



# Regulatory News Issue 2 October 2020

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## CORONAVIRUS - WORKING TOWARDS POSITIVE OUTCOMES

With a 2<sup>nd</sup> lockdown announced firms will likely feel frustration. Just as customers were working towards resuming contractual payments or agreeing bespoke arrangements we are back where we were months ago. The furlough scheme is back, mortgage payment deferrals are back, and consumer credit is about to go the same way.

Whilst the FCA are clear they want customers to be able to easily access the support they need they are also clear that:

- Where customers can afford to pay it is in their interests to do so
- Eligibility criteria will apply
- Tailored support remains the best approach for most customers, especially those with potentially longer-term financial difficulties

On a positive note the FCA have advised customers not to contact firms yet, but to wait for contact/ guidance.

**“We are hearing from some firms a desire to move from the ‘crisis’ approach taken so far during coronavirus back to ‘business as usual’. This is understandable, but perhaps it is still rather unclear what the ‘new’ business as usual looks like.”**

Jonathan Davidson,

FCA Executive Director of Supervision – Retail and Authorisations



## OTHER NEWS

The Information Commissioner's Office (ICO) has fined Claims Management Company Reliance Advisory Limited (RAL) £250,000 for breaking electronic marketing law. See <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/10/greater-manchester-claims-management-company-fined-250-000-for-making-millions-of-nuisance-calls/>

The Financial Ombudsman Service (FOS) announces that Dame Gillian Guy has been appointed as its new Independent Assessor. The previous chief exec of Citizens Advice and Victim Support was awarded a CBE in 2015, then made a Dame in 2020 for services to the public and voluntary sectors. The Independent Assessor reviews complaints about the level of service provided the FOS.

FCA and PRA fine Goldman Sachs International £96.6m for risk management failures in connection with 1MDB.

1MDB is a Malaysian state-owned development company that has been at the centre of billion-dollar embezzlement allegations. GSI underwrote, purchased and arranged three bond transactions for 1MDB in 2012 and 2013 that raised a total of US\$6.5 billion. See <https://www.fca.org.uk/news/press-releases/fca-pra-fine-goldman-sachs-international-risk-management-failures-1mdb>

Measures to support some closed book mortgage borrowers and some "mortgage prisoners". The measures will:

- Make it easier for lenders to offer switching options to consumers within the same financial group
- Allow borrowers to delay repayment of the capital at maturity on interest-only and part-and-part mortgages up to 31 October 2021

See <https://www.fca.org.uk/publications/policy-statements/ps20-11-removing-barriers-intra-group-switching-helping-borrowers-maturing-interest-only-part-and-part-mortgages>

## ICO ACTION & ACCOUNTABILITY

### Action Against Experian

Following a two-year investigation ICO have ordered Experian to make fundamental changes to how it handles people's personal data within its direct marketing services. If they do not, they risk a fine of £20m (or 4% of turnover).

Equifax & Transunion were also subject to the investigation and agreed to withdraw some products and services, preventing further action being taken.

Serious issues were identified across the sector, specifically relating to the firm's data broking activities:

- Trading, enriching and enhancing people's personal data without their knowledge, leading to products which were used by commercial organisations to find new customers, identify the people most likely to be able to afford goods and services, and build profiles about people.
- Privacy information not making it clear how people's data was being used
- Lawful bases for processing used incorrect

Brian Cassin, Experian CEO said *"We disagree with the ICO's decision today and we intend to appeal. At heart this is about the interpretation of GDPR and we believe the ICO's view goes beyond the legal requirements"*.

### Accountability Framework

When reviewing your own GDPR approach and controls you may want to consider using ICO's new Accountability Framework.

Working through the framework can help you build a full privacy management programme, from defining leadership and oversight to ensuring breach reporting processes are effective. Take a look and see where your gaps are - **Better still, have us do it for you!**

**“I want to use this call for input to get views from key stakeholders, including consumer groups, regulated and unregulated providers of credit, retail businesses and employers on some of the main issues in the market.”**

Christopher Woolard, Interim Chief Executive at the FCA



## **THE WOOLARD UNSECURED CREDIT MARKET REVIEW, TERMS OF REFERENCE AND ADVISORY PANEL RELEASED**

The Scope and list of individuals making up the Advisory Panel for the above review were released by the FCA on 23<sup>rd</sup> October. This wide-ranging review will look at everything from the drivers of unsecured borrowing to the FCA's response to Covid19.

The Consumer Finance Association (CFA) have expressed concern about the composition of the advisory panel, specifically the “lack of representation from the unsecured credit market itself”. Acknowledging the inclusion of Malcolm Le May of Provident their concerns seem to centre of the lack of voice awarded to smaller companies along with the broad nature of the scope.

All firms (large, small, yours) have a responsibility to get involved in the review to make sure an accurate view of the market is obtained. Only by getting more involved will firms feel comfortable contributing and building a more open relationship with the regulator. Despite the CFA's views there remain options to get involved:

- Contributory roundtable sessions on 11<sup>th</sup>, 17<sup>th</sup> & 24<sup>th</sup> November; and
- A Call For Interest published on 2<sup>nd</sup> November

More details are available here: <https://www.fca.org.uk/about/woolard-review-unsecured-credit>

Got **concerns about your responsible lending policy** or approach? **Get in touch today to arrange a review.**

Email [team@gocomply.org.uk](mailto:team@gocomply.org.uk) or call 07584 243127 to get going!