

This week at the UK regulators

Thirty second guide: The week in overview

Away from the well-publicised action taken for systems and controls breaches in connection with the London Gold Fixing, attention last week was focused on the decision by the Court of Appeal to place the FCA's prosecution of a number of individuals for alleged unauthorised land banking activities back on track. Its decision to do so has been welcomed by the FCA and has avoided the creation of a potentially wide ranging precedent for prosecutors. In other enforcement developments, the Upper Tribunal has upheld a decision to ban a former mortgage broker for integrity failings based on recklessness.

The FCA has also released the findings of a thematic review into claims handling in relation to travel and household insurance, finding a number of areas where consumers' experiences could be improved, and, in the latest example of its hands on approach to its new consumer credit remit, has issued a warning to customers of a failed debt management firm not to continue making payments.

Further afield, in a speech containing language resonant of that used by the FCA and other regulators in relation to treating customers fairly, the Reserve Bank of India has made clear its intention to drive up standards of consumer protection.

FCA takes action for London Gold Fixing

The FCA has (on 23 May) imposed a financial penalty of £26,033,500 on Barclays Bank PLC ("Barclays") for breaches of Principles 3 (management and control) and 8 (conflicts of interest) of the Principles for Businesses. The penalty related to historic policies, procedures, training and monitoring systems in place between June 2004 and March 2013 in relation to traders' activities and management of conflicts of interest in connection with the London Gold Fixing. The penalty imposed was reduced by 30 per cent as Barclays agreed to settle at an early stage of the FCA's investigation. The Final Notice acknowledges that Barclays notified issues promptly, has enhanced its systems and controls and co-operated fully with the FCA's investigation.

In linked action, the FCA has (also on 23 May) imposed a financial penalty of £95,600 on Mr Daniel Plunkett, a former trader. It has also imposed a prohibition order on him. It found that Mr Plunkett breached Principles 1 (integrity) and 3 (market conduct) of the Statements of Principle and Code of Practice for Approved Persons in connection with orders placed in June 2012. The financial penalty imposed on Mr Plunkett was similarly reduced by 30 per cent as he also agreed to settle at an early stage of the FCA's investigation.

<http://www.fca.org.uk/your-fca/documents/final-notices/2014/barclays-bank-plc>

<http://www.fca.org.uk/your-fca/documents/final-notices/2014/daniel-james-plunkett>

Court of Appeal orders land banking trial to proceed

The Court of Appeal has (on 21 May) overturned a ruling made earlier this month which had prevented a trial relating to unauthorised land banking activities from proceeding (see This week at the UK regulators, 7 May 2014). In its judgment, the Court of Appeal has upheld arguments advanced on behalf of the FCA that HH Judge Leonard's decision to discontinue proceedings based on difficulties encountered by defendants in obtaining legal representation was incorrect and ordered that the trial of the five individuals concerned should proceed. The case had assumed significance as an indicator of the acute difficulties faced by individuals being prosecuted (not only by the FCA) in securing representation. In a statement released following the judgment, the FCA welcomed the outcome and underlined its commitment to pursuing prosecutions in appropriate cases.

<http://www.fca.org.uk/news/firms/fca-statement-on-r-v-crawley-others>

<http://www.judiciary.gov.uk/wp-content/uploads/2014/05/r-v-crawley-others-21052014.pdf>

<http://www.judiciary.gov.uk/wp-content/uploads/2014/05/r-v-crawley-others.pdf>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGqNhlNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe6rLqg8R%2BgVw6c9GpgNonw%2Fp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=116277>

Court of Appeal orders land banking trial to proceed

The Court of Appeal has (on 21 May) overturned a ruling made earlier this month which had prevented a trial relating to unauthorised land banking activities from proceeding (see This week at the UK regulators, 7 May 2014). In its judgment, the Court of Appeal has upheld arguments advanced on behalf of the FCA that HH Judge Leonard's decision to discontinue proceedings based on difficulties encountered by defendants in obtaining legal representation was incorrect and ordered that the trial of the five individuals concerned should proceed. The case had assumed significance as an indicator of the acute difficulties faced by individuals in criminals being prosecuted (not only by the FCA) in securing representation. In a statement released following the judgment, the FCA welcomed the outcome and underlined its commitment to pursuing prosecutions in appropriate cases.

<http://www.fca.org.uk/news/firms/fca-statement-on-r-v-crawley-others>

<http://www.judiciary.gov.uk/wp-content/uploads/2014/05/r-v-crawley-others-21052014.pdf>

<http://www.judiciary.gov.uk/wp-content/uploads/2014/05/r-v-crawley-others.pdf>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGqNhlNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe6rLqg8R%2BgVw6c9GpgNonw%2Fp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=116277>

Upper Tribunal dismisses former broker's challenge to prohibition order

The Upper Tribunal has (in a judgment dated 13 May but released last week) dismissed a reference pursued by Mr Ghanshyam Batra in respect of decisions by the FCA to withdraw permissions previously granted to him and impose a prohibition order on him. The FCA had found that Mr Batra, the director, controller and sole approved person at

Mortgage 10 Limited, a mortgage broker, lacked integrity as he, through his firm, submitted mortgage applications on his own behalf which contained false information. The Tribunal also agreed, that he was not open and co-operative in his dealings with the FSA and FCA. The Tribunal rejected submissions that a finding of a lack of integrity is only appropriate where dishonesty is found and directed that the FCA should issue the proposed prohibition order.

<http://www.tribunals.gov.uk/financeandtax/Documents/decisions/Batra-v-FCA.pdf>

FCA warns customers of failed debt management firm

In the latest example of its proactive defence of customers' interests in the consumer credit sector, for which it assumed responsibility on 1 April 2014, the FCA has (on 22 May) issued a warning to consumers not to make payments to Debt Help & Advice Limited, First Step Finance Limited or Primary Business Solutions Limited, debt management firms based in Stockport, Cheshire, which have ceased trading. It has also issued a list of the trading names used by the firms and warned customers that any payments made to the firms will not reach creditors. In its statement, the FCA has stated that debts will continue to be owed, but has indicated that it is seeking to make contact with creditors to encourage them to take a sympathetic view of non-payments.

<http://www.fca.org.uk/news/important-information-for-debt-management-customers-of-debt-help-advice-ltd>

FCA reports on insurers' management of claims

The FCA has (on 22 May) released the findings of a thematic review looking at insurers' handling of claims in relation to household and travel insurance. It has also released the results of two surveys (into consumers' experiences and perceptions of claims) conducted during the review. It concentrated on the experience of consumers during the claims process and found that, whilst most claims were generally handled to policyholders' satisfaction, there are some areas where improvements could be made. Areas where changes were found to be required included the recording of inbound calls, where the FCA stated that greater consistency of approach is required, communication and ownership throughout the life of claims, management of supply chains in household claims and the clarity of product documentation. The FCA has stated that

the review will serve as a foundation for further supervisory work in future.

<http://www.fca.org.uk/static/documents/thematic-reviews/tr14-08.pdf>

<http://www.fca.org.uk/your-fca/documents/research/tr14-08-consumer-research>

<http://www.fca.org.uk/your-fca/documents/research/tr14-08-cii-survey>

FCA warnings

Name of firm	Date of warning	Details
Albert Price Associates Limited	23 May 2014	Not authorised http://www.fca.org.uk/news/warnings/albert-price-associates-limited
Anytime Loans	23 May 2014	Not authorised http://www.fca.org.uk/news/warnings/anytime-loans-cc
Premier Mergers and Acquisitions	23 May 2014	Not authorised http://www.fca.org.uk/news/warnings/premier-mergers-and-acquisitions
The Capital Club 1 Limited, t/a The Capital Club	22 May 2014	Not authorised http://www.fca.org.uk/news/warnings/the-capital-club-1-limited
Hartford Group International	22 May 2014	Not authorised http://www.fca.org.uk/news/warnings/hartford-group-international
Lukas Kantor Securities	22 May 2014	Clone firm http://www.fca.org.uk/news/warnings/lukas-kantor-securities-clone
Scott Thomas Wealth Advisory	22 May 2014	Not authorised http://www.fca.org.uk/news/warnings/scott-thomas-wealth-advisory
Credit Clear Services Ltd t/a The Full Financial Review	21 May 2014	Not authorised http://www.fca.org.uk/news/warnings/credit-clear-services-ltd

CP Brokers	21 May 2014	Clone firm http://www.fca.org.uk/news/warnings/cp-brokers-clone
Aris UK Advisory	21 May 2014	Clone firm http://www.fca.org.uk/news/warnings/aris-uk-advisory-clone
D Corporation Ltd, t/a DCL Systems, t/a DCL Close of Market System	19 May 2014	Not authorised http://www.fca.org.uk/news/warnings/d-corporation-ltd
Six Towns Loans Company Limited	19 May 2014	Clone firm http://www.fca.org.uk/news/warnings/six-towns-loans-company-limited-clone
Consumer Debt Services and Debtline Services	19 May 2014	Not authorised http://www.fca.org.uk/news/warnings/consumer-debt-services-and-debtline-services-cc

Further Afield

Indian regulator steps up commitment to consumer protection

In a speech given on 20 May, the Executive Director of the Reserve Bank of India has criticised standards of compliance with codes of conduct and the prevalence of mis-selling of financial products. The speech was part of an initiative to consolidate multiple voluntary codes into one consumer protection regulation. Press reports suggest that a draft regulation will be released within the next six weeks.

http://www.rbi.org.in/scripts/BS_SpeechesView.aspx?id=894

Contacts

Roger Best
Partner

E: roger.best
@cliffordchance.com

Helen Carty
Partner

E: helen.carty
@cliffordchance.com

Carlos Conceicao
Partner

E: carlos.conceicao
@cliffordchance.com

Dorian Drew
Partner

E: dorian.drew
@cliffordchance.com

Jeremy Kosky
Partner

E: jeremy.kosky
@cliffordchance.com

Rae Lindsay
Partner

E: rae.lindsay
@cliffordchance.com

Kelwin Nicholls
Partner

E: kelwin.nicholls
@cliffordchance.com

Martin Saunders
Partner

E: martin.saunders
@cliffordchance.com

Judith Seddon
Partner

E: judith.seddon
@cliffordchance.com

Luke Tolaini
Partner

E: luke.tolaini
@cliffordchance.com

Editor

Chris Stott
Lawyer

E: chris.stott
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ
© Clifford Chance 2013

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh* ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

*Clifford Chance has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.