

The Uplink: Financial services regulatory news, 19 August 2022

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JMLSG revised consumer credit guidance on motor finance credit application processing

The Joint Money Laundering Steering Group (JMLSG) has issued revised [guidance to motor finance members of the Finance and Leasing Association](#) (FLA) on the prevention of money laundering (ML) and terrorist financing (TF) when considering credit applications. The standard sets out the approach that FLA members ought to adopt when considering a credit application and what the acceptable methods for conducting due diligence checks are.

The JMLSG produces guidance to assist those in the financial industry to comply with their regulatory obligations in terms of ML and TF legislation. Although JMLSG guidance is not legally binding, it is approved by HM Treasury and will be taken into account by a court when considering matters such as the extent to which a SAR ought to have been made or whether the requirements of MLR 2017 have been complied with. The guidance may also be considered by the FCA when deciding whether or not to bring a criminal prosecution.

Consumer credit: FCA warns Buy Now Pay Later firms about misleading adverts

The FCA continues to emphasise its ongoing scrutiny of Buy Now Pay Later (BNPL) credit products with a [warning on financial promotions](#). There is concern that consumers could be misled by financial advertisements on websites and social media, including posts by social media influencers, which may breach FCA rules. The FCA is also concerned that unauthorised lenders and merchants who promote "exempt/unregulated" BNPL agreements through retailers are not getting their financial promotions approved by an FCA-authorised firm. The FCA warns firms that, although some BNPL agreements are unregulated, the financial promotions of all BNPL products must comply with the financial promotion rules unless an exemption applies.

Consumer credit: Permission to appeal decision that lender served valid default notice under CCA refused

Within the [Supreme Court's permission to appeal document for May and June 2022](#), we note that permission to appeal the Court of Appeal's decision in *Goodinson v PRA Group (UK) Ltd* [2021] EWCA Civ 957 has been refused, on the grounds that the application did not raise an arguable point of law.

The appellant, Mr Goodinson, defaulted upon his credit card agreement with MBNA. The debt was assigned the debt to PRA Group (UK) Ltd (PRA), which commenced an action against him for the outstanding sum of £18,415.66. In doing so, PRA was required to prove that a default notice had been properly served. PRA did this by way of a reconstitution of the notice (which had been electronically stored) rather than a facsimile. The Court of Appeal considered whether a deputy district judge was entitled to find that a compliant default notice had been served (under the Consumer Credit Act 1974) where only a reconstitution of the relevant notice had been provided. The Court of Appeal concluded that the deputy district judge was entitled to reach the conclusion he had on the evidence before him and dismissed the appeal.

Financial crime: FCA calls on victims of Richard Faithfull to come forward ahead of confiscation hearing

The FCA has requested that those affected by the crimes of Richard Faithfull come forward ahead of the final hearing of a confiscation hearing on 13 October 2022, if they would like to be considered for compensation.

Mr Faithfull was found guilty of money laundering offences in September 2021 for being part of a “trans-national organised crime group, laundering the proceeds of at least 7 professionally run overseas investment frauds.” Mr Faithfull is currently serving a 5 year and 10 month prison sentence.

Environmental regulation: Climate Financial Risk Forum (CFRF)

The CFRE have released some information relating to their meeting on 12 July 2022. Amongst other things, there was a discussion of the differences in climate related disclosures between the UK and other jurisdictions. The members also identified that the industry was broadly supportive of climate-related disclosure requirements proposed by the International Sustainability Standards Board (ISSB).

The objective of the CFRF is to assist financial business understand the risks and opportunities associated with climate change. This is done by bringing together senior stakeholders who discuss their approaches and experiences within climate change related issues. The Forum has produced some useful tools to assist businesses with developing their approach to these issues. For example, a Climate Scenario Analysis Tool was published in October 2021 following consideration by the representatives involved the previous session of the CFRF. The CFRF is jointly chaired by Sarah Breeden of the PRA and Sheldon Mills of the FCA.

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