

Stop Press

June 2023

In June, the FCA published a suite of Consumer Duty updates, including the results of its Spring 2023 firm survey and a podcast setting out its expectations for outcomes monitoring. It also updated its Transforming Data Collection web page, and published speeches about cultural evolution and 'doing the right thing'.

As well as other key items, this edition also includes news about the warning from the Information Commissioner's Office about the privacy risks of generative Artificial Intelligence (AI), the British Insurance Brokers' Association advice about the implications of the 'Protect Duty' – Martyn's Law, and the Advertising Standards Authority's new resources especially tailored for small businesses.

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FCA publishes a suite of Consumer Duty updates – FCA 28th June 2023

The FCA has updated its website and has issued a Consumer Duty update communication reminding subscribers that there is now one month to the Consumer Duty implementation date of 31st July 2023. It has also published an 'Inside FCA' podcast ([audio](#) and [transcript](#)) in relation to its expectations for outcomes monitoring.

- The FCA's [Consumer Duty 'home' page](#) has been updated to include links to the [Spring 2023 firm survey results](#) (see the article below) and a new 'One month to go' page, which includes a set of ten questions that the FCA encourages firms to consider and which references the [Consumer Duty Finalised Guidance](#) as another source of questions.
- The FCA's update communication references a [speech delivered in May 2023](#) by Sheldon Mills, FCA Executive Director, Consumers and Competition, which highlighted fair value as an area of focus.
- The podcast explains that the FCA wants firms to harness the benefits of the data and technology to improve their services, and to understand the outcomes they achieve for their customers. It goes on to encourage firms to use the available data to identify and understand root causes of any issues identified, whilst acknowledging that firms of different sizes will have different levels of available data and MI.

We recommend that firms review the new 'One month to go' page and the results of the small firms survey.

For more information, [click here](#).

FCA publishes Spring 2023 Consumer Duty firm survey results – FCA 28th June 2023

The FCA has published [a summary of](#), and [the results from](#), its Spring 2023 anonymous survey about how prepared firms were in meeting the implementation deadline. The survey results are set out in a 48-page document, which includes five pages of scope and context information and thirty-seven pages of graphs and data.

- Personal and commercial lines insurance intermediaries made up 12.3% (152) of the sample of 1,230 firms, drawn from seventeen sub-sectors across six sectors (mainly focussed on SME firms).

- Overall, the findings confirmed:
 - ⇒ there were very high levels of engagement and understanding of the Duty, including in sectors where, historically, regulatory change has had lower levels of engagement;
 - ⇒ most firms believed they were on course to implement the Duty by the 31 July deadline; and
 - ⇒ although firms had made use of the support provided by the FCA and found it helpful, two areas that firms said they would like more information on were outcomes monitoring and the price and value outcome.
- Suggested next steps for firms include maintaining oversight of implementation plans to ensure they remain on track to deliver on time, making maximum use of the time available, prioritising action that improves consumer outcomes and reduces risks of harm, and (for firms that have not been taking the Duty seriously and are a long way from meeting its requirements) making strenuous efforts in the next month to accelerate the implementation work.

We encourage firms to review at least the summary of the findings, and to take appropriate and proportionate action to ensure that they can meet the requirements of the Duty by the 31st July implementation date.

For more information, [click here](#).

FCA announces changes to UK Credit Union legislation to include certain insurance distribution activities – FCA 31st May 2023

The [Financial Services and Markets Bill](#) ('the Bill') proposes changes to credit union legislation in Great Britain ([the Credit Unions Act 1979](#)), including an increase in the range of products or services a credit union can offer.

Subject to them adopting the power to do so and subject to FCA authorisation, Credit unions will be allowed to "... carry on an insurance distribution activity which constitutes or involves the provision of a service to a member, and... charge such fee as it considers appropriate for providing the service."

Although the FCA's announcement includes a link to the glossary definition of '[insurance distribution](#)' (as opposed to '[insurance distribution activities](#)'), the Bill sets out that these insurance distribution activities will be:

- ⇒ dealing in rights under a contract of insurance as agent;
- ⇒ arranging deals in rights under a contract of insurance;
- ⇒ assisting in the administration and performance of a contract of insurance; and
- ⇒ advising on buying or selling rights under a contract of insurance.

The descriptions of three of these activities (in referring to 'rights under a contract of insurance') differ from the descriptions of the regulated insurance distribution activities currently in place.

Should the Bill proceed as proposed, insurance intermediaries may start to receive approaches from credit unions in relation to the arrangement of insurance contracts. Changes to FCA rules and definitions will clarify the extent of these insurance distribution activities that credit unions can carry out.

For more information, [click here](#).

FCA updates its Transforming Data Collection web page – FCA 13th June 2023

The FCA published a [web page](#) in January 2022 about how it is working with the Bank of England and industry to transform how it collects data from the UK financial sector. In March 2023, the FCA along with the PRA and Bank of England, held a Town Hall event to share the latest updates from the programme.

- You are now able to view the [recording](#) and [slides](#) from this event.
- On Thursday 13 July 2023, the FCA will be hosting the next Town Hall event at the Bank of England. This will be a hybrid event providing the opportunity to attend both in person and virtually. If you wish to attend this event you can [register here](#). The Town Hall event will provide an opportunity to get the latest update from the programme and the changes that are being delivered.

For more information, [click here](#).

FCA publishes a warning about the use of MOVEit software – FCA 19th June 2023

The FCA has published a [web page](#) in relation to a vulnerability to the file transfer application MOVEit that has been impacting organisations and exposing personal data. The ICO has also [published information](#).

The National Cyber Security Centre (NCSC) is working with affected businesses to understand and respond to this incident. The FCA is encouraging all firms to:

- check if they or any companies in their supply chain have used MOVEit and to understand the extent of any impact; and
- review the Indicators of Compromise (IOCs) and follow the risk remediation advice and patches. These can be found on the [Progress website](#). (Progress is the vendor of the MOVEit software.)

Any operational impacts due to this issue should be escalated via normal supervisory reporting processes. You are required to report incidents to the FCA. For organisations directly affected, Progress has issued advice on mitigating this vulnerability. See the [NCSC website](#) for regular updates on this incident.

For more information, [click here](#).

FCA warns consumers about, and removes trading names from, Promethean Finance Limited – FCA 15th June 2023

The FCA has removed several trading names relating to Promethean Finance Limited (Promethean) from the Financial Services Register. Between March 2022 and March 2023, Promethean registered several trading names which were listed on the Financial Services Register but which it did not own or control. The third-party firms who owned or controlled these trading names were not authorised to carry out regulated activities.

The FCA has acted in the past to remove trading name from firms where the registration of those trading names was seen as an attempt to avoid registering the relevant third-party firms as ARs or IARs. The FCA clearly still has an appetite for this action.

The FCA does not consider the trading names to be genuine trading names of Promethean and has taken action against the firm.

For more information, [click here](#).

FCA publishes a speech: “Cultural evolution: how culture must change to meet expectations” – FCA 26th July 2023

The FCA has [published the transcript of a speech](#), originally delivered online by Emily Shepperd, Chief Operating Officer and Executive Director of Authorisations, to the Westminster Business Forum.

The key messages were:

- Regulations such as the Consumer Duty and the FCA’s proposals for ESG (Environmental, Social, Governance) are designed to meet the evolving demands of markets and consumers.
- Firms should ask tough questions when assessing fitness and propriety of staff working in financial services.
- Culture is crucial for confidence and can dictate bottom lines.

The speech covered a number of issues under headings which included:

- Purpose underpins culture
- Consumer Duty changes culture
- FCA’s evolving culture
- Stopping repeat recruitment of ‘bad apples’
- On a recruitment roll

For more information, [click here](#).

FCA publishes a speech: Do the right thing – FCA 1st June 2023

The FCA has published the transcript of a speech by Therese Chambers, Joint Executive Director of Enforcement and Market Oversight at the FCA. The speech gives examples of doing the right thing and also explains the FCA’s expectation of firms.

Chambers’ comments included:

- “It should not be up to the regulators to come in and clean up the mess. How many chains of command does something questionable pass through before it is queried?”
- “We follow the evidence and where there are failures, we will hold those responsible to account. Aggressive diversionary tactics may prolong the timeline, but they will not deflect us from our purpose.”
- “We appreciate and reward transparency and cooperation. We appreciate and reward firms that do the right thing.

For more information, [click here](#).

FOS reveals top five most complained about products – FOS 14th June 2023

FOS has published its [annual complaints data from April 2022 / March 2023](#) along with insight into the common problems raised by consumers. These new figures show that current accounts, credit cards, car/motorcycle insurance, hire purchase (motor) and buildings insurance were the top five most complained-about products in the 2022/23 financial year.

It is perhaps not surprising that all five of these product types are perhaps the most common financial services product types held by the general public. It is therefore likely that they will be the subject of the most complaints. A more reflective measure would perhaps be a percentage figure based on the number of such products held by UK individuals.

Analysis of the figures published highlights the following trends:

- FOS received 27% more complaints about car/motorcycle insurance, compared to the last financial year, and this was largely due to insurers delaying paying out claims.
- Buildings insurance complaints increased by over a quarter, due to an increase in disputes about declined claims and delays, as well as claims values.

For more information, [click here](#).

ICO delivers keynote speech at the Data and the Future of Financial Regulation Summit – ICO 26th May 2023

John Edwards, the Information Commissioner, delivered a keynote speech at the Data and the Future of Financial Services Summit. The speech focussed on the ICO’s regulatory philosophy and how it is empowering businesses in the finance sector and protecting consumers that rely on these services.

Under two headings, the ICO set out some examples of how it is helping the financial services sector:

- by providing detailed, sector-specific advice for organisations of all sizes on their data protection obligations; and
- by providing its [Innovation Advice service](#) and [sandbox service](#). Under this heading, the ICO reminds firms that they are accountable for considering:
 - ⇒ What is their lawful basis for processing?
 - ⇒ How will firms ensure that processing is fair and transparent?
 - ⇒ How will people's rights in relation to automated decision-making be upheld – for example, their right to request human intervention or to challenge a decision?
 - ⇒ There is no excuse for reckless innovation that puts people at risk of harm. Innovation needs to be carried out responsibly.

For more information, [click here](#).

ICO calls for businesses to address the privacy risks that generative AI can bring – ICO 15th June 2023

The ICO is calling for businesses to address the privacy risks that generative AI can bring before rushing to adopt the technology – with tougher checks on whether organisations are compliant with data protection laws. Speaking at Politico's Global Tech Day, Stephen Almond, Exec Director of Regulatory Risk, will call for businesses to see the potential opportunities – but to see, too, the risks that come with them.

- In April, the ICO [set out eight questions](#) that organisations developing or using generative AI that processes personal data need to be asking themselves. The regulator also committed to acting where organisations are not following the law.
- The ICO is committed to supporting UK businesses to develop and innovate with new technologies that respect people's privacy. Its recently updated [Guidance on AI and Data Protection](#) provides a roadmap to data protection compliance for developers and users of generative AI. Its accompanying [risk toolkit](#) helps organisations looking to identify and mitigate data protection risks.

For more information, [click here](#).

ABI publishes Mental Health and Insurance Standards implementation report – ABI 1st June 2023

Following the launch of the industry's Mental Health and Insurance Standards in 2020 the ABI has surveyed members across health, protection and travel insurance to understand how they have been implemented by firms. The findings of the survey are published in a [new report](#).

The Standards were launched to better support the needs of people with prior or existing mental health conditions when applying for insurance, and to drive consistency and best practice across the three insurance lines.

All firms who took part in the survey have taken steps to improve the accessibility of their communications, such as offering customers different choices of how to contact them. Alongside the Standards the ABI launched a free mental health e-learning course for advisers and front-line staff. The free training will continue for another year to help more advisers and front-line staff improve their awareness and knowledge in this important area.

For more information, [click here](#).

BIBA outlines the implications of the 'Protect Duty' – Martyn's Law – BIBA 5th June 2023

Martyn's Law, currently at Bill stage, will create a duty to make owners / operators of public spaces more prepared to keep their visitors better protected against any potential act of terrorism – the Protect Duty ('the Duty') BIBA's 2023 manifesto "Managing Risk – Delivering Stability" [highlights the coming duty](#).

- If the Bill is passed, the Duty would have a significant impact on the security and insurance sectors, as well as the vast numbers of industries with sites that will fall under the legislation. Insurance could serve as an integrated component of meeting Protect Duty requirements as a method of both managing and transferring risk.
- Premises will be drawn into the scope of the Duty if they meet the following three tests:
 - ⇒ that the premises is an eligible one – i.e., a building (including collections of buildings used for the same purposes, e.g., a campus); or location/event (including a temporary event) that has a defended boundary, allowing capacity to be known.

- ⇒ that a qualifying activity takes place at the location; and
- ⇒ that the maximum occupancy of the premises meets a specified threshold – either 100+ or 800+.
- Proportionality will be achieved through a tiered model of duties, linked to the activity that takes place at a location and its capacity. There will be two tiers, standard and enhanced.
- Publication of the draft legislation is awaited.

For more information, [click here](#).

The Advertising Standards Authority ('ASA') creates resource especially tailored for small businesses – ASA 31st May 2023

The ASA has brought together a collection of resources tailored to helping small businesses better understand and follow the advertising rules.

From Brexit to the pandemic, to the cost-of-living crisis; it's been a real period of change for businesses in the UK. The ASA knows that companies are keen to advertise to potential customers while wanting to ensure that they're following the rules and being informative, helpful and honest about their products and services. As the advertising regulator, it wants to provide the tools small businesses need to get their messages out while avoiding getting it wrong.

In 2022, around 4/5 of ads that the ASA had amended or withdrawn related to organic (non-paid-for) ads on social media from small businesses and sole traders. That's why it has brought together a [collection of materials](#) to help businesses know what the ad rules are and how best to follow them. The advice pages are specifically designed with small businesses in mind to provide the most up-to-date, relevant advice.

Topics include how to avoid misleading consumers, details on pricing claims and how to responsibly market promotions and competitions.

For more information, [click here](#).

The Committee of Advertising Practice ('CAP') publishes guidance on using reference pricing in ads – ASA/CAP 22nd June 2023

CAP has published [guidance](#) following [research](#) into consumer understanding of reference pricing (e.g., 'strikethrough' prices, 'was-now' prices and RRP), which identified that consumers have limited understanding of pricing practices in general, and reference pricing in

particular, having an expectation that reference prices are regulated and can therefore be trusted.

The guidance covers the following five key factors to consider:

- Where was the price offered?
- How long was it offered for?
- How many items did you actually sell at a particular price?
- How recently was the price offered?
- Is the RRP the price at which it's generally sold?

For more information, [click here](#).

Lloyd's publishes its Q2 Markets Message – Lloyd's 8th June 2023

Lloyd's has published a recording of and the slides for its Q2 Markets Message presentation. Patrick Tiernan, Chief of Markets, talks about the importance of focussing on sustainable performance in 2023.

For more information, [click here](#).

LIIBA publishes "Our face-to-face future" paper – LIIBA 12th June 2023

The LIIBA has published a paper considering the future trading model in the London insurance market. Acknowledging that relationships are at the core of the London Market's approach to trading, the paper points out that the Lloyd's trading floor ('the Room') is the underlying foundation of that model. LIIBA sought opinions of those who would be doing the trading, so gathered 55 younger brokers in four workshops from across the LIIBA membership.

- LIIBA believes that face-to-face trading, and the Room in particular, are cornerstones of the London insurance market.
- Participants were unanimous in their desire to see London continue as a relationship-based community.
- In a survey completed before the workshops, 97% of respondents said that they would like their work life to be at least 50% in-person with half saying they wanted it to be predominantly face-to-face.

- Face-to-face, relationship-based trading was something all participants saw as integral to London continuing to be able to deliver client outcomes other centres cannot; the Room can remain a significant competitive advantage if its status as a genuine trading floor can be restored.

For more information, [click here](#).

The Prime Minister's Office announces a proposed new UK-US 'data bridge' as part of the 'Atlantic Declaration' – HM Government 8th June 2023

The Prime Minister, Rishi Sunak, and President Biden have agreed an economic partnership which will see the UK and the US working together more closely across the full spectrum of economic, technological, commercial and trade relations. It includes a commitment in principle to a new UK-US 'data bridge' which would make it easier for around 55,000 UK businesses to transfer data freely to certified US organisations.

- The new 'data bridge' would be an extension of the [EU-US Data Privacy Framework, dubbed 'Privacy Shield 2.0'](#).
- It appears that there will be a UK extension to the Data Privacy Framework between the US and EU, similar to a previous Swiss-US Privacy Shield.
- The European Commission has signalled its intention to adopt an [adequacy decision in respect of the EU-US Data Privacy Framework](#). That framework has been developed after its predecessor, the EU-US Privacy Shield, was invalidated by a ruling of the EU's highest court.

When finalised, the UK-US 'data bridge' would constitute a UK-issued adequacy decision (which is other countries, territories, sectors or international organisations that are deemed to provide an 'essentially equivalent' level of data protection.

For more information, [click here](#).



This information is a summary of matters which will affect the majority of firms involved in insurance distribution. However, each firm's requirements are individual and it is important to seek specific advice from ICS before acting on anything contained in this publication .

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