

## This week at the UK regulators

On 1 April, the long awaited separation of the FSA into the new Financial Conduct Authority ("FCA") and Prudential Regulation Authority ("PRA") took place.

This new Clifford Chance publication provides a weekly update on key developments at both new regulators and reports on stories of interest from further afield

### Thirty second guide: The week in overview

Last week was quiet for the FCA and the PRA compared to the flurry of activity that has marked their first few weeks.

The FCA concluded the latest in a line of enforcement cases arising from the FSA's thematic review of the anti-money laundering measures maintained by banks, imposing a penalty on a private bank for shortcomings in the documentation held on customer files.

Away from enforcement action and the customarily long list of warnings issued in relation to small unauthorised firms, the FCA has also continued to finalise projects commenced by the FSA. It has released finalised rules on payment arrangements for platforms and responded to requests for clarification of its expectations of recognised investment exchanges and multilateral trading facilities.

Further afield, Hong Kong regulators have been the latest to tighten the regulatory requirements around the sale of complex investment products to retail investors, and Japanese legislators have announced some important changes to the insider trading regime.

### FCA imposes penalty for AML compliance

The FCA has (on 24 April) released a Final Notice from the FSA dated 28 March imposing a financial penalty of £4.2 million on **EFG Private Bank Limited** ("EFG") for breaching Principle 3 (management and control) of its Principles for Businesses ("the Principles").

Specifically, the FSA found that anti money laundering ("AML") policies had not been put into action in all cases as some customer files did not contain sufficient documentation recording how risks identified through customer due diligence had been mitigated.

The penalty imposed on EFG was reduced by 30 per cent as it settled at stage one of the FSA's executive settlement procedures.

The Final Notice issued to EFG acknowledges that it co-operated fully with the FSA's investigation, which is the latest to arise from its thematic review concluded in July 2011, and that EFG has taken steps to put in place measures to address the failings identified in the Final Notice.

<http://www.fca.org.uk/your-fca/documents/final-notices/efg-private-bank>

[http://www.fsa.gov.uk/library/policy/policy/2011/11\\_15.shtm](http://www.fsa.gov.uk/library/policy/policy/2011/11_15.shtm)

## FCA warnings

Name of firm	Date of warning	Details
Davis & Co LLC	25 April	Clone of UK incorporated firm <a href="http://www.fca.org.uk/news/warnings/davis-co-llc">http://www.fca.org.uk/news/warnings/davis-co-llc</a>
Bradley King M & A	24 April	Not authorised <a href="http://www.fca.org.uk/news/warnings/bradley-king-m-a">http://www.fca.org.uk/news/warnings/bradley-king-m-a</a>
Risk & Portfolio Management Limited	24 April	Clone of FCA EEA authorised firm <a href="http://www.fca.org.uk/news/warnings/risk-portfolio-management">http://www.fca.org.uk/news/warnings/risk-portfolio-management</a>
BJL Hardy (UK)	24 April	Not authorised <a href="http://www.fca.org.uk/news/warnings/bjl-hardy-uk">http://www.fca.org.uk/news/warnings/bjl-hardy-uk</a>
Otis KPO LLC	24 April	Not authorised <a href="http://www.fca.org.uk/news/warnings/otis-kpo">http://www.fca.org.uk/news/warnings/otis-kpo</a>
Alliance Direct Management	22 April	Not authorised <a href="http://www.fca.org.uk/news/warnings/alliance-direct-management">http://www.fca.org.uk/news/warnings/alliance-direct-management</a>

## Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Guidance consultation	On 23 April, in response to industry requests for clarification of its expectations in a number of areas, the FCA released details of proposed guidance in relation to the oversight of member controls	21 May 2013	

	<p>carried out by recognised investment exchanges ("RIEs") and multilateral trading facilities ("MTFs") (GC 13/1).</p> <p><a href="http://www.fca.org.uk/your-fca/documents/guidance-consulations/gc13-01">http://www.fca.org.uk/your-fca/documents/guidance-consulations/gc13-01</a></p>			
	<p>On 26 April, further to a consultation paper (CP 12/12) released last year by the FSA, the FCA set out in a policy statement (PS13/1) new rules in relation to the arrangements for payments to platforms by advised and non-advised customers. The paper sets out a new charging model involving explicit disclosure of applicable charges.</p> <p><a href="http://www.fca.org.uk/your-fca/documents/ps13-01-payments-to-platform-service-providers">http://www.fca.org.uk/your-fca/documents/ps13-01-payments-to-platform-service-providers</a></p>	<p>Rules come into force on 6 April 2014</p> <p>Firms then have a two year transitional period until 6 April 2016 to move customers to new charging model</p>		
	<p>On 25 April, the FCA issued a statement drawing attention to an appendix to the FSA's policy statement PS13/5 setting out details of its policy in relation to the use of its new power to issue directions to qualifying parent undertakings</p> <p><a href="http://www.fca.org.uk/static/documents/policy-statements/fsa-ps13-05.pdf#page=73">http://www.fca.org.uk/static/documents/policy-statements/fsa-ps13-05.pdf#page=73</a></p>	<p>1 April 2013</p>		

## Further afield

### Hong Kong regulators tighten rules on complex investments

The Hong Kong Monetary Authority ("HKMA") has (on 22 April) issued a circular introducing enhanced regulatory measures in relation to the sale of investment linked assurance scheme products, complex products which are typically sold to retail customers.

The circular responds to concerns in relation to the potential for such products to be missold, which have arisen from a recent thematic review. It sets out steps to be taken by firms in relation to disclosure and explanation of features and describes the policies and procedures which firms should have in place to assess whether the products are suitable for customers.

As we note in our client briefing "Misselling: A Global Perspective" released last week, the HKMA is not alone in implementing more stringent regulations governing the way in which complex products are sold to investors.

<http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130422e1.pdf>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZeyvfxZDgIRSGz3H0H4hmJ9>

**This week at the UK regulators will return on 7 May 2013.**

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### Changes to Japanese insider trading regime on the horizon

A draft bill has proposed some important changes to the regulations in relation to insider trading in Japan. These changes are expected to be finalised by September 2013.

In addition to bringing in new exemptions for some types of transactions and making other amendments to bring the law into line with changes to financial and corporate practices, the draft bill also proposes some changes which resonate with the ongoing process of legislative reform in Europe. For example, the draft bill, although not to the same extent as is proposed by the Market Abuse Directive and Market Abuse Regulation, similarly proposes the widening of the scope of the insider dealing regime and increases in the levels of penalties which may be imposed for infringements.

For full details of the changes proposed by the draft bill, please see our Clifford Chance briefing.

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZeyvfxZDgIRSGWOQpibLDXUPp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=114477>

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