

Regulatory Focus

Issue 129

In this edition of Regulatory Focus, the experts in Duff & Phelps' UK Compliance and Regulatory Consulting team, provide a detailed synopsis of the latest news and publications issued by the Financial Conduct Authority (FCA) during September 2019.

INSIDE

2 VOICE

Less than two months until the implementation of the Senior Managers and Certification Regime (SM&CR)

The Financial Conduct Authority finalises rules on illiquid assets and open-ended funds
Market Abuse Memo

5 BREXIT

The FCA steps up efforts to ensure firms are getting ready for a no-deal Brexit
EU financial regulators highlight systemic risks

Preparing for Brexit in financial services: the state of play

8 SUPERVISORY

The FCA finds MiFID II research unbundling rules are working well for investors

Improving the suitability of financial advice

Update to June 2019 joint statement on opportunistic strategies in the credit derivatives market.

Information to customers of Thomas Cook Plc- being alert to Scams

12 ENFORCEMENT

Individual sentenced to 5 years and 8 months' imprisonment for money laundering

The fight against skimmers and scammers

FCA charges former banker with destruction of documents as part of insider dealing investigation

Further details of Independent Investigation of Connaught Income Fund Series 1 Announced

16 OTHER

ESMA Strengthens liquidity stress tests for investments funds

ESMA publishes stress simulation framework for Investment Funds

New Chair appointed to the Smaller Business Practitioner Panel

Investors face increasing risks amid renewed market volatility

ESMA Publishes Responses to its Consultation on Cost of Market Data and Consolidated Tape

Firms need to register for Connect to update their firm details

Sheree Howard appointed as FCA Executive Director of Risk and Compliance Oversight



Duff & Phelps was named "Best Compliance Consultancy" at the HFM European Quant Awards 2019. The awards recognises service providers, quant hedge funds and CTAs who are leading the way in Europe. Ian Manson accepted the award at the ceremony in London on 10th October.



Less than two months until the implementation of the Senior Managers and Certification Regime (SM&CR)

The SM&CR implementation date of 9th December 2019 is creeping up fast and we would like to remind firms of the key actions they need to take before that date arrives.

- Establish whether you are a Core, Limited Scope or Enhanced firm
- Brief Senior Managers on the new regime and the impact on them as individuals
- Review and assess current governance arrangements to see whether changes need to be made in preparation for SM&CR
- Agree population of Senior Managers, Certified Staff and Conduct Rules Staff
- Review current approved persons, assess how they will be grandfathered to Senior Management Functions and make any necessary changes before the implementation date.
- Assess whether your Firm has a Chair. These will not convert automatically for Limited Scope and Core firms. Firms will need to submit forms to notify the FCA where they have either Non-Executive directors or Directors who will become Chairs.
 - For a Non-Executive Chair a Form K needs to be submitted by **24 November 2019** (which is available now on Connect)
 - If the firm is going to have an Executive Chair a Form A should be submitted.
- Allocate and agree appropriate Prescribed Responsibilities to Senior Managers. (This does not apply to Limited Scope firms).
- Identify other aspects of the business that are relevant for your firm for which responsibilities need to be allocated, covering both regulated, operational and support activities. Allocate other responsibilities for areas which are relevant for your firm's business to Senior Managers. (This only applies in a limited way for Enhanced firms, who need to allocate Overall Responsibilities instead.)

- Draft, agree and finalise Statements of Responsibilities for each Senior Manager
- Undertake Fit and Proper Assessments for Senior Managers and Non-Executive Directors. (Assess how the Fit and Proper requirements apply if you are a Limited Scope firm.)
- Develop a Reasonable Steps framework for Senior Managers across the firm
- Deliver Conduct Rules Training for Senior Managers and Certified Staff
- Produce internal procedures for SM&CR, making sure they cover the requirements for Senior Managers, Certification Regime, Conduct Rules, Fitness and Propriety Checks (including Regulatory References) and update existing procedures where necessary, for instance recruitment or annual appraisal procedures.

Please note that this list is not exhaustive and only includes actions needed before 9th December 2019.

If you need assistance with your SM&CR preparation or would like to discuss our [SM&CR toolkit](#) which enables firms to implement SM&CR themselves, [please contact us](#). The SM&CR Toolkit contains:

- an implementation project plan which takes you through the steps you need to take to be compliant
- a grandfathering and mapping spreadsheet which helps you plan for the conversion process
- an SM&CR Handbook which can be easily tailored and adopted for your internal SM&CR procedures and also provides guidance during implementation, and
- a number of templates for implementation and ongoing business as usual.

We would be very happy to demonstrate the toolkit to firms.

We have issued a client alert on SM&CR which can be found [here](#).

The Financial Conduct Authority finalises rules on illiquid assets and open-ended funds

30 September

The FCA published in [PS19/24](#) its final rules on investments in illiquid assets by open-ended funds. The application of the new rules will be limited to non-UCITS retail schemes (“NURS”).

The final rules introduce a new category of ‘funds investing in inherently illiquid assets’ (“FIIA”) which will include NURS which have disclosed in their pre-contractual documentation that they will invest at least 50% of the scheme property in inherently illiquid assets. Schemes categorised as FIIA will be subject to additional requirements including:

- Enhanced depositary oversight;
- Standard risk warnings on financial promotions;
- Increased disclosure of liquidity management tools and liquidity risk contingency plans; and
- A requirement to suspend dealing in the fund units when the standing independent valuer (“SIV”) expresses material uncertainty regarding the value of 20% of the scheme property. This would not apply if the fund manager has agreed with the depositary that it is in the best interest of investors to allow continuation of dealing.

Although the rules only apply to NURS, the FCA explains in Chapter 7 of its Policy Statement that it is considering whether the proposed remedies should be applied to other schemes and whether it should also consider a wider range of remedies to be applied to both NURS and other types of schemes investing in illiquid assets.



Market Abuse Memo

3 October

The European Securities and Markets Authority (ESMA) published a consultation paper, requested by the European Commission, on the Market Abuse Regulation (MAR).

The consultation addresses a wide range of issues including some which will be of particular interest to asset managers such as;

- the possible inclusion of spot foreign exchange (FX) contracts in MAR,
- the definition of inside information,
- review of the market sounding regime.

ESMA recognises arguments for including spot FX in MAR, such as providing National Competent Authorities (NCA) greater authority to act against misconduct related to FX markets. However, ESMA noted that the publication of the FX Global Code of Conduct developed by central banks and market participants has already achieved progress in promoting higher standards in wholesale FX markets.

ESMA assesses whether the definition of inside information is insufficient to cover all information relevant for NCAs to effectively combat market abuse. ESMA is seeking views on the overall adequacy of the definition of inside information but also specifically in relation to,

- commodity derivatives,
- front-running controls,
- pre-hedging practices.

In relation to front-running, ESMA noted that front-running behaviours will be relevant for the purpose of insider dealing even when carried out by a person beyond those charged with the execution of orders.

ESMA has been made aware of a view that the market sounding regime and its requirements were only optional for Disclosing Market Participants to benefit from the protection from an allegation of unlawful disclosure of inside information. For this reason, ESMA is considering a change to the market sounding regime in MAR to clarify the obligatory nature of this regime and also to establish administrative sanctions for not complying with it.

ESMA is also considering the inclusion in the definition of a market sounding a reference to “prior to the announcement of a transaction”, as it would seem not to cover communications of information not followed by any specific announcement. ESMA is considering making recording of market soundings compulsory for all market soundings.

ESMA analyses whether there is a need for MAR to be amended to explicitly exclude or include listed collective investment undertakings (CIUs) from the scope of MAR’s persons discharging managerial responsibility obligations. ESMA is also seeking views on whether the disclosure obligations of inside information under MAR should be clarified for CIUs without legal personality.

Other issues addressed in the consultation include the

- effectiveness of the mechanism to delay the disclosure of inside information,
- establishment of an EU framework for cross-market order book surveillance,
- cum/ex and multiple withholding tax reclaim scheme.

The consultation remains open until 29 November 2019. A link to the consultation can be found [here](#).

The FCA steps up efforts to ensure firms are getting ready for a no-deal Brexit

11 September

The FCA has published a press release strongly advising all firms to consider the impact Brexit may have on their business if the UK left the European Union without a Withdrawal Agreement in place. In reinforcing the importance of preparing for a no-deal scenario, the FCA noted that the following firms should pay particular attention to their Brexit arrangements

- UK firms that conduct business in the EEA;
- UK firms that have customers in the EEA;
- Firms which transfer personal data from the EEA;
- Firms which passport into the UK and have not submitted a notification in respect of the Temporary Permissions Regime.

Nausicaa Delfas, Executive Director of International at the FCA, commented that “if firms haven’t finalised their preparations, there is a risk they could be impacted”. The FCA noted the commencement of the Temporary Permissions Regime, and

advised firms to be wary of possible regulatory change, such as changes to the FCA Handbook and to MiFID II transaction reporting.

The FCA reminded UK firms that if they are passporting into the EEA, they will lose these permissions in a ‘hard’ Brexit. In order to determine whether they will require some kind of regulatory approval to continue business as usual in the relevant Member State(s), firms should look to local regulations and review the approach being taken by each respective member state authority. They should also familiarise themselves with any transitional measures that have been put in place, including notifications to be submitted or deadlines to be met.

The FCA has listed the Member States in relation to which firms may need to take action to continue their business activities; it can be viewed [here](#). For further help in Brexit preparation, Firms can review the FCA’s Brexit [webpage](#), or call the FCA’s dedicated Brexit phonenumber on 0800 048 4255.

To read the full article, click [here](#).



EU financial regulators highlight systemic risks

12th September

The Joint Committee of the European Supervisory Authorities (ESAs) has published a report on "[Risks and Vulnerabilities in the EU Financial System](#)" showing that the European Union's (EU) banking, insurance, pensions and securities sectors continue to face a range of risks, including:

- Uncertainties around the terms of the United Kingdom's European Union withdrawal;
- A combination of persistently low interest rates and flattening yield curves which could put pressure on the profitability and returns of financial institutions, incentivising search-for-yield strategies and increase valuation risks;
- Environmental, Social and Governance (ESG) related risks and the transition to a more sustainable economy could challenge the viability of business models with high exposures to climate sensitive sectors.

Ongoing uncertainties including Brexit mean supervisory vigilance and cooperation across all sectors remains key. The ESAs call on European and national competent authorities and financial institutions to take the following policy actions:

- **Contingency planning:** Financial institutions and supervisors should continue working on contingency planning and assurance of business continuity in case of a no-deal Brexit.
- **"Low-for-long" scenario:** Supervisors and financial institutions should consider a "low-for-long" interest rate scenario and associated risks.
- **Bank profitability:** Unprofitable banks and their business models should be addressed to make institutions more resilient to a challenging economic environment.
- **Leveraged lending market:** Risks relating to the leveraged loan market and Collateralized Loan Obligations should be explored.
- **Sustainable finance and ESG risks:** Supervisory authorities and financial institutions should identify exposures to climate related risks and facilitate investor access to sustainable assets.

To read the full article, click [here](#)



Preparing for Brexit in financial services: the state of play

16 September

Andrew Bailey, Chief Executive of the FCA, delivered a speech at Bloomberg, London. Mr. Bailey was keen to announce that the FCA, while taking no position on the substance of Brexit itself, continues to prepare for a range of possible outcomes and scenarios. During the speech, Mr. Bailey covered the process the FCA has been adopting in its preparations for Brexit which has involved close involvement with their counterparts around the world and, in particular, the European Union. As part of this work, the FCA continues to be an active member of ESMA while also working closely with regulatory authorities in the EU27. Essentially, whatever the direction on Brexit, Mr. Bailey reiterated that our UK markets will remain closely linked to those of our EU counterparts in the future and, in doing this, the FCA will be well assisted in meeting its core regulatory objectives.

The speech continued into the area of a 'No-Deal Brexit' and Mr. Bailey confirmed that the largest preparation work has been aligned to this potential scenario. Mr. Bailey stated that, "firms in the UK have stepped up their preparations, the authorities in the UK have made good progress, and in the EU, authorities have mitigated risks of material disruption." Despite the positive tone surrounding the Brexit preparations, Mr. Bailey did provide a note

of caution when referring to the potential disruption caused by Brexit when he affirmed, "we cannot provide the assurance that there will be none".

The speech then continued to talk about the preparation developments in more detail and, specifically, 'the temporary transitional power' and the 'memoranda of understanding'. The former gives the FCA the ability to delay or phase regulatory changes made under the EU Withdrawal Act 2018. The latter allows a framework for EU regulatory authorities to share confidential information, allows UK or EU firms to outsource certain functions to other jurisdictions and provides structure to future equivalence decisions across the UK and EU.

Mr. Bailey's speech neared conclusion when he covered the specifics surrounding the FCA's programme of work in preparing for Brexit while also outlining the outstanding issues the FCA need to resolve in order to become fully Brexit prepared. These specific areas were very well summarised when he concluded, "we have made considerable progress, but we do not underestimate the task ahead".

To read the full speech, click [here](#)



The FCA finds MiFID II research unbundling rules are working well for investors

19 September

Since January 2018 MiFID II has required asset managers to either charge clients for research transparently or pay for research themselves. Prior to MiFID II many firms failed to control the use of clients' funds to purchase research, as the costs were hidden within opaque transaction fees.

The FCA conducted a supervisory review of these reforms between July 2018 and March 2019, which included a survey of 40 asset managers, visits to a sample of asset managers and brokers and meetings with independent research providers and corporate issuers.

This review found most asset managers have chosen to pay for research themselves and have improved accountability and scrutiny of research and execution costs. This has resulted in UK-managed equity portfolios saving around £70m in the first 6 months of 2018 across a sample of firms.

The review also found that:

- since the introduction of the reforms firms research budgets have fallen on average by 20%-30%;
- despite these reductions, most asset managers said they are still getting the research they need;
- research coverage of small and medium enterprises (SMEs) listed in the UK has not seen a material reduction to date, and; research pricing is still evolving, with wide price ranges being offered by brokers and independent providers.

The FCA will continue to monitor competition impacts and research coverage for SMEs and will conduct further work in 12 to 24 months' time to assess firms' ongoing compliance.

Further details of the FCA's supervisory review can be found [here](#).



Improving the suitability of financial advice

19 September

Debbie Gupta, Director of Life Insurance and Financial Advice Supervision at the FCA, delivered a speech to the Money Marketing Interactive Conference 2019 in Harrogate. The focus of her speech was on the FCA's ongoing work to improve suitability of advice, as well as the impacts of poor-quality advice.

Ms. Gupta outlined four broad areas of work the FCA continues to focus on in this space:

- **Improving standards** – including publication of consultation papers/policy statements and running workshops throughout the UK, speaking to over 2,000 advisers.
- **Firms causing most harm** – more effective use of data and intelligence is helping the FCA to identify firms causing harm to consumers and damaging the sector's reputation (the FCA's work in respect of pension transfer advice

following the British Steel Pension Scheme restructure is an example of this).

- **Supporting consumers** – listening to the experiences of consumers impacted by poor quality advice allows the FCA to gain valuable insights into the customer experience, allowing them to broaden their approach to reach even more consumers (for example the FCA has recently launched a video to help consumers understand what to expect from pension transfer advice.)
- **Helping advisers** – the FCA will continue to share the lessons it learns with the sector.

Ms. Gupta also provided some tips on fact finding and ensuring recommendations are aligned to clients' attitudes to risk.

The text of the full speech can be found [here](#).



Update to June 2019 joint statement on opportunistic strategies in the credit derivatives market

19 September

The Chief Executive of the FCA, together with the Chairmen of the US Commodity Futures Trading Commission and the US Securities and Exchange Commission, released a joint statement on 24 June 2019 regarding opportunistic strategies in the credit derivatives market. The statement outlined mutual concerns regarding these strategies (often referred to as 'narrowly tailored credit events') including the adverse impact they may have on the integrity, confidence and reputation of the credit derivatives market.

The International Swaps and Derivatives Association (ISDA), recently released a proposed protocol to address the issues around narrowly tailored credit events, including two amendments related to the 'Failure to Pay' definition and the 'Outstanding Principal Balance' definition.

The statement notes that firms are expected to consider how such strategies may affect their business and therefore what appropriate action should take place to mitigate the market, reputational and other risks that may arise. Firms have also been advised to consider the amendments made as part of the ISDA protocol and how it may help them mitigate risk, as well as the risk they may be exposed to by trading with counter-parties not adhering to this proposed protocol.

However, in isolation the proposed ISDA protocol may not fully address the issues raised by the joint statement (such as opportunistic strategies not involving narrowly tailored credit events), but further industry efforts are welcomed to help improve the functioning of the credit derivative markets.

The full statement can be viewed [here](#).



Information to customers of Thomas Cook Plc - being alert to scams

26 September

The FCA has warned all customers of Thomas Cook to remain alert to the possibility of criminals using Thomas Cook's liquidation as a cover story to scam them out of money.

All unexpected cold calls, emails and text messages, claiming to be from Thomas Cook and requesting personal or financial details, should be treated with caution. Customers should not assume the call is genuine, even if the caller has basic information on them. A genuine bank or financial services firm will never request such information in an unsolicited communication.

Further information is available at [guidance by UK Finance](#) or [Take Five – To Stop Fraud website](#).



Individual sentenced to 5 years and 8 months' imprisonment for money laundering

3 September

An individual has been sentenced, in absentia, to a total of 5 years and 8 months' imprisonment, after absconding from justice during their July 2017 money laundering trial. The sentence also includes punishment for a separate contempt of court, which was admitted in November 2015, for breaching a Restraint Order made in 2011.

Criminal property was laundered between October 2007 and November 2008 and represented the proceeds of a conspiracy by two further individuals, who were convicted in May 2016, of insider dealing. Market sensitive inside (non-publicly available) information was sourced from within an investment bank where one of these other individuals worked, who then passed on this information to the other individual to secretly deal upon. In order

to keep their involvement in this dealing secret, both individuals avoided receiving their profits direct from the traders who traded on their behalf.

The individual sentenced in September 2019, who was a business partner of one of those convicted of insider dealing in May 2016, used off-shore companies, bank accounts and false invoices to then conceal the true source of the illegally obtained funds. The case judge stated that there was 'compelling evidence' that 'extremely sophisticated' money laundering had taken place.

This investigation has been one of the FCA's largest and most complex insider dealing cases and has led to convictions of six individuals to date.

To read the full press release, click [here](#)



The fight against skimmers and scammers

5 September

Charles Randell, Chairman of the FCA, delivered a wide-ranging speech on financial crime issues at the Cambridge Economic Crime Symposium.

Mr. Randell discussed how fraud against individuals has reached epidemic proportions, with the most damaging financial crime originating from investment fraud.

The recent Crime Survey for England and Wales for 2018/19 states the total volume of fraud affecting individuals is at 3.8 million cases which accounts for one third of the total volume of 11.2 million crimes. The Office for National Statistics' research concluded that the number of fraud cases reported to the police was significantly under reported and under recorded. This has resulted in a scale of loss from fraud every year within the private sector estimated at over £140 billion.

Mr. Randell emphasised that fraud can go well beyond the financial losses involved with not only a victim's savings being destroyed but also their mental and physical wellbeing.

Mr. Randell discussed the role of the FCA in tackling investment fraud. The FCA focuses on the firms it authorises and on their regulated activities. The FCA also alerts consumers to the risks of scams and acts to shut down unauthorised investment businesses.

He questioned whether policymakers do enough to embed thinking about the risk of skimming and scamming into the savings and investment policies they make, such as those in relation to new found pension freedoms. The FCA has identified over 5 million pension savers who are at risk of falling for the tactics used by scammers. Although reports of pension scams are now decreasing, reports of other investment scams such as crypto and forex investment scams are rapidly increasing.

He addressed the question of how the FCA can reduce the confusion about what investment products are regulated and protected and what are not. He opined that regulation needed to guide consumers to better savings choices, through policies such as the FCA's 'investment pathways', and perhaps by reducing the range of products that can be presented to them.

He highlighted that major companies can effectively enable a huge amount of fraud by not adequately protecting personal data or by promoting advertisements for scams on the internet. Some companies, such as internet service providers, don't always play their part in remedying the harm they create.

Mr. Randell concluded by saying that the FCA is committed to making all the changes necessary so that it can contribute to the fight against scammers. It is also working on improving transparency and customer understanding of risks and the impact of costs, to drive down the harm caused by the skimmers.

To see the full speech, please click [here](#).



FCA charges former banker with destruction of documents as part of insider dealing investigation

6 September

A former banker appeared at Westminster Magistrates' Court charged with the destruction of documents relevant to an investigation. The FCA, which brought the prosecution, maintains that the individual erased the WhatsApp application from his mobile phone after he was compelled to provide it as part of an insider dealing investigation. Proceedings have been transferred to Southwark Crown Court and will commence on 4 October 2019, with the individual now out on bail.

This case marks the first time the FCA has brought a prosecution for destroying documents relevant to an investigation, which is an offence under the Financial Services and Markets Act 2000 ("FSMA 2000"). Under section 177(3)(a) of FSMA 2000, a person is guilty of an offence if he falsifies, conceals, destroys or otherwise disposes of a document which he knows or suspects is or would be relevant to such an investigation, unless he shows that he had no intention of concealing facts disclosed by the documents from the investigator.

To read the full article, click [here](#).



Further details of Independent Investigation of Connaught Income Fund Series 1 Announced

27 September

Judge Raj Parker has announced that the independent investigation into the Connaught Income Fund Series 1 (the Fund) is now open and has invited those affected to get in touch.

The review will consider the proportionality, appropriateness and effectiveness of the Financial Services Authority (FSA) actions and later the Financial Conduct Authority (FCA) actions in the supervision of Tiuta, Capita and Blue Gate.

Judge Parker said: "As part of this independent review, I will be investigating the regulators' approach to and response to intelligence, as well as the FCA's involvement in the mediated negotiations before the launch of enforcement investigations in March 2015. I will also look at whether the regulator's

jurisdiction at the time impacted its ability to protect consumers and whether its approach to communications with investors in the Fund was appropriate, timely and transparent.

An assessment of the FSA/FCA's actions and any lessons to be learned will be made publicly available. I am keen to hear from anyone who has been affected and would encourage them to email any relevant information to me."

Further information can be found on the webpage: [Review of the Connaught Income Fund Series 1](#), which also includes the protocol for the conduct of the investigation.

Impacted individuals can contact [IndependentInvestigation.ConnaughtIncomeFund@fca.org.uk](#). Emails will only be accessed by Raj Parker and his team.



ESMA Strengthens liquidity stress tests for investment funds

2 September

ESMA published final guidance on liquidity stress tests of investment funds, which applies to both Alternative Investment Funds (AIFs) and Undertakings for the Collective Investment in Transferable Securities (UCITS).

The guidelines will become applicable on 30 September 2020 and will require fund managers to stress test the assets and liabilities of the funds they manage. This includes investor redemption requests which are the most common and important source of liquidity risk. AIFs and UCITS managers must be aware of the liquidity risk of the funds they manage and use stress testing as a tool to mitigate this risk.

Fund managers need to design the scenarios, policies and frequency of liquidity stress tests for the funds they manage, and EU-based funds require regular resilience testing against different market risks, including liquidity risk. The guidelines also recommend that managers should notify their National Competent Authorities (NCAs) of material risks and actions taken to address them. These common requirements will allow convergence in the way NCAs supervise liquidity stress testing across the EU.

The requirements set out in the guidelines are supplementary to the requirements on liquidity stress testing within the AIFMD and UCITS Directives, which are already applicable.

To read the full article, click [here](#).

New Chair appointed to the Smaller Business Practitioner Panel

5 September

The FCA has appointed Marlene Shiels as Chair of the Smaller Business Practitioner Panel ("the Panel"), effective from 1 October 2019. Shiels, currently Chief Executive of Capital Credit Union, has been a member of the Panel since 2015 and succeeds Craig Errington, Group Chief Executive of Wesleyan, as Chair.

Charles Randell, Chair of the FCA, commented on the vital role the Panel plays in ensuring the voice of smaller firms is heard in the UK's regulatory system, thanked Craig Errington for his contribution and said that he was looking forward to working with the new Chair.

[The Panel](#) is an independent statutory body representing practitioners of small or medium sized firms across FCA-regulated activities. Panel members are recruited to represent their own sector and the industry as a whole.

To read the full article, click [here](#).



ESMA publishes stress simulation framework for Investment Funds

5 September

ESMA has developed a framework to be used for stress simulations for the investment fund sector. The method is presented in detail in ESMA's Economic Report, published on 5th September 2019, and is accompanied by a case study where it is applied to 6,000 UCITS bond funds.

Between 2007 and 2018, the total net assets managed by EU-domiciled UCITS funds increased significantly from €6.2tn to €9.3tn, as a result of the development of the fund industry. This has increased the importance of ensuring that the fund industry is resilient and able to absorb economic shocks.

In applying the stress simulation framework to the UCITS bond funds sector, ESMA has simulated a pure redemption shock (i.e. where a large number of investors request to reduce or withdraw their parts in the fund within a short timeframe). Although results show that most funds have enough liquid assets to meet investors' redemption requests in a pure redemption shock, pockets of vulnerabilities have been identified, especially for High Yield (HY) bond funds. Under the severe, but plausible assumptions of ESMA's simulations, up to

40% of HY bond funds could experience a liquidity shortfall.

The stress simulation case study has also produced models which look at the impact of the funds' liquidation on financial markets. This is because when funds need to sell their assets to meet investors' redemptions, downward pressure is exerted on the prices of assets. The models show that the overall price impact is limited for most asset classes, as sales by funds are only a fraction of aggregate trading volumes. But for asset classes with more limited liquidity, such as HY bonds and Emerging Market bonds, fund sales could have a material impact which range from 150 to 300 basis points, before generating material second round effects.

ESMA has advised that regulators can use the described framework in order to simulate stress situations for different segments of the fund industry. ESMA has also discussed the underlying data in detail with the relevant national authorities, meaning that the knowledge gained from this case study should be able to benefit the day to day supervision of the EU fund industry.

To read the full article, click [here](#).



Investors face increasing risks amid renewed market volatility

10 September

The European Securities and Markets Authority (ESMA) has published its second [Trends, Risk and Vulnerabilities Report](#), which identifies renewed volatility, triggered by recent trade tensions, and concerns over a no-deal Brexit as key risk drivers for the second half of 2019.

The current environment of potentially inflated asset valuations, subdued economic growth and flattening yield curves has led to very high market risk for investors. ESMA's risk outlook for the asset management sector has worsened amid high credit & market risk, deteriorating quality of corporate debt, the growth in leveraged loans and collateralised loan obligations.

The report looks in detail at three vulnerabilities facing financial markets:

- **Leveraged loans and collateralised loan obligations (CLOs)** – simulations found that uncertainties can impact the credit ratings of CLOs and trigger forced sales for some

types of investors. However, an ESMA study has revealed that the EU fund industry's exposure to this market is limited.

- **Performance and cost of active and passive EU equity UCITS** – the reports note that active equity funds have recently underperformed, in net terms, in relation to passive equity funds and equity ETFs, as well as their own benchmarks.
- **Use of derivatives by UCITS equity funds** – EMIR data has been used to analyse the tendency, and frequency, of these funds to trade derivatives; and notes that over time cash inflows, as well as currency risk, seem to have an influence suggesting that derivatives are used for transaction costs or risk reduction purposes.

This report is split into two parts with the statistical annex published as a separate document. Also accompanying the report is the third Risk Dashboard for 2019.

To read the full article, click [here](#).



ESMA Publishes Responses to its Consultation on Cost of Market Data and Consolidated Tape

11 September

ESMA has published responses to its [Consultation Paper](#) published on 12 July 2019 entitled 'MiFID II/MiFIR review report on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments'.

To view the responses to the Consultant Paper please click [here](#).

Sheree Howard appointed as FCA Executive Director of Risk and Compliance Oversight

20 September

The FCA has announced the appointment of Sheree Howard, the current Interim Director of Risk and Compliance Oversight (R&CO), as Executive Director of R&CO.

Prior to joining the FCA, Sheree spent more than 25 years in financial services in both the Insurance and Banking sectors, holding a range of senior roles and gaining valuable experience in pricing, acquisitions, sales, divestment, risk and compliance, as well as in more traditional actuarial roles.

FCA Chief Executive Andrew Bailey commented that 'Sheree brings a wealth of knowledge and experience and has already made a real contribution to the FCA as a Senior Adviser and as Interim Director of Risk and Compliance Oversight.' Sheree Howard stated that she is excited to begin her new role at the FCA and is looking forward to helping deliver the FCA's strategic aims.

To read the full article, click [here](#).

Firms need to register for Connect to update their firm details

13 September

The FCA has reminded firms that they will need to register with the FCA's online Connect platform in order to send them their firm details - also known as a mandatory annual update. From January 2020 this will be a requirement. It is therefore recommended that firms, who are not signed up to Connect, register now.

Firms will be required to review and confirm the accuracy of their firm details annually, in line with their Accounting Reference Date. In the event that a firm's details have not changed, they must still log on to Connect and confirm that their details are up to date.

The FCA will be emailing, calling and writing to firms that are not currently Connect users to encourage them to sign up as soon as they can, before it becomes a requirement in January 2020. The FCA will also provide firms with the information they need to register, such as their firm registration number.

Firms should visit the FCA's [website](#), watch the [video guide](#), or call 0300 500 0597 during business hours if support is required in registering with Connect and updating firm details.

To read the full article, click [here](#).

OUR RECENT AWARDS

BEST COMPLIANCE CONSULTANCY

HFM European Quant Awards 2019

BEST FINANCIAL SERVICES TAX PRACTICE

Tolley's Tax Awards 2019

BEST COMPLIANCE CONSULTANCY

CTA intelligence Awards 2018

ADVISORY AND CONSULTANCY: TAX

Drawdown Private Equity Services Awards 2018

BEST ADVISORY FIRM – REGULATON AND COMPLIANCE

HFM Week 2018

BEST GLOBAL CYBERSECURITY SERVICES PROVIDER

Hedgeweek Global Awards 2018

BEST COMPLIANCE CONSULTING TEAM

Women in Compliance Awards 2017

BEST GLOBAL REGULATORY ADVISORY FIRM

Hedgeweek Global Awards 2017

About Duff & Phelps

Duff & Phelps is the global advisor that protects, restores and maximizes value for clients in the areas of valuation, corporate finance, investigations, disputes, cyber security, compliance and regulatory matters, and other governance-related issues. We work with clients across diverse sectors, mitigating risk to assets, operations and people. With Kroll, a division of Duff & Phelps since 2018, our firm has nearly 3,500 professionals in 28 countries around the world. For more information, visit www.duffandphelps.com.

M&A advisory, capital raising and secondary market advisory services in the United States are provided by Duff & Phelps Securities, LLC. Member FINRA/ SIPC. Pagemill Partners is a Division of Duff & Phelps Securities, LLC. M&A advisory, capital raising and secondary market advisory services in the United Kingdom are provided by Duff & Phelps Securities Ltd. (DPSL), which is authorized and regulated by the Financial Conduct Authority. M&A advisory and capital raising services in Germany are provided by Duff & Phelps GmbH, which is a Tied Agent of DPSL. Valuation Advisory Services in India are provided by Duff & Phelps India Private Limited under a category 1 merchant banker license issued by the Securities and Exchange Board of India.