayed for 12 months and that non-qualified advisers be able to operate with a system of proper supervision beyond the implementation date. (7/11/11) <http://www.parliament.uk/documents/commons-committees/treasury/RDR%20Report.pdf>

EC: Proposal for a Directive of the European Parliament and of the Council on credit agreements relating to residential property

A Presidency compromise has been published which is marked-up from an earlier version. (7/11/11)
<http://register.consilium.europa.eu/pdf/en/11/st16/st16325.en11.pdf> (NB: over 90 pages long)

FSA: Speech by Sheila Nicoll: Developing regulatory policy on mortgages at the national, European and international level (3 November 2011)

Text of the above, given at the CML MICE event, follows. Topics include: MMR; FSB's work on mortgage regulation; general European regulatory developments and concerns on scope and forbearance guidance. It is noted that FSA's work

on responsible lending and the sales process is still ongoing. (3/11/10) [Developing regulatory policy on mortgages at the national, European and international level](#)

FSA: Retail product development and governance - structured products review

FSA has published the above guidance consultation, which it also highlights in a press release. FSA reviewed seven major providers of structured products between November 2010 and May 2011 which found that while there had been some improvements, weaknesses remain in the way firms are designing and approving structured products, saying that firms "tended to focus on their own commercial interests rather than consumer needs". The guidance sets out what firms should consider when designing structured products and dealing with the after sales process. It is noted that much of the guidance is also relevant to other retail products. Responses are required by 11 January 2012. (2/11/11) [FSA publishes review of firms; structured product design processes and proposes new guidance on retail product development](#) [Retail Product Development and Governance; Structured Products Review](#) http://www.fsa.gov.uk/pubs/guidance/gc11_27.pdf (NB: 50 pages long)

FSB: Principles for sound residential mortgage underwriting practices

The FSB principles are intended to apply to loans to individuals (consumers) that are secured by a residential property (e.g. mortgage). It is noted that some or all of the principles may not necessarily be appropriate or applicable for certain niche forms of finance, but jurisdictions should nonetheless seek to apply all Principles that are relevant. Responses should be received by 9 December 2011. The final set of principles will be released in early 2012. (27/10/11) http://www.financialstabilityboard.org/publications/r_111026b.pdf

HM Treasury confirms higher ISA limits for 2012-13

Following the publication today of inflation figures for September by ONS, HMT has announced that subscription limits for ISAs from April 2012 will increase to £11,280 (up to half of which can be saved in cash). Junior ISAs (JISAs) will be available from 1 November with a limit of £3,600 for each eligible child per year as part of the Government's commitment to encourage saving for children. CTF savings limit will also treble to £3,600 from 1 November, aligning the CTF limit with the new JISA limit. Both JISAs and CTFs will be index linked from April 2013. (19/10/11) [HM Treasury confirms higher ISA limits for 2012-13 - HM Treasury](#)

HMT: Simple financial products

Mark Hoban has announced the creation of a new steering group tasked with devising a suite of simple financial products intended to help consumers navigate the financial services market. The steering group will be chaired by Carol Sergeant (former Chief Risk Officer, Lloyds Banking Group) and include representatives from Government, industry, and trade and consumer bodies. The group will report back to Mark Hoban by July 2012 setting out how to bring simple products to market, including how simple products are structured and marketed to ensure that consumers get the best deal. The second link comprises responses to HMT's earlier consultation. It is suggested that the group should initially focus on simple deposit savings and protection insurance products. (20/10/11) <http://nds.coi.gov.uk/Content/detail.aspx?NewsAreaId=2&ReleaseID=421682&SubjectId=2> http://www.hm-treasury.gov.uk/d/condoc_simple_financial_products_responses_201011.pdf

EC: Opinion of the Committee on Legal Affairs for the Committee on Economic and Monetary Affairs on the proposal for a directive of the European Parliament and of the Council on credit agreements relating to residential property

The rapporteur sets out criticisms of the proposed Directive. She expresses concerns over whether it can be regarded as an effective instrument to address the financial crisis and questions whether an internal market in credit agreements relating to residential immovable property can be established. (18/10/11) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARG+PE-467.293+02+DOC+PDF+V0//EN&language=EN> (NB: over 30 pages long)

FSA: Speech by Linda Woodall: RDR implementation considerations (13 October 2011)

Text of the above, given at the Personal Finance Society "Countdown to December 2012" conference, follows. Topics include: feedback and FSA's work with firms, including surveys; professionalism; adviser charging; scope of service and systems and controls. (13/10/11) [RDR implementation considerations](#)

EC: Proposal for a Directive of the European Parliament and of the Council on credit agreements relating to residential property

A marked-up Presidency compromise proposal has been published ahead of a meeting of the Working Party on Financial Services on 6 October 2011. (30/09/11) <http://register.consilium.europa.eu/pdf/en/11/st14/st14868.en11.pdf> (NB: over 80 pages long)

FSA: Simplified advice

FSA has published a guidance consultation which is intended to provide additional guidance on suitability, adviser charging and service disclosure. It also contains general guidance on professional standards, designing and delivering a simplified advice process, and choosing an appropriate product suite. Responses are required by 15 November 2011 (15/09/11) [.Simplified advice http://www.fsa.gov.uk/pubs/guidance/gc11_22.pdf](http://www.fsa.gov.uk/pubs/guidance/gc11_22.pdf)

FSA: Statistics on mortgage lending

FSA has published the above for Q2 2011, including an introduction and a commentary on the statistics. (13/09/11) http://www.fsa.gov.uk/pages/Doing/Regulated>Returns/IRR/pdf/mlar_sep11.pdf

ECOFIN: Proposal for a Directive of the European Parliament and of the Council on credit agreements relating to residential property

A marked-up Presidency compromise proposal with regard to the above has been published which is to be discussed at a meeting of the Working Party on Financial Services on 9 September 2011. (7/09/11) <http://register.consilium.europa.eu/pdf/en/11/st13/st13799.en11.pdf> (NB: over 70 pages long)

European Parliament: Mortgage credits: consumer protection, market stability and respect for diversity

This press release looks at a draft report in respect of the above by ECOFIN, which has now been discussed in the EP's economics committee. It is noted that this "considerably widens the legislation's scope both to protect consumers and also to make the sector function better" The draft report also tackles remuneration practices of lenders to reduce bad incentives and conflicts of interest; calls for a reduction in the proportion of interest-only loans and raises concerns over income verification checks. [See above for report] (2/09/11) http://www.europarl.europa.eu/pdfs/news/expert/infopress/20110829IPR25428/20110829IPR25428_en.pdf
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-469.842+02+DOC+PDF+V0//EN&language=EN>

FSA: Aggregate product sales data

FSA has published trend reports, covering the period 2005-2011 in respect of pure protection contracts, mortgages and retail investments. (1/09/11) http://www.fsa.gov.uk/pubs/other/psd_ppc_05_11.pdf
http://www.fsa.gov.uk/pubs/other/psd_mortgages_05_11.pdf http://www.fsa.gov.uk/pubs/other/psd_ri_05_11.pdf (NB: over 100 pages long)

BSA: Mortgage verification scheme

BSA has announced the launch of the above on 1 September 2011, in conjunction with HMRC and CML. Use of the scheme will be limited to cases where lenders reasonably suspect, following their own rigorous checks, that mortgage fraud may be taking place. Mortgage lenders will send relevant details of mortgage applications where they have inadequate evidence of declared income and suspect fraud using a secure electronic platform to HMRC, which will check income details declared to lenders against information provided in income tax and employment returns. HMRC will then advise lenders whether or not the details correspond, which will inform lending decisions. HMRC has set up a specialised unit to deal with the requests. Any mortgage lender who wishes to use the scheme may do so for a fee of £14 plus VAT per case to cover HMRC's costs. (30/08/11) [1 September sees launch of Mortgage Verification Scheme to combat fraud :: BSA - Building Societies Association](http://www.bsa.org.uk/press-releases/1-September-sees-launch-of-Mortgage-Verification-Scheme-to-combat-fraud-BSA-Building-Societies-Association)

FSA: Top questions asked at the Retail Distribution Review roadshows

FSA has published the above as a guidance consultation. Specific topics include: professionalism requirements; "independence"; definition of "retail investment products" and charging. Responses are required by 22 September 2011. (25/08/11) [Top questions asked at the Retail Distribution Review \(RDR\) roadshows](http://www.fsa.gov.uk/pubs/guidance/gc11_20.pdf)
http://www.fsa.gov.uk/pubs/guidance/gc11_20.pdf

FSCP: Defining straightforward outcome products

FSCP has published this report, prepared by an independent consultant, which sets out some suggested criteria for "simple", "safer" and "straightforward outcome" products, including an analysis of a range of current products. The paper also makes some brief comments on possible ways that a "products regime" might be established and considers barriers and challenges in delivering such products. (15/08/11) http://www.fs-cp.org.uk/publications/pdf/straightforward_outcome.pdf

FSCP: Platforms

FSCP has published comments on FSA's PS on platforms, noting "we are very pleased to see that the FSA has listened to the Panel's call for a rebate ban, but disappointed that no firm date for implementation has been set". (2/08/11) <http://www.fs-cp.org.uk/newsroom/2011/186.shtml>

PS11/19: Platforms - delivering the RDR and other issues for platforms and nominee-related services

FSA has published its rules on platforms regulation which will require platforms and other nominee companies to transfer, within a reasonable time and in an efficient manner, assets held on behalf of customers to another person, when requested; and require platforms and other nominees to pass on fund information to the end investor. In addition, to enable greater transparency and efficiency in the market, the rules: require investment adviser firms using a platform service for the purposes of making a personal recommendation, or arranging the purchase of retail investment products for retail clients, to take reasonable steps to ensure that they use platforms services that present their retail investment products without bias; require platforms to disclose to professional and retail clients any fees or commission they arrange to accept from third parties in relation to retail investment products. These should be disclosed in advance of the platform providing services to those clients; extend the application of the RDR rules on facilitating payment of adviser charges to facilitation through platforms. The rules come into force on 31 December 2012. In CP 10/29, FSA had noted that, with regard to the question of payments by providers to platforms, its preferred option was to address any conflicts of interest arising from these payments by enhanced disclosure, but not to ban the payments. On the issue of cash rebates to clients, FSA consulted on draft rules that would have banned these payments with effect from the same date, when the RDR rules come into force. Following responses to the CP, FSA has now decided that it would be desirable, in principle, to ban payments by product providers to platforms and to ban cash rebates to consumers, but now accepts that this could have unintended consequences. So, although it is FSA's ultimate intention to do so, it has not yet made rules to introduce a ban of either kind of payment. FSA plans to carry out further work on this and confirms that any rule changes it makes in this area will not come into force before 31 December 2012. (See section 3 of the PS for full details). (1/08/11) [FSA publishes new rules for platforms](http://www.fsa.gov.uk/pubs/policy/ps11_09.pdf)
http://www.fsa.gov.uk/pubs/policy/ps11_09.pdf (NB: over 70 pages long)

European Parliament: Responsible lending – barriers to competition

This study analyses the main barriers to effective competition in the provision of mortgage credit. The study considers and discusses barriers affecting both the supply (distance, information sharing, cross-selling practices, linkages between mortgage lenders and other market players) and the demand (switching and search costs) side of the market. Based on the available evidence it provides an assessment of the extent to which such barriers restrict competition in the mortgage market. (26/07/11) <http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=42371> (NB: over 100 pages long)

The Individual Savings Account (Amendment No. 2) Regulations 2011/1780

This statutory instrument amends the Individual Savings Account Regulations 1998 (S.I. 1998/1870) (ISA Regulations 1998) to provide for the establishment, operation and tax exemption of Junior ISAs, which are expected to be available from November 2011. It also makes minor and technical amendments to the ISA Regulations 1998 to modify or remove provisions which are redundant or out of date (Date in force: 1/11/11) (28/07/11) http://www.legislation.gov.uk/ukxi/2011/1780/pdfs/ukxi_20111780_en.pdf

FSCP: 12 month RDR delay - a licence for consumer detriment

This press release comments on TSC's report below. (20/07/11) [Financial Services Consumer Panel](#)

FSA: Letter from Hector Sants to Andrew Tyrie (TSC)

FSA has published the text of the above, dated 21 July 2011, in which Hector Sants comments on TSC's RDR report. (21/07/11) http://www.fsa.gov.uk/pubs/other/tsc_21jul11.pdf

TSC: Retail Distribution Review - Fifteenth Report of Session 2010–12

The report recommends a delay of 12 months in the implementation of the RDR in order to allow advisers to satisfy the requirements of the new regime and suggests that FSA uses other means, such as providing for flexibility for advisers on a case by case basis, and allowing supervision of non-qualified advisers. It also raises concerns with the effect of the creation of FCA and says that HMT should state whether it is content that the RDR as currently constituted would be consistent with its objectives. TSC suggests that the creation of FCA also provides an opportunity to examine the accountability mechanisms that will apply under the new system of financial regulation and will instigate an inquiry to form a view on whether they are adequate. (18/07/11) <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtreasy/857/857.pdf> (NB: over 100 pages long)

HoC: European Scrutiny Committee – 35th Report of Session 2010-12

This report includes a section on the EC draft Directive on credit agreements relating to residential property which is to be discussed in Council in late 2011 or early 2012. In addition to a synopsis of the main points covered in the Directive and the Government's view of it, it is noted that the document remains under scrutiny until certain points are clarified. (12/07/11) <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmeuleg/428-xxxi/428xxxi.pdf> (NB: 80 pages long – the section in question begins at p25)

The Prospectus Regulations 2011/1668

These Regulations amend two provisions of FSMA to implement in part Directive 2010/73/EU (OJ No L 327, 11.12.2010, p.1) of the European Parliament and of the Council. That Directive amends Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading (the Prospectus Directive) and Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (the Transparency Directive). (Date in force: 31/07/11) (8/07/11) http://www.legislation.gov.uk/ukxi/2011/1668/pdfs/ukxi_20111668_en.pdf

ECB: Opinion of the European Central Bank of 5 July 2011 on a proposal for a directive of the European Parliament and of the Council on credit agreements relating to residential property (8/07/11) http://www.ecb.int/ecb/legal/pdf/en_con_2011_58.pdf

ESMA: Speech by Steven Maijoor (6 July 2011)

Text of the above, given at the EUROPLACE Financial Forum, follows. Topics include: ESMA's work is protection of retail investors; packaged products; ETFs; Key Investor Information Document for UCITS; ESMA's tasks relating to consumer protection and financial activities. He notes: "there needs to be a shift away from seeing investors as potential sources of profit to putting a proper focus on matching the risk profiles of potential investments to the customer's needs". (7/07/11) http://www.esma.europa.eu/data/document/ESMA_2011_203.pdf

EC: Proposal for a Directive of the European Parliament and of the Council on credit agreements relating to residential property

A marked-up Presidency compromise proposal has been published in respect of the above ahead of a meeting on 7 July 2011. (5/07/11) <http://register.consilium.europa.eu/pdf/en/11/st12/st12317.en11.pdf> (NB: over 70 pages long)

Consumer protection and rights (inc FOS)

EBA: Financial innovation and consumer protection – an overview of the objectives and work of the EBA's Standing Committee on Financial Innovation (SCFI) in 2011-2012

In this report (which will be published annually from now on), EBA sets out its priorities in the areas of financial innovation and consumer protection. With regard to the former, following a survey amongst Member States' supervisory authorities, further work by SCFI in 2012 will take place on a number of products, including collateralised commercial paper, CFDs and convertible bonds. With regard to the latter, EBA notes that it has decided to focus its work in 2012 on the analysis of the widespread concerns about consumer detriment in the context of the mortgage market and other indebtedness issues, including aspects such as advice, provisions, credit intermediation, credit cards, transparency, financial education, and complaints handling, adding that analysis of these matters could potentially lead to EBA guidance or recommendations, where appropriate. It also plans to organise a roundtable on consumer protection at which it can outline its consumer protection strategy and plans, and seek input from stakeholders. (1/02/12) <http://www.eba.europa.eu/cebs/media/Publications/Consumer%20Protection/EBA-BS-2012-003-Financial-Innovation-and-Consumer-Protection--Overview-of-EBA-work-in-2011-2012.pdf> (NB: over 30 pages long)

FOS: Publishing Ombudsman decisions: summary of responses

FOS has published a feedback document in respect of its September 2011 discussion paper. We published publishing ombudsman decisions: next steps in September 2011 – in response to FOS notes that stakeholders were largely supportive of its approach, but the issue that generated the most debate was whether the names of financial businesses should be published. FOS says that its current view is that the overall way forward that was proposed is broadly in the right direction, but will be subject to any operational and practical questions being resolved. FOS intends to discuss "certain issues" with businesses and consumer groups, before finalising how it will implement publication. It plans to maintain this dialogue with stakeholders as the Financial Services Bill progresses through Parliament. Depending on Parliament's eventual conclusions, FOS intends to set out in detail later in the year its formal responses to all of the points raised and explain how it intends to publish decisions. (31/01/12) <http://www.financial-ombudsman.org.uk/publications/consultations/Publishing-decisions-summary-2012.pdf>

FSA: Unfair contract terms: improving standards in consumer contracts

FSA has published its finalised guidance, described as a commentary on the types of contract term which FSA commonly finds to be of concern under UTCCR. (30/01/12) http://www.fsa.gov.uk/static/pubs/guidance/fg12_02.pdf

FSCP: Speech by Adam Phillips: An effective FSCP (25 January 2012)

Text of this speech, given at BBA's conference, has now been published. He discusses FSCP's work, its relationship with FSA how it relates to the other panels, and how the current panel set-up will fit into the new regulatory regime. He notes: "the advice gap is not currently a focus of much attention in the FSA, their last piece of published work being the guidance consultation on simplified advice ... We are continuing to research the topic ... and will be publishing research on the various forms of advice option this spring". (27/01/12) <http://www.fs-cp.org.uk/publications/pdf/ap-bba-speech20120125.pdf>

FOS: Speech by Tony Boorman: Complaints, regulation – and re-building trust (25 January 2012)

Text of the above, given at a BBA conference, follows. Tony Boorman discusses how he sees FOS working with FCA in future and argues that "a fresh look at conduct regulation and redress is overdue ... I think we should acknowledge the breakdown in trust around fair complaint handling ... surprising as it may seem, PPI is an area where I see real opportunity for partnership working. PPI is certainly not a problem that's going to go away any time soon. It might be a good place to start re-building trust and a new partnership between consumers and financial businesses". (26/01/12) <http://www.financial-ombudsman.org.uk/news/speech/2012/TB-BBA-seminar-Jan-12.html>

FOS: Debt collecting

FOS has published a technical note on how it approaches complaints in respect of debt collecting. (19/01/12)
http://www.financial-ombudsman.org.uk/publications/technical_notes/debtcollecting-note.html

Consumer Insurance (Disclosure and Representations) Bill [HL]

A Bill to make provision about disclosure and representations in connection with consumer insurance contracts. (19/01/12)
<http://www.publications.parliament.uk/pa/bills/cbill/2010-2012/0274/2012274.pdf>
<http://www.publications.parliament.uk/pa/bills/cbill/2010-2012/0274/en/2012274en.pdf> (Explanatory Notes)

FOS: Ombudsman News 99

Topics include: recent disputes involving debt; complaints about personal accident insurance; complaint figures for the third quarter of the 2011/2012 financial year; and proposed new arrangements for charging financial businesses case fees. (17/01/12) <http://www.financial-ombudsman.org.uk/publications/ombudsman-news/99/99.pdf>

FSA: Undertaking in relation to certain terms and conditions in National House-Building Council Buildmark policy

FSA's review of terms and conditions used in the above-mentioned policy has resulted in the firm amending various definitions. (17/01/12). <http://www.fsa.gov.uk/pubs/other/undertaking-nhbc.pdf>

NAO: Efficient handling of financial services complaints

NAO has published this report, commissioned by the FOS board. It concludes that FOS needs to achieve efficiencies of scale in order to deal with the highly volatile demand that it will continue to face in the future and argues that it should better use the data it has on the distributions of elapsed times for resolving cases to understand and quantify which elements of the process are causing delays in processing times and consequently where efficiencies need to be made. It notes that FOS has put in place an ambitious change programme to address such challenges and says that FOS should be pleased with its progress to date. However, FOS should strengthen some elements of its programme management arrangements, such as the monitoring of both benefits and unintended impacts of change, and budget control. FOS has also published an accompanying statement, welcoming the findings. (12/01/12) <http://www.financial-ombudsman.org.uk/news/updates/nao-report.htm> <http://www.financial-ombudsman.org.uk/news/pdf/NAO-report-2012.pdf> (NB: over 40 pages long)

FSA: Statement on using switching terms in mortgage contracts under the Unfair Terms in Consumer Contracts Regulations 1999

FSA has been considering terms in interest-only mortgage contracts that allow firms to switch consumers from an interest-only mortgage to a repayment mortgage. This finalised guidance sets out why FSA believes some such terms in standard consumer contracts may pose a risk of being considered unfair, or of not being expressed in plain and intelligible language, under the Unfair Terms in Consumer Contracts Regulations 1999. (12/01/12)
http://www.fsa.gov.uk/pubs/guidance/fg12_01.pdf

FOS: Our plans and budget for 2012/2013/Charging for our work: modernising our case fee arrangements from 2013

FOS has published for consultation its proposed plans and budget for the next financial year, together update on the numbers and workload for the current financial year (2011/2012). To manage and fund what FOS describes as a significantly increased workload, it proposes to: control underlying costs tightly following a 10% cost-cutting programme in the current financial year; for the third year running, freeze both the £500 case fee paid by businesses for each complaint – and the amount paid under the levy by the financial services sector; continue to charge businesses only for the fourth (and any subsequent) complaint each year – so that three quarters of businesses with complaints referred to the ombudsman service again pay no case fees; charge businesses a supplementary case fee of £350 for each PPI mis-selling case referred to FOS – but chargeable only when businesses have more than 25 of these cases a year, reflecting where the costs are actually incurred in sorting out PPI mis-selling on this scale. In addition, FOS is consulting on new arrangements for charging financial businesses for its work – which would involve a new case fee structure from April 2013. This would mean: increasing the number of free cases from 3 to 25 for firms which have the lowest number of cases referred (so that only 1% of businesses pay any case fees at all) and, for the 10 financial services groups that account for over 70% of the complaints workload, a new group-account arrangement would be developed that would more accurately reflect the total costs to FOS.

Responses to the two papers should be received by 20 February and 16 April 2012 respectively. (6/01/12)
<http://www.financial-ombudsman.org.uk/publications/pdf/plan-budget-2012-13.pdf> (NB: over 30 pages long)
<http://www.financial-ombudsman.org.uk/publications/pdf/charging-for-our-work-Jan12.pdf>

FSCS: CF Arch Cru funds

FSCS has published an update (with a link to Q&As) re the above, noting that it is not in a position to confirm how it will assess claims in relation to the CF Arch cru Funds at this time. (28/12/11) [FSCS > CF Arch Cru Update](#)

HMT: Card surcharges

It is reported that, following OFT recommendations, the Government will: ban excessive surcharges on all forms of payment, not just debit cards; extend the ban across most retail sectors and become the first European country to act by implementing forthcoming European legislation early to ban this practice before the end of 2012. To take this forward, the Government will publish a consultation in the New Year setting out next steps. (23/12/11) http://www.hm-treasury.gov.uk/press_148_11.htm

BIS: Call for evidence on EU proposals on Alternative Dispute Resolution

This call for evidence seeks views from UK stakeholders on recent proposals from the EC on consumer alternative dispute resolution, noting that views received will help form the UK's negotiating position. Responses are required by 31 January 2012. (22/12/11) <http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/c/11-1372-call-for-evidence-eu-proposals-dispute-resolution>

OFT: Debt collection - OFT guidance for all businesses engaged in recovery of consumer credit debts

Further to OFT's guidance on debt collection published in October 2011, OFT has decided to undertake a supplementary consultation on its position on use of 'continuous payment authority' as a means of recovering monies owed in respect of consumer credit related debts. It is also taking this opportunity to consult on the specific practice of debiting monies from an account in the absence of having the express authority to do so (including under circumstances in which the lender may have the authority, under a continuous payment authority or otherwise, to recover monies from another account(s)). Responses are required by 26 January 2012. (19/12/11) http://www.of.gov.uk/shared_of/consultations/OFT1399con.pdf

Lending Standards Board: Debt collection and debt sales

LSB has published the text of a letter in which it notes that it has been agreed that the Lending Code should be amended to extend the provisions relating to the sale of debt and outsourcing of collections activity to debt collection agencies. The relevant amendments to the Code can be found in Appendix A of the document and the letter also sets out how LSB expects the new obligations to work in practice. (19/12/11) <http://www.lendingstandardsboard.org.uk/docs/Public%20Site%20-%20Debt%20collection%20and%20debt%20sale%20.pdf>

FSA: Undertaking in relation to certain terms and conditions in consumer contracts of Legal & General Insurance Limited

FSA's review of terms and conditions used in consumer contracts issued by Legal & General Insurance Limited in relation to its Home Insurance Essentials policy terms and conditions and other policies with the same or similar terms has resulted in the firm replacing clauses and definitions for "subsidence", "heave", "landslip", and "settlement". It notes that the firm no longer has wide scope to decide what constitutes "damage caused by settlement, shrinkage or expansion". The firm told FSA that the intention was to exclude from cover only settlement occurring in the first ten years of a building being built and the original term was intended to exclude only normal shrinkage or expansion of building materials that is unconnected to any subsidence, heave of site or landslip. New customers will receive a policy with the new wording from 1 January 2012 and existing customers will be notified of the changes at their annual renewal falling due after 1 January 2012. (15/12/11) <http://www.fsa.gov.uk/pubs/other/lg-insurance-undertaking.pdf>

CP11/29***: Deposit protection: raising consumer awareness

In this CP, FSA proposes that deposit takers prominently display, in their branches and on their websites, posters and/or stickers detailing deposit protection arrangements. FSA-authorized firms will be required to display standard stickers and posters produced by FSCS. EEA deposit takers with branches in the UK will be required to produce their own equivalent material. The EEA material must include a mandatory statement that clearly identifies their deposit protection scheme and makes it clear that they do not participate in FSCS. FSA also proposes that all deposit takers provide, on request, explanatory leaflets about the extent of deposit protection, where leaflets are available from the applicable scheme. It is noted that, despite the strategy's existing approaches, research earlier this year suggests there has not been a sustained increase in consumer awareness of FSCS. Responses are required by 9 March 2012. (14/12/11)

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2011/112.shtml> http://www.fsa.gov.uk/pubs/cp/cp11_29.pdf
(NB: over 30 pages long)

EIOPA: Consumer protection

At its first "Consumer Strategy Day", held in Frankfurt today, EIOPA's chairman said that "we need to question the strategy and policy tools that we traditionally use to address information asymmetries, conflict of interest and market inefficiencies to protect the rights of policyholders, pension scheme members and beneficiaries", but noted that clients also had responsibility to provide relevant, comprehensive and accurate details to providers in order to obtain the product or service best tailored to their needs. EIOPA also presented an update of its activities relating to consumer protection and financial innovation and noted that it is currently in the process of finalising a report on insurance-specific consumer trends in the EU. In 2012, EIOPA plans to contribute to the work on the legislative proposals on the revision of IMD and PRIPs. (6/12/11)

https://eiopa.europa.eu/fileadmin/tx_dam/files/pressreleases/Consumer-Strategy-Day.pdf

HMT: Money Advice Service and the coordination and provision of debt advice

HMT notes that the July 2011 HMT/BIS/BERR document "Consumer credit and personal insolvency review: summary of responses on consumer credit and formal response on personal insolvency". proposed that the Government would clarify the consumer financial education function in the forthcoming Financial Services Bill by including express provision for the coordination and provision of debt advice. The consumer financial education function (as currently set out in Section 6A FSMA) allows the Money Advice Service to take on and deliver the coordination and provision of debt advice. The Government believes, however, that the clarification it proposes should be made in order to reflect the importance of debt advice as part of the Money Advice Service's activities. The Government is now seeking views on this proposal and would welcome written comments by 6 January 2012. (5/12/11) http://www.hm-treasury.gov.uk/d/mas_and_debt_advice_letter_from_alison_cottrell.pdf

EC: Alternative Dispute Resolution Directive/Online Dispute Resolution Regulation

The EC has published drafts of the above legislation together with a Q&A. The European Parliament and the EU Council have committed to adopting the package by the end of 2012, after which, EU Member States will have 18 months to implement the ADR Directive. The single EU-wide platform for online dispute resolution will become fully operational six months after that deadline (early 2015). (29/11/11) [EUROPA - Press Releases - Consumers: Commission puts forward proposals for faster, easier and cheaper solutions to disputes with traders](http://ec.europa.eu/consumers/redress_cons/docs/directive_adr_en.pdf)

http://ec.europa.eu/consumers/redress_cons/docs/odr_regulation_en.pdf f (NB: 40 pages long)
<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/840> (Q&A)

FOS: "Arch cru"-related decision

in a provisional decision upholding a consumer's complaint about an intermediary's advice to invest in an "Arch cru"-related fund, Tony Boorman sets out his general approach to this kind of case – and explains how FOS proposes to take into account compensation available under FSA's s404 package for investors. (22/11/11) http://www.financial-ombudsman.org.uk/publications/technical_notes/archcru-prov-decision-nov11.pdf

EC: Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council

This has now been published in the Official Journal. (22/11/11) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:304:0064:0088:EN:PDF>

FOS: Ombudsman News 98

Topics include: banking complaints involving cheques; insurance disputes about storm and weather damage; outgoing chairman, Sir Christopher Kelly, on the highlights of his decade with FOS and Natalie Ceeney on why PPI remains “the big issue for FOS”. (21/11/11) <http://www.financial-ombudsman.org.uk/publications/ombudsman-news/98/98.pdf>

EC: Commission Directive 2011/90/EU of 14 November 2011 amending Part II of Annex I to Directive 2008/48/EC of the European Parliament and of the Council providing additional assumptions for the calculation of the annual percentage rate of charge

This has been published in the Official Journal. (16/11/11) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:296:0035:0037:EN:PDF>

HoC Committee of Public Accounts: Protecting consumers – the system for enforcing consumer law

This report raises concerns over discrepancies of consumer law, noting that the majority of enforcement work is carried out by local authority trading standards services, each with jurisdiction in only its own local area, whilst OFT enforces some laws and raises concerns that “despite the high cost to consumers of regional and national problems, it is not clear which of the various enforcement bodies is ultimately responsible for tackling them”. It also notes that “the potential profitability of committing an offence can outweigh the maximum available penalty, meaning that existing penalties and powers are often insufficient to provide an adequate disincentive to would-be offenders” and “the impact of doorstep crime, where traders with no registered premises go from door to door selling substandard or even non-existent services, has not been quantified despite it being a hugely important and serious issue for consumers which has a disproportionate impact on people who are most vulnerable”. It concludes that “responsibility for tackling regional and national instances of malpractice or rogue trading must be clearly designated”. (11/11/11)
<http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1468/1468.pdf> (NB: over 50 pages)

European Parliament: Report on a new strategy for consumer policy

The report calls for Calls for “a high level of consumer protection to be established throughout the EU, so that the internal market in the field of financial services can be further strengthened and protectionist practices combated”. (7/11/11)
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2011-0369+0+DOC+PDF+V0//EN>

FOS: Ombudsman News 97

Topics include: financial disputes brought to FOS by students; Natalie Ceeney on “complaints prevention” work with younger people and Q2 complaints statistics. (18/10/11) <http://www.financial-ombudsman.org.uk/publications/ombudsman-news/97/97.pdf>

HoC Business, Innovation and Skills Committee: Debt management

The committee has announced this new inquiry, which will focus on the Government’s response to the BIS/BERR/HMT paper “Consumer credit and personal insolvency review: summary of responses on consumer credit and formal response on personal insolvency” and its proposals for policies in relation to: consumer debt; support mechanisms for those in debt; and the provision of credit facilities by commercial companies (14/10/11)
<http://www.parliament.uk/business/committees/committees-a-z/commons-select/business-innovation-and-skills/inquiries/debt-management>

EC: Consumer Rights Directive

It is reported that the Directive has been formally adopted by Member States in the EU’s Council of Ministers. After publication in the EU’s Official Journal, governments will have two years to implement the rules at national level. (10/10/11)
[EUROPA - Press Releases - New EU rules on consumer rights to enter into force](http://europa.eu/press-releases/new-eu-rules-on-consumer-rights-to-enter-into-force)

ICO: Access to information held in complaint files

ICO's guidance for organisations that hold complaint files is intended to help them deal with requests for access to personal information held in them. It also deals with the issues that arise when a third party makes a FOIA request to a public authority for access to personal data about somebody else held in a complaint file. (10/10/11) http://www.ico.gov.uk/for_organisations/guidance_index/~media/documents/library/Data_Protection/Practical_application/access_to_information_held_in_complaint_files.ashx

FSA/FOS/OFT: Coordination committee on emerging risks (9 September 2011)

The minutes of this meeting have been published. Risks cited include: shared equity home loans; debt collection/recovery; low value general insurance products; credit card charges and first charge residential mortgages. The next meeting is scheduled for November 2011. (7/10/11) http://www.fsa.gov.uk/pubs/other/cc_9sep11.pdf

FOS: The work of FOS – a contribution to the Leveson Inquiry (5 October 2011)

FOS has published the slide presentation given by Tony Boorman at the briefing on "regulatory models" held as part of the Leveson Inquiry into the culture, practices and ethics of the press. (6/10/11) <http://www.financial-ombudsman.org.uk/news/speech/TonyBoorman-LevesonInquiry.pdf>

FOS: Appointment

FOS has announced the appointment of Gwyn Burr to its non-executive board of directors with effect from 19 October 2011. The item includes a short bio. (6/10/11) <http://www.financial-ombudsman.org.uk/news/updates/updates/GwynBurr-appointment2011.html>

FOS: "Compensation culture" – good or bad for consumers?

Natalie Ceeney took part in a debate with ABI and Which? on 3 October 2011. She criticised claims management companies, suggesting that they "thrive on distrust and hostility" and concludes by saying that "together – by which I mean financial businesses, trade associations, consumer groups, the ombudsman service, regulators and claims managers – we can all move forward constructively to help re-build trust and confidence in financial services. These two words are too important to become throw-away sound-bites in a war of words". (5/10/11) <http://www.financial-ombudsman.org.uk/news/speech/2011/speech/2011/ABI-NC-3Oct2011.html>

FOS: Current account charges

FOS has published a new factsheet for consumers who have a complaint about a bank charge that has been applied to their current account. (3/10/11) <http://www.financial-ombudsman.org.uk/publications/factsheets/current-account-charges.pdf>

FSA: Complaints data

FSA has published data showing the complaints made against financial services firms in the first half of 2011. It is noted that the volume of complaints to financial services firms increased by 3% and complaints about PPI were up by 23%. Banking complaints were at their lowest level since 2008. Further details on aggregate and firm-level complaints are available via the second and third links below. (28/09/11) [FSA publishes firm complaints data](http://www.fsa.gov.uk/Pages/Library/Other_publications/commentary/aggregate_com/index.shtml)
http://www.fsa.gov.uk/Pages/Library/Other_publications/commentary/aggregate_com/index.shtml
http://www.fsa.gov.uk/Pages/Library/Other_publications/commentary/firm_spec/index.shtml

BIS/BERR: Consumer Bill of Rights

A new Consumer Bill of Rights has been announced which is intended to streamline overlapping legislation and regulation, and provide stronger consumer protection. It will update the law for goods and services and for digital content, clarify the law on unfair contract terms, consolidate consumer powers for Trading Standards, and provide much stronger protection for customers targeted by misleading aggressive sales practices. It will propose that in such latter cases victims should have a

clear time, extending beyond the default cancellation period currently in place, in which to unwind the contract. (20/09/11) http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=421254&NewsAreaID=2&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+bis-news+%28BIS+News%29&utm_content=FeedBurner

FOS: Ombudsman News 96

Topics include: complaints involving e-money; FOS's response to business feedback on how it can improve its service and Natalie Ceeney on forecasting what will impact on workload in the second half of 2011 and the next financial year. (15/09/11) <http://www.financial-ombudsman.org.uk/publications/ombudsman-news/96/96.pdf>

BEUC (European Consumers' Organisation): EBA/EIOPA

BEUC and the European Federation of Investors and other financial services users have filed a complaint with the European Ombudsman against EBA and EIOPA. BEUC argues that consumer advocates are under-represented at both entities (3 out of 30 on EBA and 4 out of 30 on EIOPA), adding that "the consumer representatives in the EBA stakeholder group were chosen from small organisations, despite applications from larger and better resourced consumer organisations. This raises major concerns as to their capacity to assert themselves against the heavyweight banking groups who take the clear numerical lead in this body. 'Users of banking services' are represented by organisations such as rating agencies (Standard & Poor's) or auditors (e.g. PwC). Categorising these professional banking industry service providers as "users" is misleading and inappropriate". (15/09/11) <http://docshare.beuc.org/docs/1/PHOJBGLALBDIFJPBFOBAMBOKPDWY9D73GK9DW3571KM/BEUC/docs/DLS/2011-09744-01-E.pdf>

HoC: CF Arch Cru

This HoC library note outlines briefly the known facts about the CF Arch cru investment funds which were suspended by FSA because of concerns over their liquidity. (13/09/11) <http://www.parliament.uk/Templates/BriefingPapers/Pages/BPPdfDownload.aspx?bp-id=SN06008>

FOS: Publishing ombudsman decisions: next steps

FOS has published this consultation document which notes the government's intention to require it to publish its final decisions and sets out initial thoughts on how decisions might be published in practice. It is noted that FOS believes that publication should be limited to the final formal decisions and why it wishes to keep the informal stages of the complaints-handling process confidential. FOS invites views on practical issues about how the publication process should take place and also asks for feedback on the implications it might have on all interested parties. Responses are required by 9 December 2011. (9/09/11) <http://www.financial-ombudsman.org.uk/publications/policy-statements/publishing-decisions-sep11.pdf>

FOS: Complaints data

FOS has published data relating to consumer complaints between 1 January and 30 June 2011. The data includes both the number of complaints received about individual businesses and the percentage of complaints FOS upheld in favour of consumers. It is noted that during this period FOS received a total of 149,925 new complaints – an increase of 54% on the 97,237 cases received in the second half of 2010. Of the data published, 98,632 cases related to PPI. 93% of the total number of cases involved 157 financial businesses (out of more than 100,000 businesses covered by the ombudsman). The number of new complaints about each of these individual businesses ranged from 30 to 19,569. Five financial businesses each had more than 10,000 complaints referred to the ombudsman service, which together accounted for 72,026 cases – just under half of all the new complaints the ombudsman received during this six-month period. In the first half of 2011, FOS upheld an average of 47% of complaints in favour of consumers, compared to 53% in the second half of 2010 which it attributes to the impact of the legal challenge brought on behalf of some high street banks against FOS and FSA earlier in the year. Across the 157 individual businesses included in the complaints data, the uphold rates varied substantially between 2% and 98% upheld in favour of consumers. (6/09/11) [Complaints data](#)

Consumer Focus: Affordable credit

This report examines high-cost credit and financial inclusion in other countries – focusing on France, Germany and Australia – and looks at what lessons can be learned for UK policy makers. It argues that mainstream banks must follow the lead of

their overseas counterparts and do more to promote social lending to help fill affordable credit gaps in the UK, suggesting that the government and the financial services industry to help develop and promote social lending through credit unions and community-based initiatives. (5/09/11) <http://www.consumerfocus.org.uk/files/2011/08/Affordable-credit-Lessons-from-overseas.pdf> (NB: over 60 pages long)

ABI: Tackling the compensation culture

ABI has published this report, in conjunction with a number of leading retailers, trade bodies and risk management bodies, which calls for reform of the compensation system. Its specific criticisms include "aggressive activities of some claims management firms that lead to the public receiving unsolicited texts and cold calls encouraging them to claim". It urges the Government to implement the Jackson recommendations in full in the Legal Aid, Sentencing and Punishment of Offenders Bill and associated regulations. (5/09/11) <http://www.abi.org.uk/Publications/57764.pdf>

Association of Professional Claims Managers: Code

APCM is a recently established trade body representing claims management firms dealing with financial mis-selling claims and aims to increase the professionalism and levels of service provided by regulated claims management companies. It has published a code for its members. (5/09/11) <http://www.apcm.org.uk/Claims%20Management%20Code.pdf>

FOS: Arch cru

FOS has published a copy of the letter it has sent to investors in Arch cru explaining how the payment scheme is being taken forward. (1/09/11) <http://www.financial-ombudsman.org.uk/news/pdf/archcru-update-aug11.pdf>

OECD: Draft G20 high-level principles on financial consumer protection

Further to the G20 meeting in Paris in February 2011, OECD has published a consultation document in respect of the above. The 10 high level principles, which include disclosure and transparency, responsible business conduct of financial services providers and their authorized agents and complaints handling – are designed to assist G20 countries and other interested economies to enhance financial consumer protection. Responses are required by 31 August 2011. (3/08/11) <http://www.oecd.org/dataoecd/31/9/48473101.pdf>

FOS: Ombudsman News 95

Topics include: Q1 statistics and financial complaints involving buying, refurbishing or furnishing a home. (2/08/11) <http://www.financial-ombudsman.org.uk/publications/ombudsman-news/95/95.pdf>

FOS: Arch cru

FOS has published the text of a letter in respect of the above, noting that it has received a number of enquiries about the complaints it's received relating to Arch cru investments and explaining that, the implications of how the payment scheme will work remain uncertain and that FOS will have to wait for FSA to confirm the details of the scheme before we are in a position to consider the complaint. (27/07/11) <http://www.financial-ombudsman.org.uk/news/pdf/archcru-update-jul11.pdf>

European Parliament: Draft report - towards a coherent European approach to collective redress (20/07/11) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-467.330+01+DOC+PDF+V0//EN&language=EN>

MoJ: Claims management regulation - annual report 2010/2011

The review considers the claims management regulation regime, analyses its business activity, complaints, enforcement and priorities for 2011/12 (including tackling malpractice in the handling of PPI claims) amongst other matters. (19/07/11) <http://www.justice.gov.uk/downloads/publications/corporate-reports/cmr/cmr-annual-report-2010-11.pdf> (NB: 70 pages long)

MoJ/FSA/FOS/FSCS: Claims management companies and financial services complaints

This joint note is intended to assist consumers, financial businesses and claims management companies to: understand the role of claims management companies in financial services complaints; provide specific material and information on related topics of concern and respond to FAQs; and explain the respective relevant roles of the parties. (19/07/11)
http://www.fsa.gov.uk/pubs/other/joint_note_about_CMCs.pdf

European Parliament: Parliament decides stance on derivatives, short selling, investor compensation

This press release reports on plenary sessions held at which proposals on the above were considered. It notes that with very significant differences expected between the position of the EP and, once adopted, that of Member States for the directive on investor compensation schemes, MEPs chose to close the first reading procedure today. In the case of the two texts on derivatives and short selling, however, the plenary vote was only used to collect significant majorities which should strengthen the hand of MEP negotiators in their ongoing talks with Member States. The final vote on investor compensation schemes was 566 votes in favour, 17 against and 88 abstentions. The amended proposals on derivatives and short selling were both adopted by a show of hands but the final votes on these two were postponed. (6/07/11)
http://www.europarl.europa.eu/pdfs/news/expert/infopress/20110705IPR23303/20110705IPR23303_en.pdf

OFT enforcement

OFT: Travel money

Following a super-complaint from Consumer Focus, OFT has now secured agreement from banks and travel money providers to improve the information on options available for consumers purchasing foreign currency in the UK or using credit and debit cards abroad. Lloyds/HBOS, Barclays, RBS/NatWest, Santander and the Co-operative Bank are to scrap charges for consumers using their debit cards to purchase foreign currency in the UK. The UK Cards Association and BBA have, on behalf of their members, undertaken that they will give clearer, more accessible information about their charges for using cards abroad, on websites, statements and through call centres. Lloyds/HBOS, HSBC, Co-operative Bank, Capital One, RBS/NatWest and American Express have agreed to display the actual charges incurred by customers for using cards abroad far more clearly on their monthly and annual statements. A number of foreign currency businesses have agreed to review their marketing to make the various costs and conditions that apply clearer, particularly those applicable to "0% commission" deals. (20/12/11) <http://www.of.gov.uk/news-and-updates/press/2011/138-11>

OFT: Investigation into the private motor insurance sector

Following an OFT investigation which identified an increased risk of price coordination among motor insurers using a specialist market analysis tool provided by Experian, OFT has accepted formal commitments from Ageas Insurance Ltd (formally Fortis Insurance Ltd), Aviva Insurance UK Ltd, AXA Insurance UK plc, Liverpool Victoria Insurance Company Ltd, RBS Insurance Group Ltd, and Zurich Insurance plc - UK Branch; and IT software and service providers Experian Ltd and SSP Ltd. The Experian tool allowed insurers to access not only the pricing information they themselves provided to brokers, but also pricing information supplied by other competing insurers. The OFT warned the firms that, because insurers were able to access information about their competitors' future pricing intentions, the information exchanged through WhatIf? Private Motor raised competition law concerns, in particular that it could potentially be used to coordinate on price. The formal commitments address these concerns by ensuring that the companies will exchange pricing information through the analysis tool only if that information meets certain principles agreed with the OFT. These principles require the information, if less than six months old, to be anonymised, aggregated across at least five insurers and already 'live' in broker-sold policies. Having accepted the commitments, OFT has ended its investigation and will not be proceeding to a decision on whether or not the Competition Act has been infringed. (2/12/11) [OFT accepts formal commitments after motor insurers agree to limit data exchange - The Office of Fair Trading](http://www.of.gov.uk/OFTwork/competition-act-and-cartels/ca98-current/motor-insurance/motor-insurance-qanda/) <http://www.of.gov.uk/OFTwork/competition-act-and-cartels/ca98-current/motor-insurance/motor-insurance-qanda/> (Q&A) http://www.of.gov.uk/shared_of/ca-and-cartels/OFT1395.pdf (Decision – NB: over 70 pages long)

OFT: Guidance for brokers, intermediaries and the consumer credit and hire businesses which employ or use their services

The guidance sets out OFT's view on unfair practices relating to advertising and sales, refunds of fees and complaints handling. It also outlines the responsibilities of businesses that use the services of credit brokers and intermediaries. The guidance is designed to tackle unfair practices including: unauthorised debiting of customer accounts and failure to refund, or delay in refunding, brokerage fees, in circumstances where a refund is due. The guidance makes it clear that credit brokers and intermediaries need to be transparent about their status, whether independent or otherwise, the payment of fees, the consumer's right to refunds, and commission. It also addresses a number of the issues highlighted in Citizen Advice's super-complaint earlier this year, including cold calling by telephone or text without the consent of the borrower and

taking up-front fees from a borrower's bank account without the prior informed consent of the borrower. (24/11/11) http://www.offt.gov.uk/shared_offt/business_leaflets/consumer_credit/oft1388.pdf (NB: over 70 pages long)

OFT: Nine Regions Limited/Log Book Loans Limited

OFT reports on the First-Tier Tribunal decision to strike out the appeals of the above-mentioned firms, described as the UK's largest logbook loan businesses. OFT asked the Tribunal to strike out Log Book Loans' appeals because of evidence that emerged during the appeal hearing. Log Book Loans admitted that thousands of letters had been sent to borrowers in the name of a firm called Adams Spencer & Phillips (Legal Services) Limited falsely threatening to take legal action on behalf of Nine Regions Limited. (18/11/11) <http://www.offt.gov.uk/news-and-updates/press/2011/125-11>

OFT: Annual plan consultation document 2012–13

OFT's annual plan sets out its proposals in respect of strategic objectives and also gives details of recent and ongoing work. Responses are required by 3 February 2011. (14/11/11) http://www.offt.gov.uk/shared_offt/consultations/annual-plan-cons/OFT1382con.pdf (NB: over 40 pages long)

OFT: Visits to businesses under the Money Laundering Regulations 2007

This code of practice provides businesses with information on what can be expected when OFT visits their premises in the course of performing its functions under MLR. (2/11/11) http://www.offt.gov.uk/shared_offt/AML/OFT1386.pdf

OFT: Debt collection guidance

OFT has published an updated version of this guidance, which sets out the standards expected of all businesses engaging in the recovery of consumer credit debts, including banks, law firms and tracing agents as well as traditional debt collectors. It also sets out specific business practices that OFT considers to be unfair or improper; warns against misuse of continuous payment authority to recover debts, such as making recurring attempts to recover a single repayment. highlights the responsibilities of all parties involved in the debt recovery process, including creditors, for the quality and level of information they maintain and exchange with others, in order to avoid the wrong person being pursued for a debt.; provides greater clarity on OFT's position on issues such as reasonably queried and disputed debt and statute barred debt.and makes debt recovery businesses aware that they should adopt appropriate practices and procedures for dealing with particularly vulnerable debtors. (19/10/11) http://www.offt.gov.uk/shared_offt/consumer_leaflets/credit/OFT664Rev.pdf (NB: over 60 pages long)

OFT: Money Advice Direct Limited/Prime Legal and Financial Services/Deric Hamilton-Oliver

In this press release, OFT notes enforcement action against three debt management businesses. OFT has acted to stop London-based Money Advice Direct Limited using its existing trading name, "The UK Insolvency Helpline" and the proposed domain names that include the word "helpline" because the names fail to make clear to consumers the commercial nature of the business. OFT has revoked the licence of Prime Legal and Financial Services for failing, amongst other matters, to demonstrate the necessary skills, knowledge or experience to hold a consumer credit licence. Deric Hamilton Oliver's application for a licence was rejected partly because he gave OFT false information. (10/10/11) [OFT acts against debt management businesses - The Office of Fair Trading](http://www.offt.gov.uk/news-and-updates/press/2011/125-11)

OFT: Consumer Credit Act 1974 - misleading or otherwise undesirable names

OFT has published this consultation which considers guidance on the circumstances when names are required to be notified for inclusion on a credit licence and on those which are likely to be deemed unacceptable and includes a draft statement of approach as a basis for subsequent guidance to all persons holding or seeking a consumer credit licence and wishing to add or retain trading names, including domain names and other names used in on-line trading. Responses are required by 30 December 2011. (10/10/11) http://www.offt.gov.uk/shared_offt/consultations/OFT1378.pdf (NB: over 30 pages long)

OFT: Mental capacity – guidance for creditors

OFT has published guidance for businesses when they are considering granting credit to people who might not have the mental capacity to make informed borrowing decisions. It sets out steps that the OFT expects consumer credit businesses to take with a view to: identifying borrowers who might have mental capacity limitations assisting them to understand credit agreements so they can make informed borrowing decisions reducing the risk that they will be granted unaffordable or clearly unsuitable credit. The guidance focuses primarily on creditors adopting appropriate practices and procedures to assist borrowers who might not have the mental capacity to make informed decisions. These include: providing borrowers with clear information and explanations about credit agreements and any associated risks giving them adequate time to weigh up the information and explanations provided in order to better enable them to reach responsible borrowing decisions; carrying out sufficiently stringent assessments of their ability to afford to meet repayments in a sustainable manner. (28/09/11) http://www.ofg.gov.uk/shared_ofg/consultations/ofg1373.pdf (NB: over 60 pages long)

OFT: JST Financial Solutions Limited

The First Tier Tribunal has upheld OFT's decision to revoke the licence of JST Financial Solutions Limited because the company allowed a convicted fraudster to become involved in its business. The Tribunal commented that the firm's "conscious decision" to permit an association with the individual "represents a reckless disregard for the protection of consumers and a failure by JST to demonstrate the level of concern for consumers that is to be expected of a consumer credit licence holder. As a consequence, the Tribunal concludes that JST is not a fit person to hold a consumer credit licence". (21/09/11) [OFT welcomes tribunal decision on JST Financial Solutions - The Office of Fair Trading](http://www.consumercreditappeals.tribunals.gov.uk/Documents/decisions/ConsumerCreditAppealsTribunal/0018_JST_Financial_Solutions_Ltd.pdf)
http://www.consumercreditappeals.tribunals.gov.uk/Documents/decisions/ConsumerCreditAppealsTribunal/0018_JST_Financial_Solutions_Ltd.pdf

OFT: Travel money

OFT has formally announced that it has received a super-complaint from Consumer Focus about the cost of obtaining foreign currency and overseas use of credit and debit cards. It has called on OFT to investigate charges applied by some banks and credit card providers for purchases of foreign currency in the UK, charges applied when using credit or debit cards abroad and the use by some UK foreign currency retailers of phrases promising "0% commission" and "competitive exchange rates" which Consumer Focus may be misleading. OFT is inviting comments (a list of questions for consumers has been published on this link and a list of questions) (21/09/11) <http://www.ofg.gov.uk/OFTwork/markets-work/super-complaints/travel-money/>

OFT: Carltons Business Limited

OFT has reported on a First-Tier Tribunal Decision upheld its decision to revoke the consumer credit licence of the firm, a debt collection agency based in Dartford, Kent. The Tribunal, in dismissing the firm's appeal found in particular that: the firm lacked sufficient skills, knowledge and experience to operate a consumer debt collection business; it did not have practices or procedures to deal fairly and properly with consumers. the payment demand letter was designed to look like an official or legal document, against OFT guidance; its MD's decision to describe himself to debtors as a lawyer intended to create a misleading impression. It is also noted that the firm had been "persistently obstructive" in dealing with enquiries from the OFT and Trading Standards. (13/09/11) ['Communicate clearly and fairly' OFT warns consumer credit businesses. Tribunal upholds OFT decision to revoke consumer credit licence - The Office of Fair Trading](http://www.consumercreditappeals.tribunals.gov.uk/Documents/decisions/CCA_2010_0010_Carltonsdecision.pdf)
http://www.consumercreditappeals.tribunals.gov.uk/Documents/decisions/CCA_2010_0010_Carltonsdecision.pdf (full text of Decision)

OFT: Unfair relationships - enforcement action under Part 8 of the Enterprise Act 2002

OFT has updated its guidance on unfair relationships in the light of its revised guidance on irresponsible lending and also to take account of relevant court judgments. (1/09/11)
http://www.ofg.gov.uk/shared_ofg/business_leaflets/enterprise_act/ofg854Rev.pdf (NB: over 50 pages long)

OFT: Scam loan companies

In this press release, OFT notes that it has seen a 50% year-on-year rise in complaints about loan scams, particularly credit applications which involve the consumer wiring or sending upfront fees through money transfer companies. Complaints to OFT-managed advice service Consumer Direct increased from 2,059 between 1 July 2009 and 30 June 2010 to 3,167 during the same period in 2010-11. (22/08/11) <http://www.ofg.gov.uk/news-and-updates/press/2011/93-11>

OFT: Group licensing regime - guidance for consumer credit group licence holders and applicants

OFT has published an updated version of this document, originally published in April 2008. (22/08/11)
http://www.ofc.gov.uk/shared_ofc/business_leaflets/credit_licences/OFT990rev.pdf (NB: over 30 pages long)

OFT: Parkgate UK Limited

OFT has announced that it has revoked the licence of debt management company, Parkgate UK Limited, after it sent a threatening letter to a debt collection agency. The letter, sent on behalf of one of the firm's clients, included a threat of physical violence against the agent should they attempt to collect the client's debts. The firm has apologised for its conduct and said that it did not intend to act on the threat, but OFT said that the letter, combined with other failings to demonstrate the skills and knowledge required to run a consumer credit business, meant that the firm was unfit to hold a licence. (5/07/11) <http://www.ofc.gov.uk/sitepack/access-sitepack/icon/favicon.ico>

Archived material on the sector is available via the following links: [January-June 2009](#), [July-December 2009](#), [January-December 2010](#) and [January-July 2011](#).

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