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News release

1 February 2017

FCA and PRA publish final changes to enhance enforcement decision-making processes

The Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) have today published final changes in a Policy Statement (PS) aimed at strengthening the transparency and effectiveness of their enforcement decision-making processes.

The consultation and policy recommendations covered the full lifecycle of an investigation. The FCA and PRA have made, or are making, changes to implement recommendations and address relevant responses to the joint FCA and PRA consultation in the following areas:

- how decisions are made whether to refer an issue to Enforcement and Markets Oversight or the Regulatory Action Division for investigation;
- the provision of more information to the subject of an investigation about why they have been referred for investigation;
- regular updates throughout an investigation, as well as ensuring there is increased engagement with the subject;
- effective levels of dialogue between Enforcement and Supervision during an investigation; and
- producing more detailed guidance on the process for joint FCA/PRA investigations.

The FCA is also introducing a process for partly contested cases. This will allow a person under investigation to agree certain elements of a case (whether penalty, facts, liability or a combination of these issues) and contest the other elements before the Regulatory Decisions Committee. They will still have the ability to obtain a discount on the penalty that will reflect the extent that issues have been agreed. In addition, the FCA is providing a mechanism for those under investigation to proceed more directly and quickly to the Upper Tribunal, providing external adjudication that is wholly independent of the FCA. The FCA is also abolishing penalty discounts at Stage 2 and 3 of settlement, and retaining the same panel that gave the warning notice to hear representations and decide whether to give a decision notice.

For the PRA, further work is underway or planned for 2017 to ensure that other recommendations are implemented, including follow-up work on the 2016 consultation on an Enforcement Decision-Making Committee; production of a short guide to PRA enforcement procedures, including referral criteria; and a review of the PRA's approach to settlement.

Today's PS responds to comments received on Consultation Paper (CP) 16/10: Proposed Implementation of the Enforcement Review and the Green Report. The PS explains what changes are going to be made to the FCA's enforcement policy and process.

The responses were broadly supportive of FCA proposals, many of which were amendments to existing enforcement process and centred on increasing transparency.

Mark Steward, Director of Enforcement and Market Oversight at the FCA, said: "It is essential that our enforcement decision-making processes command public confidence and operate both efficiently and fairly. The changes set out in today's PS are designed to achieve just that and reflect the views of stakeholders who responded to our consultation."

Miles Bake, Head of Legal, Regulatory Action Division of the PRA, said: "The PRA's enforcement processes must be clear, transparent and reasonable. This Policy Statement outlines a number of concrete steps the PRA is taking to ensure that we implement the recommendations from the HMT Enforcement Review and the Report of Andrew Green QC."

ENDS

Notes to editors

1. [Policy Statement: Implementation of the Enforcement Review and the Green Report](#)
2. [Consultation paper: Proposed implementation of the Enforcement Review and the Green Report](#)
3. The Enforcement Review refers to the [HMT 'Review of enforcement decision-making at the financial services regulators'](#)
4. The Green Report refers to [Andrew Green QC's 'Report into the FSA's enforcement actions following the failure of HBOS'](#)