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Briefing note 13 May 2013

This week at the UK regulators

Thirty second guide: The week in overview

Last week was quieter at the UK regulators than some previous weeks. The only announcement to be made was an update from the FCA on the timetable for the finalisation of a policy statement and new rules in relation to restrictions on the marketing of unregulated collective investment schemes (UCIS) and close substitutes. These rules, originally scheduled for release in the first quarter of 2013, are now expected later this year.

Further afield, the Jersey Financial Services Commission has released its latest proposals on the introduction of financial penalties for regulatory breaches.

Also away from the UK, in the latest example of multi-agency cross-border co-operation on anti-money laundering and counter terrorism financing, regulators from the Vatican and the US have signed a deal on information sharing.

FCA taking time to perfect UCIS policy statement

On 7 May, the FCA issued a statement confirming that it has not yet finalised its policy statement on proposed restrictions on the marketing of UCIS and close substitutes.

The FSA had indicated, in its consultation paper issued in August 2012 (CP12/19), that it expected to publish a policy statement in the first quarter of 2013. For full details of the proposals set out in the FSA's consultation paper, see FSA Update – 28 August 2012.

The FCA has stated that this is still in the process of being finalised and that it now working towards publishing a final policy statement later this year. The statement confirms that the later publication date will be taken into account when setting the implementation date for new rules.

The proposals announced last year were amongst the first concrete examples of the FSA seeking to intervene to prevent consumer detriment before it happens.

Since then, the FCA has received significant new statutory powers to do so by making rules without the need to go through its consultation process and has continued to develop its policy in the area of consumer protection. For example, even since receiving responsibility for consumer protection from the FSA six weeks ago, it has two made significant announcements; one in relation to how it may use behavioural economics as part of its regulatory strategy (see This week at the UK regulators – 15 April 2013) and the other in relation to concerns that many home owners with interest only mortgages may not be making adequate arrangements to repay the capital owing on those mortgages (see This week at the UK regulators – 7 May 2013).

The finalised rules, when they are eventually released, are likely to have a greater direct impact on smaller firms rather than large institutions. However, the delay, whilst partly attributable to the logistical complexities associated with the transfer of the FSA's responsibilities in this area to the FCA, may also be due to a re-evaluation of the proposals put forward in the original consultation paper last year. The finalised rules will serve as a further useful barometer for all firms of how the FCA is approaching its flagship policy area of proactive consumer protection, and how its ideas in this area continue to develop.

http://www.fca.org.uk/news/firms/statement-on-consultatio/n-paper-12-19

http://www.fca.org.uk/your-fca/documents/consultation-papers/fsa-cp1219

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FCA warnings

Name of firm	Date of warning	Details
Wired Money Bank	8 May	Not authorised http://www.fca.org.uk/news/warnings/wiredmoney-bank
Russell Acquisition Group	8 May	Not authorised http://www.fca.org.uk/news/warnings/russell-acquisition-group
Pacific Ventures Consultancy	9 May	Not authorised http://www.fca.org.uk/news/warnings/pacific-ventures-consultancy
Delacour Investments/ Delacour Group Limited	9 May	Not authorised http://www.fca.org.uk/news/warnings/delacour-investments
Directhome Limited	10 May	Not authorised http://www.fca.org.uk/news/warnings/directhome-ltd

Further afield

Jersey regulator consults on introducing financial penalties

Following a consultation paper released in April 2012, the Jersey Financial Services Commission (JFSC) has issued a summary of feedback and its revised proposals. Currently, the JFSC, although it can issue public statements and revoke the licences of "registered persons", cannot impose financial penalties.

The system proposed in Jersey is more limited in scope and simpler than that operated by the FCA and the PRA. Specifically, it proposes that penalties may only (at least in the first instance) be imposed on firms (i.e. not on individuals) and that a three tier system whereby the fine imposed is calculated by reference to the "relevant income" of the firm concerned is used instead of the more complex five stage process used by the FCA and the PRA.

The process of formulating these proposals has already been a long one. It commenced in 2008 following a review by the International Monetary Foundation, which highlighted disparities between the range of sanctions available to the JFSC and other regulators in Jersey and the UK. The JFSC has not given a timescale for the introduction of financial penalties, but has indicated that the next step will be further consultation, which is unlikely to take place before late 2013.

http://www.jerseyfsc.org/pdf/Feedback_Consultation_Paper_No2_2012_Civil_Penalties_April_2013.pdf

A holy alliance: Vatican authority agrees to share information with US authorities

On 7 May, the financial intelligence authority of the Holy See and the Vatican City State, the Autorita di Informazione Finanziaria (AIF) signed a memorandum of understanding with the Financial Crimes Enforcement Network (FinCEN), part of the US Department of Treasury, to share information in relation to the prevention and detection of money laundering. It is the latest and most high profile of a series of memoranda of understanding signed by the AIF since its establishment in 2010.

http://www.news.va/en/news/communique-signing-of-a-memorandum-of-understand-2

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