Complyport Limited
60 Cannon Street, London EC4N 6NP
t: +44 (0) 20 7399 4980 f: +44 (0) 20 7629 8002
e: info@complyport.co.uk w: www.complyport.com

COMPLYPORT
COMPLIANCE LEADERSHIP

Regulatory Roundup

28 April 2017
Issue 87

In Brief

PRIIPs – Implementation Date Confirmed: Regulatory Technical Standard to apply from January 2018

Private Fund Limited Partnerships: Legislative Reform now in force

FCA Business Plan 2017/18: FCA publishes business plan for 2017/18

FCA Regulated Fees and Levies 2017/18: FCA publishes consultation paper

In the Complyport Regulatory Roundup:

If any of the topics discussed above raise questions or a need for guidance or support, please feel free to contact Peter Carlisle.

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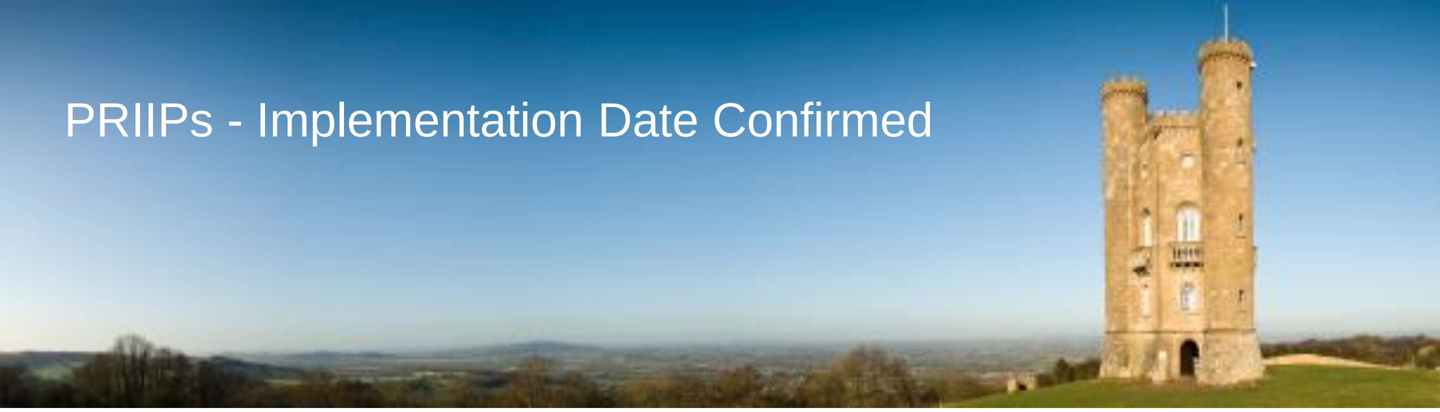

PRIIPs - Implementation Date Confirmed

Useful Links:

[Regulatory Roundup 82]

[Delegated Regulation 2017/653 ("RTS")]

[Regulation 1286/2014 ("PRIIPs Regulation")]

Of relevance to:

Most firms providing investments or investment services to retail investors, including AIFMs, UCITS Management Companies and the Authorised Fund Managers of NURS

Firms involved in **Packaged Retail and Insurance-based Investment Products** ("PRIIPs") will be aware of the delay in the date of application of the PRIIPs Regulation – see Regulatory Roundup 82.

As a reminder, at its heart the PRIIPs Regulation – which applies to both PRIIPs '**manufacturers**' and to those that **advise on** or **sell** such products – is to help investors better understand and compare the key features, risks, rewards and costs of different PRIIPs by way of a **Key Information Document** ("KID") as per Articles 5 and 13 of PRIIPs Regulation:

- "Before a PRIIP is made available to retail investors, the PRIIP manufacturer shall draw up for that product a key information document in accordance with the requirements of this Regulation and shall publish the document on its website"; and

- "A person advising on, or selling, a PRIIP shall provide retail investors with the key information document in good time before those retail investors are bound by any contract or offer relating to that PRIIP".

PRIIPS **was intended** to apply from 31 December 2016 but, following the European Parliament's rejection of the all-important (original) Regulatory Technical Standards ("RTS"), the European Commission was forced to propose an **extension of one year** to the date of application of the PRIIPs Regulation.

The final agreed RTS (**Delegated Regulation 2017/653**) has now been published in the Official Journal meaning that the one obstacle to the application of PRIIPs Regulation has been removed. The Annexes provide the important information that firms will have been waiting for including, but not limited to:

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PRIIPs - Implementation Date Confirmed (continued)

- KID Template
- Methodology for the presentation of risk
- Presentation of Summary Risk Indicator
- Methodology for the calculation of, and presentation of, costs

For the avoidance of doubt, the RTS, and hence PRIIPs Regulation, will apply from **1 January 2018**, although note that Article 14(2) – which allows UCITS Management Companies to continue to continue to use a **Key Investor Information Document** ("KIID") (see COLL 4.7.2) - applies **until 31 December 2019**. Note that the FCA intends to offer this route in respect of non-UCITS retail schemes ("**NURS**") where the authorised fund manager has elected to provide a NURS KII document.

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Private Fund Limited Partnerships

Useful Links:

[Regulatory Roundup 66]

[2017/514]

Of relevance to:
Managers of private equity and venture capital funds; managers of unauthorised collective investment schemes

A reminder that ‘The Legislative Reform (Private Fund Limited Partnerships) Order 2017’ (2015/514) came into force on **6 April 2017**.

As advised in Regulatory Roundup 66, the Order will only apply to those UK LPs that are collective investment schemes that are **not authorised** (i.e. not an authorised contractual scheme) by the FCA. The intention of the Order is to ensure that the UK limited partnership remains the market standard structure for private funds.

Points of note include (references in brackets refer to the relevant part of the Order):

- Limited partners will **not** be under any obligation to **contribute** any **capital or property** to the PFLP unless otherwise agreed between the partners. (Article 2, paragraph (3))
- Under certain circumstances a limited partner can **wind up** a dissolved PFLP. (Article 2, paragraph (4))
- Limited partners will be permitted to **undertake certain activities** without being regarded as taking part “in the management of the partnership business” - which would ordinarily make that partner liable for all the debts and obligations of the LP incurred whilst taking part in the management of the business. (Article 2, paragraph (5))
- The ability for an **existing** limited partnership to be **designated as a PFLP.** (Article 2, paragraph (9))

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FCA Business Plan 2017/18

Useful Links:

FCA Business Plan 2017/18

FCA Mission 2017

FCA Sector Views 2017

Regulatory Roundup 74

Regulatory Roundup 81

Regulatory Roundup 82

Regulatory Roundup 83

Regulatory Roundup 85

Regulatory Roundup 86

Of relevance to:

All firms

The FCA has published its Business Plan for 2017/18 - which also includes the 'Risk Outlook' (page 16) which analyses the wider context the FCA works in and the risks it sees in the market.

The Business Plan focuses on the following seven sectors (including some, but not all, planned FCA activities) which capture all the types of firm regulated by the FCA:

Investment Management

- Further work on liquidity in funds (see Regulatory Roundup 85)
- Final report coming out of the Asset Management Markey Study (see Regulatory Roundup 82)
- Custody banks

Wholesale Financial Markets

- Preventing market abuse
- Competition in investment and corporate banking (see Regulatory Roundup 81)
- Primary markets (see Regulatory Roundup 86 re IPOs)

Retail Investments

- Investment platforms
- Auto advice
- P2P/crowdfunding (lack of awareness of 'client money' requirements)
- CFDs (see e.g. Regulatory Roundup 83) – we can expect follow-up work particularly on 'appropriateness'
- Completion of project assessing suitability of advice and disclosure
- FAMR final guidance (see Regulatory Roundup 74)

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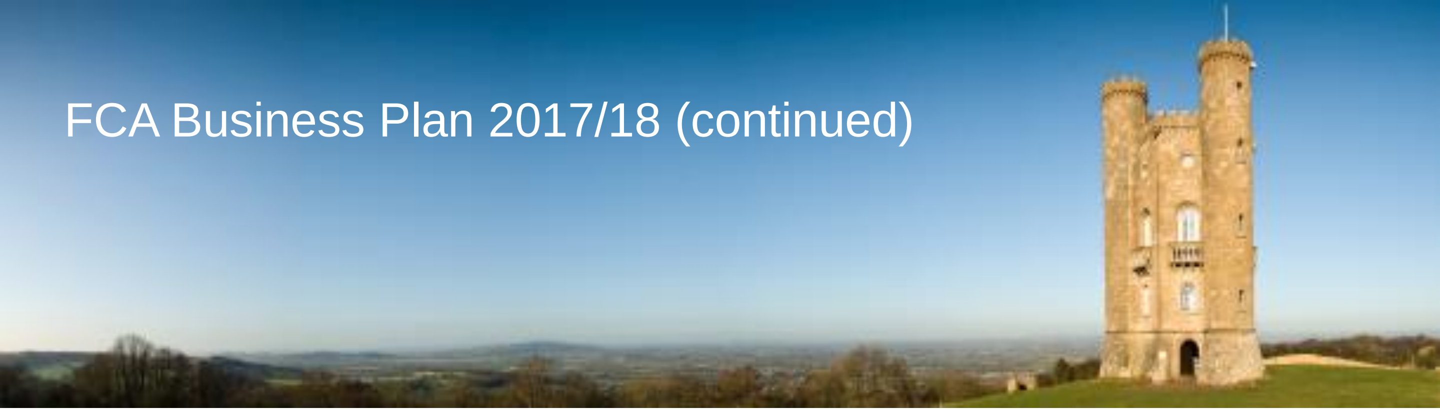

FCA Business Plan 2017/18 (continued)

The Business Plan also considers:

- **Pensions and retirement income**
- **General Insurance and protection**
- **Retail Lending**
- **Retail Banking**

In addition the FCA has identified the following **cross-sector** priorities:

- Firms’ culture and governance
- Financial crime and anti-money laundering
- Promoting competition and innovation
- Technological change and resilience
- Treatment of existing customers
- Consumer vulnerability and access

On the topic of “Technological change and resilience”, the Business Plan confirms that the FCA has created a dedicated **Cyber Specialists team** to oversee the way that regulated firms manage cyber risk.

Separately the FCA has published its ‘**Sector Views**’ covering the above seven sectors and which feeds in to the determining of priorities.

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e: info@complyport.co.uk w: www.complyport.com

FCA Fees and Levies 2017/18

Useful Links:

[CP17/12]

[Fees Calculator]

Of relevance to:

All FCA regulated firms

The FCA has published Consultation Paper CP17/12 "FCA Regulated fees and levies 2017/18".

The **annual funding requirement** ("AFR") increases by £7.6m year-on-year to £526.9m. The increase is a combination of a 1% (+£5.1m) in the **ongoing regulatory activities** ("ORA") budget and an additional £2.5m relating to **EU withdrawal costs** (as in additional resource required to support EU planning and general counsel activity). For the record the ORA covers the FCA's core operating activities so includes items such as staff costs, office accommodation etc.

A third element in the AFR of £526.9m is figure of £16.4m (which remains unchanged from 2016/17 and so doesn't contribute to the headline £7.6m increase) which are costs associated with 'changes to our regulatory scope'. Of this sum, £9.2m is attributed to costs associated with **MiFID II** and £6.2m for consumer credit coming within the remit of the FCA – the costs of the latter are being recovered over a 10 year period from 2016/17.

The FCA's **pension deficit** increased in 2016/17 to around £300m by 30 June 2016 with the result that the FCA is increasing its annual contribution to the deficit from £19.5m to approximately £29m from 2018 until 2027 – on top of an additional £10m in 2016/17.

The FCA is forecasting an **underspend** in the 2016/17 period in the ORA budget of around £10m, which will be retained to mitigate future costs such as the proposed office move in 2018 to Stratford (The International Quarter).

Comments are invited by 9 June 2017. The intention is to publish a Policy Statement incorporating the **final** fees etc. at the end of June/early July. The FCA informs us that fee and levy rates in CP17/12 are based upon estimated fee-payer population and tariff date and so the final rates could well vary from those in this Consultation Paper.

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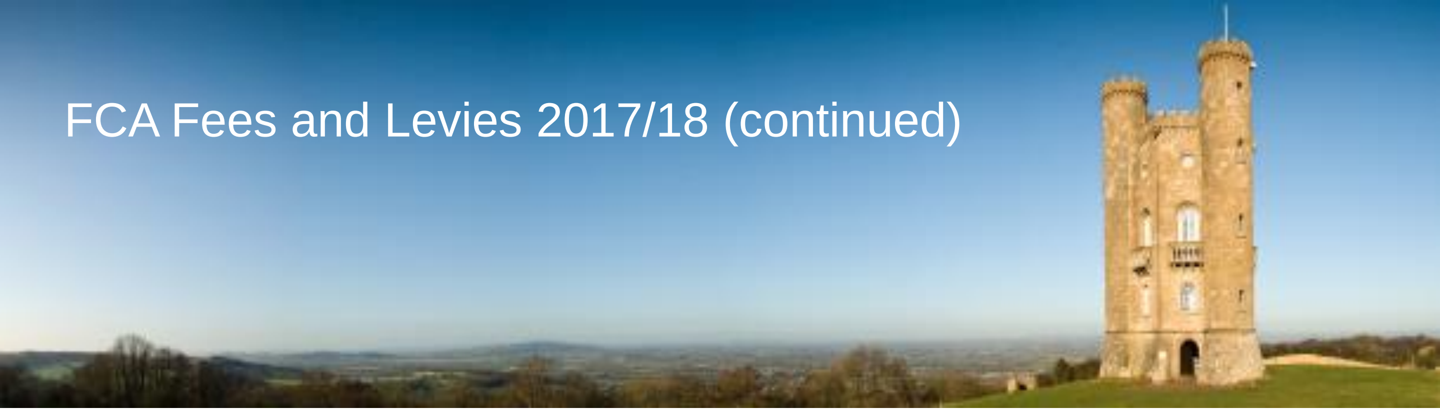
FCA Fees and Levies 2017/18 (continued)



The FCA has also updated its fees calculator - which allows firms to calculate their fees for the forthcoming period (the FCA's financial year runs from 1 April to 31 March) – to reflect the **draft** fees and levies (e.g. FOS, FSCS etc.) set out in CP17/12.

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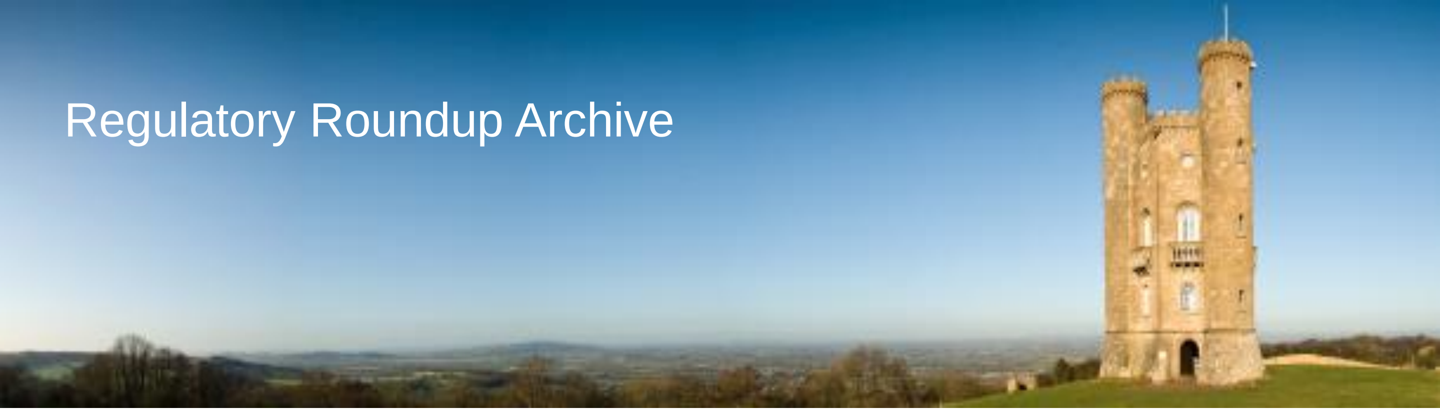

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Peter Carlisle

Or for details of any other of Complyport's services, please contact us at info@complyport.co.uk

Complyport is always interested to receive feedback and general comments on either the Regulatory Roundup or the Complyport website. Comments can be sent to info@complyport.co.uk

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